

Council Assessment Panel Minutes

17 July 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

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VENUE Council Chambers, Norwood Town Hall

HOUR 7:00pm

PRESENT

Panel Members Mr Terry Mosel
Mr Mark Adcock
Mr Ross Bateup
Mr Kester Moorhouse

Staff Geoff Parsons, Manager Development Assessment
Kieran Fairbrother, Senior Urban Planner
Tala Aslat, Planning Assistant

APOLOGIES Ms Jenny Newman, Ms Christel Mex

ABSENT

1. **COMMENCEMENT AND WELCOME**

2. **APOLOGIES**

3. **CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT
PANEL HELD ON 19 JUNE 2023**

**Seconded by Mr Bateup and seconded by Mr Adcock
CARRIED**

4. **DECLARATION OF INTERESTS**

5. DEVELOPMENT APPLICATIONS – PDI ACT

5.1 DEVELOPMENT NUMBER 22042866 – AUSTRALIAN VENUE COMPANY (AVC), C/- URPS PTY LTD – 319-327 PAYNEHAM RD ROYSTON PARK

DEVELOPMENT NO.:	22042866
APPLICANT:	Australian Venue Company (AVC), c/- URPS Pty Ltd
ADDRESS:	319-327 PAYNEHAM RD ROYSTON PARK SA 5070
NATURE OF DEVELOPMENT:	Additions and alterations to existing hotel comprising partial demolition, the construction of two beer gardens, the removal of 10 car parking spaces and the construction of illuminated signage
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • General Neighbourhood • Suburban Business <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Affordable Housing • Heritage Adjacency • Hazards (Flooding - General) • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Traffic Generating Development • Urban Transport Routes • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height (Levels) (Maximum building height is 2 levels)
LODGEMENT DATE:	16 Jan 2023
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	16 Jan 2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Kieran Fairbrother Senior Urban Planner
REFERRALS STATUTORY:	Commissioner of Highways
REFERRALS NON-STATUTORY:	Matthew Cole, City Arborist Gayle Buckby, Manager, Traffic & Integrated Transport

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DETAILED DESCRIPTION OF PROPOSAL:

The proposed development involves a large redevelopment of the Payneham Tavern (“**Tavern**”), including:

- minor partial demolition of the building;
- internal alterations that include, notably:
 - the relocation of the existing sports bar from the northeast portion of the building to the southwest portion of the building; and
 - the relocation of the existing bistro (dining area) from the southwest portion of the building to the northeast portion of the building;
- the construction of a beer garden (with a maximum capacity of 122 patrons) adjacent to the southwest sports bar area of the Tavern, which will be partially enclosed by way of acoustic glazed barriers and an acoustically-insulated corrugated metal roof;
- the construction of a second beer garden (with a maximum capacity of 132 patrons) adjacent to the northeast bistro area, which will be partially enclosed by way of acoustic glazed barriers and a retractable awning overhead;
- the construction of a children’s play area within the northeast beer garden;
- landscaping associated with the beer gardens
- the construction of illuminated advertisement displays to replace existing signage;
- the removal of 10 car parking spaces (from 123 spaces to 113 spaces); and
- the addition of 10 bicycle parking spaces.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 319-327 PAYNEHAM RD ROYSTON PARK SA 5070

Title ref.: CT 6127/585 **Plan Parcel:** D1776 AL12 **Council:** THE CITY OF NORWOOD PAYNEHAM AND ST PETERS

Location reference: 319-327 PAYNEHAM RD ROYSTON PARK SA 5070

Title ref.: CT 6127/586 **Plan Parcel:** F103920 AL6 **Council:** THE CITY OF NORWOOD PAYNEHAM AND ST PETERS

Location reference: 319-327 PAYNEHAM RD ROYSTON PARK SA 5070

Title ref.: CT 6127/589 **Plan Parcel:** F125980 AL1 **Council:** THE CITY OF NORWOOD PAYNEHAM AND ST PETERS

Location reference: 319-327 PAYNEHAM RD ROYSTON PARK SA 5070

Title ref.: CT 6192/816 **Plan Parcel:** F3832 AL81 **Council:** THE CITY OF NORWOOD PAYNEHAM AND ST PETERS

Shape: irregular

Frontage width: approx. 101.3 metres

Depth: varying between 42.5 metres and 95.4 metres

Area: approx. 7884m²

Topography: relatively flat

Existing Structures: single-storey hotel together with attached drive-through bottle shop (with a total floor area of approx. 1620m²), freestanding advertisements, bitumen car park, perimeter sheet metal fencing

Existing Vegetation: low-level vegetation across the site’s frontage and a number of large (including regulated) trees around the site and throughout the car parking area

Locality

The locality considered for the purposes of this assessment is depicted in **Attachment 3**. It can be described particularly as the area bound by Battams Road to the north, First Avenue to the west, Salisbury Avenue to the south, and extending approximately 50m east of the subject land.

This locality can be divided into two distinct areas of character. The first, Payneham Road, is characterised by a mix of land uses and building types. More specifically, the eastern side of Payneham Road contains a mix of single- and two-storey commercial buildings comprising a mixture of uses including offices, consulting rooms and shops. Behind (east of) these uses are low-to-medium density housing. Similarly, the western side of Payneham Road contains the subject tavern, a two-storey office building, consulting rooms, a shop and some single-storey dwellings in the form of residential flat buildings. The second area of character within this locality is to the north and west of the subject land along First Avenue and Battams Road, which is comprised solely of low-density detached dwellings, most of which are historic dwellings identified as Representative Buildings.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Hotel: Code Assessed - Performance Assessed
Advertisement: Code Assessed - Performance Assessed
Internal building work: Accepted
Partial demolition of a building or structure: Accepted
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

- **REASON**
Alterations and additions to a hotel are not exempt from public notification in Table 5 of either the General Neighbourhood Zone or the Suburban Business Zone.
- **LIST OF REPRESENTATIONS**

Given Name	Family Name	Address	Position	Wishes to be heard?
Roger & Lia	Ellis	1 Battams Road ROYSTON PARK	Opposed	Yes
Arthur	Terrell	PO Box 80 MARDEN	Opposed	No
Timothy	Adey	PO Box 32 MARDEN	Opposed	Yes
Mark	Newton	183 First Avenue ROYSTON PARK	Opposed	No
Stephen	Jervis	175 First Avenue ROYSTON PARK	Opposed	Yes
Katarina	Grenfell	5 Battams Road ROYSTON PARK	Opposed	Yes

- **SUMMARY**

The concerns raised by the six (6) representors can be summarised as follows:

- The amenity of their residences will be detrimentally affected as a result of noise emanating from:
 - The beer gardens;
 - The children's play area;
 - Patron behaviour both inside and outside of the hotel;
 - Amplified music and large tv screens;
 - Increased traffic movements throughout the site; and
 - Waste collection;
- Amenity impacts caused by light spill;
- The proposed increase in patronage will result in amenity impacts also, as well as increased traffic generation by the site;
- No mention of security being provided to patrol the car park to control patron behaviour;
- Inadequate car parking provision to cater for the demand that the hotel upgrades will generate;
- Impacts to on-street parking availability in surrounding residential streets;
- Increased traffic through the surrounding residential streets;
- Purported deficiencies in both the applicant's traffic report and acoustic report;
- The need for more landscaping around the site;
- And one representor was concerned that trees were being removed as part of the proposal (although this is not the case).

AGENCY REFERRALS

- **Commissioner of Highways**

The application was referred to the Commissioner of Highways for direction, due to the change in the frequency of vehicle movements likely to be generated as a result of the proposed development. The Commissioner of Highways made no objections to the proposal and directed the imposition of one (1) planning condition and two (2) advisory notes.

INTERNAL REFERRALS

- Matthew Cole, City Arborist
- Gayle Buckby, Manager, Traffic & Integrated Transport

The City Arborist's referral response is contained in **Attachment 8**. The Manager, Traffic and Integrated Transport's response was provided verbally and will be discussed in the "Traffic Impact, Access and Parking" section of this report.

PLANNING ASSESSMENT

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

Land Use

The subject land currently enjoys historic land use rights for a hotel and associated drive-through bottle shop. The proposed development does not seek to alter or vary these land use rights, but rather increase the intensity of the existing use through alterations and additions that will increase the total floor area of the building and thus accommodate a larger patronage. While this may not constitute a change of land use, it is important that consideration is given to the Desired Outcomes of both the General Neighbourhood Zone and Suburban Business Zone in which the subject land is located.

Desired Outcome 1 of the General Neighbourhood Zone states:

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

Desired Outcome 1 of the Suburban Business Zone states:

“A business and innovation precinct that includes a range of emerging businesses which have low level off-site impacts.” (my emphasis)

Consequently, for the proposed development to warrant consent it is important that, among other things, the Tavern can continue to operate following completion of the proposed development without unreasonably compromising the surrounding residential amenity. This is discussed in detail within the “Environmental Factors” section of this report.

Building Height

Performance Outcome 4.1 of the General Neighbourhood Zone states:

“Buildings contribute to a low-rise suburban character.”

Performance Outcome 3.1 of the Suburban Business 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.”

Performance Outcome 3.2 of the Suburban Business Zone states:

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

The proposed additions to the Tavern are single-storey in height, consistent with the low-rise character sought by both Zones. The southwest addition extends to 3.6m above ground level, which is commensurate with the existing Tavern and slightly lower than existing wall heights. Similarly, the northeast addition measures 4.5m in height at its highest point, consistent with the existing building height of the Tavern. Notwithstanding the fact that these additions are single-storey in height, it is important to note that they will maintain sufficient separation from side boundaries so as to not impose unreasonable visual impacts on neighbouring residential development.

Setbacks, Design & Appearance

Performance Outcome 5.1 of the General Neighbourhood Zone states:

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

Performance Outcome 3.4 of the Suburban Business Zone states:

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

The proposed southwest additions are closer to the Payneham Road boundary than the existing southwest portion of the Tavern, but will still maintain a setback of 3.6m from the building line of the drive-through bottle shop and 12.5m from the Payneham Road boundary; consistent with contributing to a cohesive streetscape.

Performance Outcome 2.1 of the Suburban Business Zone states:

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

Performance Outcome 2.2 of the Suburban Business Zone states:

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

Performance Outcome 1.3 of the General Neighbourhood Zone states:

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

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

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

The northeast addition won't be readily visible from the Payneham Road streetscape or neighbouring allotments, and so it is only the southwest addition that is considered relevant for the purposes of these policies. This addition will provide a contemporary look to the existing Tavern through the use of contrasting yet contemporary materials.

The existing southwest elevation is comprised of plain panelling and dark glazing that makes a relatively unattractive contribution to the street. The proposed southwest addition, on the other hand, will be comprised of 2.2m high glazing that will be encompassed by a 800mm-high brick garden bed to facilitate some low-level landscaping. Some nominal lighting will be incorporated around the addition also. This addition complements the existing building, will provide a high level of visual amenity and will make a positive contribution to the Payneham Road streetscape, while altogether allowing increased opportunities for passive surveillance to assist in discouraging antisocial behaviour on the premises.

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

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

The proposed development offers additional landscaping than what currently exists on site through the construction of raised garden beds around the perimeter of both of the proposed additions. These will provide for heat absorption and improve the appearance of these additions both to Payneham Road and internally to the car parking areas. Importantly, the application does not seek to reduce any existing areas of soft landscaping and seeks the retention of all of the existing regulated trees on the site.

Traffic Impact, Access and Parking

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

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

Performance Outcome 3.9 of the Transport, Access and Parking module of the general development policies states:

“Development is designed to ensure vehicle circulation between activity areas occurs within the site without the need to use public roads.”

Performance Outcome 6.1 of the Transport, Access and Parking module of the general development policies states:

“Vehicle parking areas are sited and designed to minimise impact on the operation of public roads by avoiding the use of public roads when moving from one part of a parking area to another.”

The proposal does not seek to alter existing access and egress arrangements for the subject site. One-way access to the site is accommodated by one crossover located adjacent the south corner of the site, and one-way egress from the site takes place via the one crossover located in the eastern corner of the site.

Importantly, two-way vehicle circulation throughout the car park is being maintained, allowing visitors to the Tavern to circulate from the car park into the drive-through bottle shop before exiting the site should that be necessary. The car parking spaces in the eastern corner of the site will not be able to circle back for bottle shop access however, due to insufficient aisle width adjacent the northeast section of the Tavern. But this is a pre-existing arrangement and so no further impacts will arise from the proposed development in this respect.

This application was internally referred to the Council’s Manager, Traffic and Integrated Transport for comment on vehicle access arrangements. No written response was provided, but the verbal response provided advised support for this aspect of the proposal; maintaining existing access and vehicle circulation arrangements will continue to provide safe and convenient access to, and in, the site without impacting on surrounding public roads.

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

“Sufficient on-site vehicle parking and specifically marked 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...”

The corresponding Designated Performance Feature refers to prescribed rates of car parking demand provided in Tables 1 and 2 of the Transport, Access and Parking module. The rates prescribed in Table 2 refer to those applicable in specified ‘designated areas’, whereas those in Table 1 relate to all other areas.

The subject land is located partially in the General Neighbourhood Zone and partially in the Suburban Business Zone. The General Neighbourhood Zone is not able to constitute a designated area for the purposes of car parking. The Suburban Business Zone, however, may constitute a designated area where it meets certain criteria; one of which is where the subject site is within 200m of a section of road reserve along which a high-frequency public transport service operates. A high-frequency bus route does operate along Payneham Road, and consequently the portion of the site that is within the Suburban Business Zone is considered as a designated area for the purposes of car parking.

Strictly speaking, the theoretical parking demand rates applicable to the subject site are partially those prescribed in Table 1 of the Transport, Access and Parking module, and partially those prescribed in Table 2. Pragmatically speaking, however, it is considered appropriate that the designated area rates are imposed on the whole of the site, rather than a mixed approach. Part of the rationale behind reduced car parking rates for designated areas – as evidenced in the criteria applicable to such – is because sites within designated areas are located close enough to high-frequency public transport routes or alternative transport methods that the likely increased uptake of these alternate transport methods result in a lower demand for car parking on the site. With respect to the subject land, the fact that part of the site is not zoned as a Suburban Business Zone does not weaken the justification that the site can accommodate a reduced car parking rate due to alternative available transport options.

With this in mind, Table 2 prescribes a rate of 3 spaces per 100m² of gross leasable floor area for any non-residential land use. The total gross leasable floor area following the proposed development has been calculated at 1995m². Therefore, at a rate of 3 spaces per 100m², this results in an on-site car parking demand of 60 spaces.

Despite the proposal to remove 10 car parking spaces, the site will still provide 113 spaces which exceeds the rate prescribed by Table 2 of the Transport, Access and Parking module.

Cirqa was engaged by the applicant to provide a traffic impact statement in this respect, and it is worth considering their discussion and findings (see **Attachments 1 and 6**). Interestingly, Cirqa based their report on the rates prescribed by Table 1 of the Transport, Access and Parking module, and not on the designated

area rates; the reasons for which are unclear. Notwithstanding, Cirqa demonstrated that the realistic demand of the Tavern is far less than the existing car parking supply provided on-site, and will continue to be the case following the proposed development. Cirqa, in their assessment, concluded that peak demands for the Tavern will not require the proposed 113 spaces to be retained.

Overall, the site maintains a provision of car parking spaces in excess of the designated area rate prescribed by the P&D Code, and the applicant's traffic engineer, Cirqa, has demonstrated that the 113 spaces to remain will be sufficient to cater to the demands of the hotel. Accordingly, the proposed development is considered to sufficiently accord with Performance Outcome 5.1 of the Transport, Access and Parking module.

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

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

In addition to the above, the application also proposes to install bicycling parking facilities on site for the parking of ten (10) bicycles. This is considered sufficient when considering the peak parking demands for vehicles stated by Cirqa in their traffic impact assessment.

Environmental Factors

Regulated and Significant Trees

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

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

This application is supplemented by a professional arborist report prepared by Arborman Tree Solutions (see **Attachment 1**). Arborman Tree Solutions was engaged by the Applicant to undertake an arboricultural impact assessment for the proposed development, specifically considering the proximity of the proposed beer garden additions to three (3) regulated trees and one (1) significant tree within the site.

This report concluded that the proposed development is unlikely to have any negative effect on these four trees due to existing site characteristics. Specifically, and with reference to *AS4970-2009: Protection of trees on development sites*:

- the level of encroachment into trees 2, 8 and 9 (as identified on the Site Plan prepared by Red.) is nil or less than 10%, which is considered to be minor and not affecting the structural root zone of the tree, resulting in no or low impact;
- the level of encroachment into tree 1 is 13% of the total 'tree protection zone', which is considered as major encroachment. However, this is acceptable because:
 - the tree is a mature tree that displays good health and vitality, indicating it can tolerate the proposed development without noticeable impacts; and
 - the existing encroachment from the solid, compacted bitumen car park has been in place for more than 30 years, which isn't changing, evidencing the tree has already shown an ability to survive in restricted growth conditions.

Notwithstanding this, Arborman Tree Solutions have recommended specific tree protection measures to be implemented during construction. These recommendations are reflected in recommended Condition 2, should the Panel determine to grant planning consent to this application, along with some additional measures that are considered appropriate in the circumstances.

This application was internally referred to the Council's City Arborist for advice on the proposed development and to undertake a peer review of the report provided by Arborman Tree Solutions. The Council's City Arborist supports the assessment undertaken by Arborman Tree Solutions and agrees with the suggested tree protection measures.

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

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

While the application does not propose any new car parking areas, it is important to note the retention of these trees will ensure the car parking areas continue to receive appropriate shade, shelter and heat reduction.

Light Spill

Performance Outcome 6.1 of the Interface Between Land Uses module of the general development policies states:

“External lighting is positioned and designed to not cause unreasonable light spill impact on adjacent sensitive receivers (or lawfully approved sensitive receivers).”

In terms of external lighting, the plans show small light bollards being installed around both proposed beer garden additions and nominal wall lightings affixed thereto as well. These lights are all located less than 800mm above ground level and are not considered to produce lighting of an intensity that will adversely affect the amenity of the neighbouring dwellings. Notwithstanding, should the Panel determine that the application warrants planning consent, Condition 3 has been recommended to ensure that any external lighting does not cause a nuisance to any person external to the site.

Waste Management

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

“The negative visual impact of outdoor storage, waste management, loading and service areas is minimised by integrating them into the building design and screening them from public view...”

The Tavern has an existing loading dock area adjacent the northern elevation of the building, which is where waste bins are currently stored and collected from. This area is well-screened from public view. The proposed development does not seek to alter this arrangement.

Some representors raised concerns regarding the potential for waste generation to increase and collection frequencies increase as a result of the increased patronage, thus creating the potential for nuisance-generation as a result. The applicant’s response (see **Attachment 6**) to these concerns highlights that waste can continue to be stored and collected on site without detriment being caused to neighbouring dwellings. In any case, Condition 4 has been recommended to ensure that waste collection occurs in line with the hours permitted by the *Local Nuisance and Litter Control Act 2016* (SA) as being reasonable hours for waste collection in a residential area; namely 7am – 7pm on Monday to Saturday and 9am to 7pm on Sundays and public holidays.

Hours of Operation

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

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

A review of historic development approvals for this site shows no evidence of the hours of operation of the Tavern ever being restricted by way of a planning consent condition. Accordingly, the approved hours of operation for the Tavern default to those imposed on their liquor licence, which are 05:00am to 03:00am (the following day), seven days a week. Despite these approved hours, the Tavern currently operates at a restricted capacity, being 08:00am to 02:00am on Monday to Saturday, and 09:00am to midnight on Sundays.

The proposed development does not seek to extend these hours at all, and so Performance Outcome 2.1 is considered to be satisfied. Further assessment in respect of the proposed hours of operation of the beer garden additions is discussed in more detail in the “Noise Emissions” section below.

Noise Emissions

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

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

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

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

Performance Outcome 4.5 of the Interface Between Land Uses module of the general development policies states:

“Outdoor areas associated with licenses premises (such as beer gardens or dining areas) are designed and/or sited to not cause unreasonable noise impact on existing sensitive receivers (or lawfully approved sensitive receivers).”

By way of background to this aspect of the assessment:

1. The applicant engaged Sonus Pty Ltd (acoustic engineers) to undertake an Environmental Noise Assessment (“**Sonus Report**”) on the proposed development, whose report was provided as part of the application documents in **Attachment 1**.
2. During public notification, two representors engaged Resonate (acoustic engineers) to undertake a review of the Sonus Report (“**Resonate Review**”).
3. Shortly after the public notification period ceased, the Assessment Manager engaged Bestec (acoustic engineers) to undertake a review of the Sonus Report, undertaken their own acoustic modelling, and undertake a review of the Resonate Review (“**Bestec Review**”).
4. Sonus was then engaged again by the applicant to assist in providing a response to representations and the Resonate Review (“**Sonus Response**”). Neither the applicant or Sonus were provided with an opportunity to view and respond to the Bestec Review due to timing constraints.

In preparing the Sonus Report, Sonus developed an acoustic model to predict the noise levels that will be experienced by adjacent sensitive receivers during the operation of the proposed beer garden additions at full capacity. This model was developed using:

- continuous background noise measurements that Sonus undertook during 9 January 2020 to 14 January 2020 and 22 July 2022 to 29 July 2022;
- ambient noise level measurements undertaken by Sonus on 14 October 2022;
- only background music being played in these areas, at levels that do not require patrons to raise their voices;
- the northern beer garden closing at 10pm;
- the retractable awning for the northern beer garden not in use.

The assessment criteria proposed by Sonus were derived in accordance with Clause 20(3) of the *Environment Protection (Noise) Policy 2007* which states that noise levels should not exceed the relative indicative noise levels less 5dB(A). How the appropriate indicative noise levels for this assessment have been derived is explained in the first two pages of **Attachment 9**. Based on this methodology, the goal noise levels adopted by Sonus are 49dB(A) between 07:00am and 10:00pm, and 42dB(A) between 10:00pm and 07:00am

(“**Assessment Criteria**”) for all sensitive receivers except for Units 1 and 2 of 317 Payneham Road (discussed further below)

Both the Resonate Review and the Bestec Review raised concerns about the derivation of the Assessment Criteria, based on their assumption that the criteria were adopted from Clause 18(2) of the Noise Policy and this assessment should not take into account existing noise from the Tavern. However, this has been sufficiently addressed by Sonus in their response in **Attachment 9** and therefore the Assessment Criteria are considered reasonable and appropriate to apply to this assessment.

Following further comments raised in the Resonate Review, Sonus have also confirmed that their original modelling and assessment also considered:

- the noise from patrons in internal areas of the Tavern that has the potential to propagate externally through the beer garden areas;
- the noise potential from the proposed increased maximum patronage;
- the noise potential from increased traffic circulation through the site;
- noise from the children’s play area in the northern beer garden area;
- all adjacent sensitive receivers (although those with lower-predicted noise levels were excluded in the Sonus Report for simplicity);
- no additional noise from new mechanical plant and equipment, because no new plant and equipment is to be installed;
- noise from televisions in these areas, which are expected to be kept at respectable volume levels that are not audible at adjacent sensitive receivers.

The Sonus Report concluded that specific acoustic treatments needed to be applied to both beer garden areas in order to sufficiently achieve the Assessment Criteria and therefore satisfy Performance Outcomes 2.1, 4.1 and 4.5, above. Based on the installation of these acoustic treatments and measures, all neighbouring sensitive receivers (with the exception of Units 1 and 2 of 317 Payneham Road) were predicted to experience noise levels less than or equal to the Assessment Criteria, (see page 5 of the Sonus Response in **Attachment 6**).

With respect to Units 1 and 2 of 317 Payneham Road, Sonus adopted a different (elevated) night time goal noise level of 44dB(A) and 46dB(A) respectively. The Resonate Review and the Bestec Review both raised concerns about the basis upon which Sonus determined this. Sonus have addressed this in their response in **Attachment 9** (page 3), which explains that the night time criteria for these units was based on Clause 18(2)(a) of the Noise Policy, being the background noise levels plus 5dB(A); which is considered to be a satisfactory justification for these elevated levels.

In this respect, Sonus’s acoustic modelling predicted noise levels that achieve these elevated goals for both units 1 and 2 (see page 5 of the Sonus Response). Bestec’s acoustic modelling, however, predicted noise levels of 55dB(A) during the day and 53dB(A) during the night for unit 1, 317 Payneham Road; which fails to meet both the day time Assessment Criteria and the adjusted night time criteria for these dwellings.

The background noise measurements taken by Sonus determined the lowest background noise levels at Unit 1, 317 Payneham Road to be 46dB(A) at 2:00am on a Tuesday morning (when the Tavern was not operating), and 51dB(A) at 11:00pm on a Friday night (a time representative of peak patronage for the Tavern) (see **Attachment 9**). The attended measurements indicated that road traffic noise was the dominant factor in the background noise levels recorded at unit 1.

Although Sonus have adopted different criteria for the two sensitive receivers closest to Payneham Road than all other sensitive receivers, and have derived those criteria via a different methodology under the Noise Policy, their justification for doing so is sound and seems appropriate to apply in the circumstances.

With this in mind, it is reasonable to expect that, with the recommended acoustic treatments and measures in place, the proposed development will not adversely affect the surrounding residences, with the potential exception of units 1 and 2 of 317 Payneham Road. That being said, existing background noise levels at these locations at 11pm on a Friday night demonstrate that any increase in noise arising as a result of the proposed development should only be slight and likely not too discernible for the occupants of these units. Notwithstanding this, Conditions 7 and 9 have been recommended to ensure that any potential noise nuisance

arising from the southern beer garden is appropriately mitigated and the amenity for the occupants of units 1 and 2, 317 Payneham Road is sufficiently maintained. The Panel should note that the applicant has confirmed that the proponent is happy to accept these conditions.

With respect to the recommended acoustic treatments, the southern beer garden will be fully enclosed overhead by way of an acoustically-insulated corrugated metal roof and partially-enclosed at ground level by acoustic glazed barriers that range in height from 2.2m (partial enclosure) to 3m (full enclosure).

The northern beer garden will be partially enclosed at ground level on the northwest elevation by acoustic glazed barriers that extend to 3m in height. The northeast elevation of the beer garden will be enclosed at ground level by 3.35m high acoustic glazed barriers. The beer garden will not be permanently enclosed above by any roof structure. Instead, a 1m-tall cantilevered acoustic glazed barrier is proposed to be installed above the northeast elevation of the beer garden, with the balance of the beer garden remaining open to the skies except when the proposed retractable awning is in use (which is anticipated during poor weather events).

The plans provided in **Attachment 1** do not demonstrate the full extent of these acoustic measures being applied to the development and so Condition 8 has been recommended to ensure this takes place.

Performance Outcome 4.6 of the Interface Between Land Uses module of the general development policies states:

“Development incorporating music achieves suitable acoustic amenity when measured at the boundary of an adjacent sensitive receiver (or lawfully approved sensitive receiver) or zone primarily intended to accommodate sensitive receivers.”

The application does not propose any live or acoustic music to be played in the proposed beer garden additions; contrarily, the proponent advises that only background music will be played in these areas. More particularly, the noise level of the background music is intended to be such that persons occupying the beer garden areas will not need to raise their voices to communicate above the music. Based on Sonus's assessment of this, the noise from this background music is unlikely to affect the predicted noise levels experienced by adjacent sensitive receivers and thus PO 4.6 is considered to be satisfied. To ensure this remains the case, Condition 6 is recommended to be imposed on any consent granted.

Signage

Performance Outcome 1.1 of the Advertisements module of the general development policies states:

“Advertisements are compatible and integrated with the design of the building and/or land they are located on.”

Performance Outcome 1.5 of the Advertisements module of the general development policies states:

“Advertisements and/or advertising hoardings are of a scale and size appropriate to the character of the locality.”

The application proposes a new illuminated sign on the southeast elevation that reads “Payneham Tavern”, to replace existing signage that reads “Eat-Drink-Relax”. This advertising display is of a similar scale to the existing signage, and is considered to be of a scale and size commensurate with the building on which it will be erected and compatible with the existing Payneham Road streetscape.

Performance Outcome 4.1 of the Advertisements module of the general development policies states:

“Light spill from advertisement illumination does not unreasonably compromise the amenity of sensitive receivers.”

The proposed illuminated advertising display will be oriented towards Payneham Road, and away from any neighbouring sensitive receivers. The display will maintain a setback of 6.2m from the Payneham Road boundary of the land, which is commensurate with the setback of the closest sensitive receiver at 1/317 Payneham Road. As a result, it is not anticipated that any peripheral light spill from the advertising display will affect the amenity of this dwelling.

Performance Outcome 5.2 of the Advertisements module of the general development policies states:

“Advertisements and/or advertising hoardings to not distract or create a hazard to drivers through excessive illumination.”

Performance Outcome 5.5 of the Advertisements module of the general development policies states:

“Advertisements and/or advertising hoardings provide sufficient clearance from the road carriageway to allow for safe and convenient movement by all road users.”

The advertising display on the southeast elevation of the Tavern will be set back 6.2m from the Payneham Road boundary. The corresponding DPF to PO 5.5 prescribes a minimum setback distance of 0.6m from the roadside edge of the kerb of a 60kmh road, such as Payneham Road. Accordingly, the advertising display is considered adequately set back from Payneham Road to satisfy PO 5.5.

With respect to PO 5.2 above, the application does not provide any detail on the luminance levels of the sign, nor whether it is proposed to be permanently static or otherwise. The expectation would be that the sign is to be static given the proposed message to be displayed, but no such assumption can be made regarding luminance levels. Accordingly, Condition 5 has been recommended to ensure that the sign does not pose a risk to motorists or pedestrians within the car parking area.

CONCLUSION

The application seeks, among other things, but most notably, the construction of two beer garden areas additional to the existing Tavern. Although not development per se, the application also notes that they proposed to increase their maximum patronage from 650 person to 1025 person.

The proposed additions employ a contextual and well-designed approach to providing a rejuvenated, contemporary look to the Tavern, which will in turn make a more positive contribution to the streetscape. Importantly, the application has demonstrated that the development can be undertaken without negatively affecting several regulated and significant trees around the site.

Although the application seeks the removal of 10 car parking spaces, these are proposed to be replaced with bicycle parks (where none currently exist on-site) and the site will still maintain sufficient car parking spaces in accordance with the Planning & Design Code. Access arrangements to and from the site are not proposed to be changed, which will continue to allow safe and convenient access to, and vehicle circulation within, the site.

The most contentious issue of the application is the potential impact that the proposed development will have on the surrounding residential land uses, by way of noise arising specifically from the use of the beer gardens, the children’s play area, and the increased traffic circulation through the site. The applicant’s acoustic engineer has demonstrated sufficient compliance with the relevant provisions of the Noise Policy in this respect which, together with the recommended conditions, should ensure that no adverse effect to the surrounding residential amenity arises as a result of the proposed development.

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 22042866, by Australian Venue Company (AVC), c/- URPS Pty Ltd is granted Planning Consent subject to the following conditions:

CONDITIONS

Planning Consent

Condition 1

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

Condition 2

The Recommendations and Tree Protection measures suggested by Arborman Tree Solutions on page 8 of their report (dated 10 March 2023) included within the stamped plans and documentation shall be strictly implemented and adhered to at all times during construction. Further:

- there shall be no changes to ground levels within the Tree Protection Zones; and
- there shall be no storage or dumping of materials, substances, equipment, machinery or vehicles within the Tree Protection Zones; and
- no persons shall enter the Tree Protection Zone without consent of the Project Arborist; and
- nothing shall be attached to any trees on the subject land.

If, during construction, observations made on site differ to the assumed circumstances on which Arborman Tree Solutions' report was based, and the Project Arborist is of the opinion that further arboricultural assessment is required in respect of the development, the Assessment Manager or its delegate shall be notified immediately and construction should cease until such further assessment has taken place.

Condition 3

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.

Condition 4

All waste collection from the site shall be restricted to the following times:

- Monday to Saturday, 07:00am to 07:00pm
- Sunday and Public Holidays, 09:00am to 07:00pm

Condition 5

Lighting associated with the "Payneham Tavern" sign shall be of an intensity not to cause an unreasonable light over spill nuisance to adjacent occupiers, or be an undue distraction to motorists. Further, this sign shall not flash, scroll, fade or otherwise move.

Condition 6

No live music is permitted to be played within the two proposed beer gardens. Any music played in these areas is to be limited to background music only, the volumes of which shall be maintained at a level that does not cause an unreasonable nuisance to adjacent occupiers of land.

Condition 7

The hours of operation of the proposed beer garden additions and children's' play area shall be restricted to the following times:

- Southern beer garden:
 - Sunday to Thursday: 07:00am to 10:00pm
 - Friday and Saturday: 07:00am to 12:00am
- Northern beer garden and children's' play area:
 - 07:00am to 10:00pm, 7 days a week

Condition 8

All acoustic treatments recommended by Sonus on pages 8 and 9 of their Environment Noise Assessment (S6318C8, dated November 2022) shall be installed and maintained at all times to the reasonable satisfaction of the Assessment Manager (except where varied by Condition 9). Details of such treatments shall be included in the documentation for building consent.

Condition 9

The south-west facing bi-fold doors for the southern beer garden shall be closed completely after 10pm on Fridays and Saturdays and remain closed until the tavern re-opens for trade the following day.

The south-east facing bi-fold doors for the southern beer garden shall be closed halfway after 10pm on Fridays and Saturdays and remain closed as such until the tavern re-opens for trade the following day.

Condition 10

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

Condition 11

All car parking spaces shall be line marked or delineated in a distinctive fashion, with the marking maintained in a clear and visible condition at all times.

Condition 12

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

Condition 13

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

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

Condition 14

All access shall be in accordance with Proposed Site Plan, Project No AVC0011, Revision 4, dated 24/11/2022.

ADVISORY NOTES

Planning Consent

Advisory Note 1

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

Advisory Note 2

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

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

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

Advisory Note 3

No work can commence on this development unless a Development Approval has been obtained. If one or more Consents have been granted on this Decision Notification Form, you must not start any site works or

building work or change of use of the land until you have received notification that Development Approval has been granted.

Advisory Note 4

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

Advisory Note 5

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

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

Advisory Note 6

The Applicant is advised that construction noise is not allowed:

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

Advisory Note 7

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

Advisory Note 8

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

Advisory Note 9

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

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

Advisory Note 10

All signage should be accordance with the Department for Infrastructure and Transport's "Advertising Signs - Assessment Guidelines for Road Safety" (August 2014). The document is available via the following link: https://dit.sa.gov.au/_data/assets/pdf_file/0019/145333/DIT-Advertising-Signs-Assessment-Guidelines.pdf.pdf

Advisory Note 11

It is recommended that the applicant contact Mr. Wayne Stewart, Senior Project Officer, South Australian Public Transport Authority (SAPTA), on ph. (08) 7109 7240 if bus stop adjacent to the site is impacted during construction.

Mr Ellis addressed the Council Assessment Panel from 7:03pm until 7:09pm

Mr Jervis addressed the Council Assessment Panel from 7:10pm until 7:16pm

Mr Hayes addressed the Council Assessment Panel from 7:17pm until 7:28pm

Mr Twine from URPS addressed the Council Assessment Panel from 7:29pm until 7:49pm

Mr Moore from Sonus addressed the Council Assessment Panel from 7:49pm 7:57pm

Moved by Mr Bateup

1. *Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and*
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- *there shall be no storage or dumping of materials, substances, equipment, machinery or vehicles within the Tree Protection Zones; and*
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- *Northern beer garden and children's' play area:*
 - *07:00am to 10:00pm, 7 days a week*

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All acoustic treatments recommended by Sonus on pages 8 and 9 of their Environment Noise Assessment (S6318C8, dated November 2022) shall be installed and maintained at all times to the reasonable satisfaction of the Assessment Manager (except where varied by Condition 9). Details of such treatments shall be included in the documentation for building consent.

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Condition 11

All car parking spaces shall be line marked or delineated in a distinctive fashion, with the marking maintained in a clear and visible condition at all times.

Condition 12

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Condition 13

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

Condition 14

All access shall be in accordance with Proposed Site Plan, Project No AVC0011, Revision 4, dated 24/11/2022.

ADVISORY NOTES

Planning Consent

Advisory Note 1

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Advisory Note 2

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

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

Advisory Note 3

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

Advisory Note 4

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

Advisory Note 5

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

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

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The Applicant is advised that construction noise is not allowed:

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

Advisory Note 7

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

Advisory Note 8

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

Advisory Note 9

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

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

Advisory Note 10

*All signage should be accordance with the Department for Infrastructure and Transport's "Advertising Signs - Assessment Guidelines for Road Safety" (August 2014). The document is available via the following link:
https://dit.sa.gov.au/_data/assets/pdf_file/0019/145333/DIT-Advertising-Signs-Assessment-Guidelines.pdf.pdf*

Advisory Note 11

It is recommended that the applicant contact Mr. Wayne Stewart, Senior Project Officer, South Australian Public Transport Authority (SAPTA), on ph. (08) 7109 7240 if bus stop adjacent to the site is impacted during construction.

**Seconded by Mr Moorhouse
Put and Lost on the casting vote of the Presiding Member**

Move by Mr Adcock

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 22042866, by Australian Venue Company (AVC), c/- URPS Pty Ltd is Refused for the following reasons:*
 - *The proposed development does not satisfy the Performance Outcomes 1.3 and 1.4 of the General Neighbourhood Zone.*
 - *The proposed development does not satisfy Performance Outcomes 1.2 and 4.5 of the Interface Between Land Uses Module.*

ADVISORY NOTES

Planning Consent

Advisory Note 1

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

**Seconded by Mr Mosel
Carried on the casting vote of the Presiding Member**

**5.2 DEVELOPMENT NUMBER 23004961 – MINICOZZI (OSMOND TERRACE) PTY LTD –
114A OSMOND TCE NORWOOD**

DEVELOPMENT NO.:	23004961
APPLICANT:	Minicozzi (Osmond Terrace) Pty Ltd
ADDRESS:	114A OSMOND TCE NORWOOD SA 5067
NATURE OF DEVELOPMENT:	Change of use to specialist medical consulting rooms with associated car parking and landscaping, and the construction of a masonry and metal infill front fence
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Established Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Character Area • Hazards (Flooding) • Heritage Adjacency • Local Heritage Place • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Traffic Generating Development • Urban Tree Canopy
LODGEMENT DATE:	7 Mar 2023
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	7 Mar 2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Kieran Fairbrother, Senior Urban Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	David Brown, Heritage Advisor Rebecca Van Der Pennen, Traffic Engineer Josef Casilla, Project Officer, Assets

CONTENTS:

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

DETAILED DESCRIPTION OF PROPOSAL:

The application seeks to change the use of the subject land from a dwelling (notwithstanding it has not been used in this manner for a number of years) to consulting rooms, together with a ten-vehicle car park and associated landscaping. In so doing, the application proposes restoration works to the existing building (a local heritage place), as well as the construction of a masonry palisade fence along the front boundary and a post and wire fence along the northern boundary adjacent the creek line.

The proposed hours of operation for the consulting room use are as follows:

- Monday to Friday: 08:00am to 6:00pm
- Saturday: 09:00am to 2:00pm
- Sunday: Closed

BACKGROUND:

In November 2005, an extreme flood event caused water levels within First Creek, Norwood to rise and flood a large number of dwellings, including the dwelling at 114A Osmond Terrace. Following the flood, the Council undertook extensive flood mitigation works to significantly improve the capacity of First Creek, thereby improving the flood protection of nearby dwellings. Since this time, the subject building has remained disused.

In 2019, the same applicant lodged a similar development application (155/594/2019) for a change of use to consulting rooms. At the time, this was a form of non-complying development under the City of Norwood Payneham & St Peters Development Plan (consolidated March 2019). The effect of this was that: the assessment was subject to the highest level of process and consideration in the context that it was not an envisaged form of development; the Council could, at any time, refuse the application; and no appeal rights existed for the applicant in respect of a determination of the application. Development application 155/594/2019 was refused by the CAP because, among other reasons, *"the proposed land use [was] inconsistent with the desired character statement of the zone"*.

Under the Planning & Design Code, there are no longer non-complying forms of development. Accordingly, the application currently before the Panel must be determined on its merits against the relevant policies of the Planning & Design Code.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 114A OSMOND TCE NORWOOD SA 5067

Title ref.: CT
6236/314

Plan Parcel: D110323
AL33

Council: THE CITY OF NORWOOD PAYNEHAM AND
ST PETERS

Shape:	irregular
Frontage width:	approx. 27.4 metres to Osmond Terrace and 2.91m to Brown Street
Depth:	approx. 36 metres along the northern boundary with an additional 19 metres along the southern boundary through to Brown Street
Area:	approx. 1028m ²
Topography:	relatively flat although the dwelling and its surroundings generally sit lower than the adjacent Osmond terrace footpath
Existing Structures:	a large Federation/Arts and Craft style dwelling (local heritage place) constructed circa early-1900s
Existing Vegetation:	nil

The dwelling on the site is listed as a local heritage place, described in a Heritage Survey by Mark Butcher Architects in 1994 as: *“an attractive single storey Federation masonry house with complex hipped roof with feature gablets and integral front verandah with side return. Notable for its attractive design and relative*

intactness... [It] is a good relatively-intact example of a well-built Federation house... It is an attractive building architecturally.”

Locality:

The locality is characterised by a wide range of dwelling types and styles, including several original detached dwellings with heritage significance, later detached dwellings of various ages and style and medium density infill in the form of residential flat buildings and semi-detached dwellings. The exceptions to this within the locality are the office located to the south at 99 Kensington Road and the Unitarian Church of SA located diagonally opposite the subject site at 99 Osmond Terrace. Notably, the front fence of the property immediately north of the subject land doubles as a bridge parapet and is listed as a local heritage place.

A plan of the subject land and its surrounds is contained in **Attachment 2**.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

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

PUBLIC NOTIFICATION

- **REASON**
Fails to satisfy DPF 1.2 of the Established Neighbourhood Zone
- **LIST OF REPRESENTATIONS**

Given Name	Family Name	Address	Position	Wishes to be heard?
Elizabeth	McCabe	95 Osmond Terrace, Norwood	Opposed	No
Chris	Burns	39 Church Avenue, Norwood	Opposed	No
Sandy	Wilkinson	112 Osmond Terrace, Norwood	Opposed	Yes
David & Jennifer	Griggs	116 Osmond Terrace, Norwood	Opposed	Yes
Patricia	McClure	Tatiara Station, Meningie	Opposed	No
Judith	Brine	114 Osmond Terrace, Norwood	Opposed	Yes

• SUMMARY

The concerns raised by the representors are extensive, but can best be summarised as follows:

- Inappropriate land use in a residential area;
- The diminishing condition of the existing building should not justify the re-use of the building in a commercial manner;
- Potential for a 'domino effect' resulting in more commercial uses along Osmond Terrace;
- Commercial traffic will affect the amenity of the residential area through additional vehicle movements and noise;
- Parking forward of the building will negatively affect the setting and value of the local heritage place;
- Potential hazard created by commercial vehicle movements in and out of the site;
- Concern about vehicles damaging the heritage-listed wall adjacent the driveway crossover;
- Impact on on-street parking availability;
- The floor area is too large;
- No shortage of consulting rooms in Norwood;
- The front fence is not compatible with the associated local heritage place;
- Concerns about stormwater drainage from the site.

AGENCY REFERRALS

Nil

INTERNAL REFERRALS

- David Brown, Heritage Advisor
- Rebecca Van Der Pennen, Traffic Engineer
- Josef Casilla, Project Manager, Assets

PLANNING ASSESSMENT

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

Land Use

The Planning & Design Code defines a consulting room as:

“a building or part of a building (not being a hospital) used in the practice of a profession by a medical, veterinary or dental practitioner, or a practitioner in any curative science, in the provision of medical services, mental, moral or family guidance, but does not involve any overnight accommodation other than for animals that are recovering from surgery, medical care or in observation as part of a veterinary practice.”

Performance Outcome 1.1 of the Established Neighbourhood Zone states:

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

The corresponding Designated Performance Features identifies consulting room as an envisaged land use within the Zone.

Performance Outcome 1.2 of the Zone further states:

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

Performance Outcome 1.4 of the Zone states:

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

(a) Small scale commercial uses such as offices, shops and consulting rooms...

In the recent ERD Court decision of *Jahk Enterprises Pty Ltd*¹, the Court held that the phrase “*improve community access*” ‘does not introduce consideration of whether the service is presently available to the community it seeks to serve’ (at [87]). Additionally, at [89] Commissioner Nolan went further, stating ‘the intent of the PO to locate development “*to improve community accessibility*” does not provide for any consideration of its location within the [zone]... the addition of any such use improves community access, even if the use duplicates a service already provided’.

Accordingly, the determination of whether the land use is appropriate in principle on the subject site requires an assessment of whether the use is small scale (PO 1.4), compatible with the established development pattern of the neighbourhood (PO 1.1) and of a scale and type to maintain residential amenity (PO 1.2).

Small scale is not defined in the Planning & Design Code. Continuing with the rationale in *Jahk Enterprises Pty Ltd*, small scale ‘refers to an assessment of its intensity’ (at [95]) by virtue of these Performance Outcomes falling under the heading of ‘Land Use and Intensity’ within the Zone; it is not an assessment of the size and scale of the built form. That being said, the proposed consulting room involves the change of use of an existing building. The gross leasable floor area of the proposed use comprises approximately 205m² and will contain three (3) consulting rooms.

The exact nature of the proposed consulting room use is not clear because the landowner has not secured a tenant. Nonetheless, the Applicant has stated that the intent is to offer the rooms to medical specialists, who typically conduct longer consultations (compared to a general practice). In this respect, the proposed hours of operation for the consulting room use are as follows:

- Monday to Friday: 08:00am to 6:00pm
- Saturday: 09:00am to 2:00pm
- Sunday: Closed

The applicant has not specifically stated the anticipated length of appointments, but has advised a willingness to accept a condition that they be no less than 30 minutes in duration (see **Attachment 8**). This condition, along with the description of the nature of development, will ensure that any approved consulting room use remains that of a specialist medical nature and the use cannot morph into a general medical practice without further development approval being required.

With only three (3) consulting rooms proposed, the hours of operation being typical of a medical consulting room, and appointment lengths restricting the number and frequency of vehicle movements in and out of the site, the proposed land use is considered to be small scale in respect of its intensity.

Interface Considerations

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

“Non-residential development does not unreasonably impact the amenity of sensitive receivers... through its hours of operation having regarding to:

- (a) The nature of the development*
- (b) Measures to mitigate off-site impacts*
- (c) The extent to which the development is desired in the zone...*

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

The corresponding DPF, in respect of consulting rooms, considers the following hours of operation to generally be appropriate to satisfy PO 2.1:

*“7am to 9pm, Monday to Friday
8am to 5pm, Saturday”*

Sensitive receiver is defined as, among other things, land uses for residential purposes.

In the context of the subject site and locality, these hours are not considered to automatically satisfy PO 2.1. The subject site is located on a local collector road, not an arterial road, and is surrounded on all sides by residential development within a predominantly residential zone. Accordingly, it is not reasonable for residents of the locality to expect non-residential development that operates from 7am to 9pm, Monday to Friday. Notwithstanding, the proposed hours of operation are more restrictive from those states in DPF 2.1 and are considered reasonable for this locality. The applicant has indicated a willingness to accept a condition that reflects the proposed hours of operation (see **Attachment 8**).

The consulting room will operate on an appointment-only basis with no anticipated noise emissions except by way of vehicle movements into and out of the site, and waste collection.

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

“Development that emits noise (other than music) does not unreasonable impact the amenity of sensitive receivers).”

Data collected by the Council in November 2020 (for separate purposes) shows that the southbound lane of Osmond Terrace, between The Parade and William Street, contains an average of 5623 vehicle movements per weekday. Advice from Council’s Manager, Traffic & Integrated Transport suggests that the volumes of traffic between William Street and Kensington Road – the section of Osmond Terrace in which the subject land is located – likely aren’t very different given the large median strip along Osmond Terrace that prevents right-hand turns on William Street.

The number of expected vehicle movements for the proposed use are not considered to noticeably increase the total volumes of traffic on Osmond Terrace.

With respect to vehicle movements within the site, the four spaces adjacent the northern boundary are designated staff parking spaces. Accordingly, the majority of vehicle movements in and out of the site during the operation of the consulting rooms will occur in the front car parking area between the building and Osmond Terrace. This area will be a very low-speed environment, with vehicles not expected to generate noise above and beyond that typical of traffic along Osmond Terrace. Additionally, the dwelling to the south is setback a similar distance from Osmond Terrace as the subject building, meaning no habitable room windows or private open space face directly onto this car parking area. Consequently, the proposed development will maintain residential amenity consistent with PO 2.1 of the Zone.

Performance Outcome 6.2 of the Transport, Access and Parking module states:

“Vehicle parking areas are appropriately located, designed and constructed to minimise impacts on adjacent sensitive receivers through measures such as ensuring they are attractively developed and landscaped, screen fenced, and the like.

The application proposes meaningful landscaping along the southern boundary, adjacent the car parking area, consistent with PO 6.2. Additionally, a well-vegetated post and wire fence is proposed adjacent the northern car parking area to minimise any potential visual and noise impacts from the use of this area, consistent with PO 6.2.

Waste Management

The applicant has advised that the consulting room use is expected to generate low volumes of waste akin to a domestic development. Accordingly, the consulting room use will utilise the Council’s standard waste service

of three bins: waste to landfill, recyclables, and food organics and green organics; as well as collecting medical waste which will be collected by a private contractor on an 'as-needs' basis by a private contractor.

Medical waste collection is able to be facilitated on-site outside of the operating hours of the consulting room and in accordance with the provisions of the *Local Nuisance & Litter Control Act 2016* (SA), being between 7am and 7pm, Monday to Saturday. The Council-provided bins will be stored behind the building and out of sight from the public realm, consistent with Performance Outcome 1.5 of Design in Urban Areas. The collection of these bins will take place from Brown Street (see the Site Plan provided in **Attachment 1**).

Traffic Impact, Access and Parking

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

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

As earlier highlighted, existing volumes of traffic along Osmond Terrace will not be significantly increased as a result of the proposed development, consistent with this Performance Outcome.

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

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

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

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

The application proposes to utilise the existing 4 metre wide single-width crossover adjacent the northern boundary of the site. Because the site has less than 25 on-site car parking spaces and faces a local road, a 3.5m wide crossover complies with *AS/NZS 2890.1:2004 – Parking facilities: Part 1: Off-street car parking*, which has been confirmed by the Council's Traffic Engineer.

The crossover is not wide enough to accommodate two-way vehicle traffic, but due to the low volume of traffic that the proposed use will generate this is considered acceptable. Further, the applicant's ability to widen the crossover is restricted because of the heritage-listed wall that abuts the existing crossover on the northern side and a mature council street tree on the southern side of the crossover.

The applicant as demonstrated that a B99 design vehicle is able to enter and exit the site in a forward manner, and also able to conduct a three-point turnaround manoeuvre within the car park in the event the car park is fully occupied, consistent with PO 3.1 (above).

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

“Sightlines at... crossovers to allotments for motorists, cyclists and pedestrians are maintained or enhanced to ensure safety for all road users and pedestrians.”

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

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

The driveway measures 4.8m in width at the property boundary, providing room for pedestrians to safely enter the site on foot without interrupting traffic or being compromised by vehicle movement. Sightlines will be maintained by the increased width in the driveway at the front boundary, as well as by low-level landscaping (no higher than 1.1m) adjacent the car park and front boundary. Both the applicant's and the Council's traffic engineers are satisfied that adequate sightlines are provided by the development.

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

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

- (a) Availability of on-street car parking*
- ...*
- (d) the adaptive reuse of a State or Local Heritage Place*

The corresponding Designated Performance Feature states:

“Development provides a number of car parking spaces on-site at a rate no less than the amount calculated using...

- (a) Transport, Access and Parking Table 1 – General Off-Street Car Parking Requirements”*

Table 1 prescribes a rate of four (4) car parking spaces per consulting room. Consequently, the theoretical parking demand generated by three (3) consulting rooms is 12 car parking spaces. The application proposes the provision of 10 car parking space on the site, which includes one (1) accessible car parking space and four (4) designated stacked staff parking spaces. This results in a shortfall of two (2) spaces.

The proposed development comprises the adaptive reuse of a Local Heritage Place and on-street parking is generally available adjacent the site which together justify the shortfall of two (2) on-site car parking spaces.

Heritage, Design & Appearance

Performance Outcome 1.3 of the Established Neighbourhood Zone states:

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

Performance Outcome 2.1 of the Character Area Overlay states:

“The form of new buildings and structures that are visible from the public realm are consistent with the valued streetscape characteristics of the character area.”

Performance Outcome 3.2 of the Character Area Overlay states:

“Adaptive reuse and revitalisation of buildings to retain local character consistent with the Character Area Statement.”

The proposal involves the adaptive re-use of an existing Local Heritage Place, with no significant building work proposed to the building except for necessary and appropriate heritage restoration works. The existing building is well set back from the front boundary and a car parking area is proposed in this setback area to facilitate the proposed development, which is not typical of the residential character of the neighbourhood or generally complementary to a local heritage place. Notwithstanding, the applicant has submitted an appropriate landscaping plan that will seek to soften the appearance of the car parking area from the streetscape in a manner intended to complement the residential character and amenity of the neighbourhood, and consistent with the Character Area Statement.

Performance Outcome 1.1 of the Local Heritage Place Overlay states:

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

Performance Outcome 1.2 of the Local Heritage Place Overlay states:

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

Performance Outcome 1.6 of the Local Heritage Place Overlay states:

“New buildings and structures are not placed or erected between the primary or secondary street boundaries and the façade of a Local Heritage Place.”

As earlier highlighted, the application involves the construction of a car parking area between the building and the primary street boundary, which is at odds with these three Performance Outcomes. The advice received from Council's Heritage Advisor states that 'car parking should be behind the face of the Local Heritage Place to preserve its setting and heritage value' and the proposed car parking area 'will have a detrimental impact on the heritage value and setting of the Local Heritage Place'.

That being said, the adaptive reuse of this Local Heritage Place (i.e. any change of use to an appropriate non-residential use) is inherently going to require car parking to be positioned between the building and the primary street boundary. There is insufficient space in the area north of the building to construct a sufficient number of car parks to support any non-residential use, given the floor area of the building.

The applicant has provided a comprehensive landscaping plan, and opted for the use of permeable paving throughout the car park, in an attempt to soften the appearance of this car parking area when viewed from the street. Further, none of the car parks are proposed to be covered by a roofed structure of any kind, and so any obscuring of the Local Heritage Place will only occur during the operating hours of the proposed consulting room use when cars are parked in these spaces, leaving views of the Place available during all other hours.

While the implementation of a car parking area between the Local Heritage Place and the primary street boundary has the effect of diminishing the value and setting of the Place, the applicant has demonstrated a reasonable attempt at minimising the impact this has on the streetscape and character of the area by way of a modest, appropriate front fence and a meaningful, established landscaping plan. If the Panel considers granting planning consent to this application, Conditions 2 and 3 have been recommended with the intent of ensuring a balance can be achieved between landscaping softening the appearance of the car parking area and not completely compromising views of the Local Heritage Place.

Performance Outcome 1.5 of the Local Heritage Place Overlay states:

"Materials and colours are either consistent with or complement the heritage values of the Local Heritage Place."

Performance Outcome 7.1 of the Local Heritage Place Overlay states:

"Conservation works to the exterior of a Local Heritage Place match original materials to be repaired and utilise traditional work methods."

The application proposes comprehensive restoration works to the building's external walls, verandahs, roof, fascias, windows, downpipes and gutters, as detailed in "Elevations 01" and "Elevations 02" in **Attachment 1**.

Councils' Heritage Advisor has advised that for the most part the proposed restoration works are acceptable and thus consistent with POs 1.5 and 7.1 of the Local Heritage Place. However, with respect to the external walls of the building, the applicant proposes to strip back the existing paint finish and apply a new paint finish in a white accent which Council's Heritage Advisor has advised "does not enhance the heritage value of the Local Heritage Place and should be reconsidered". The advice received is that the preferred outcome for this building would be to have the original red brick re-exposed, rather than repainted. Notwithstanding, repainting the building could be supported if a more suitable colour scheme was proposed that was complementary to the Local Heritage Place. Accordingly, a reserved matter has been recommended to address this concern in the event the Panel determines to grant planning consent to this application.

Performance Outcome 3.4 of the Local Heritage Place Overlay states:

"Fencing and gates closer to a street boundary (other than a laneway) than the street elevation of the associated building are consistent with the traditional period, style and form of the Local Heritage Place."

The application proposes a masonry-pillared and metal infill front fence comprised of white-painted brick pillars and plinths and aluminium blade infill with 69mm spacing between blades allowing views through. Due to the slope of Osmond Terrace, the masonry pillars range from 1.59m tall on the southern end to 1.8m at the north end, with the plinths ranging between 395mm and 600mm in a similar fashion. The aluminium blades will retain a consistent 1.2m height throughout, lining up with the top of the masonry pillars. The final northern pillar will

about a 1.8-metre-high automatic sliding gate constructed of aluminium blades which will meet the heritage-listed wall adjacent. This fence is considered to be acceptable and consistent with PO 3.4 (above). Council's Heritage Advisor supports the fence also.

Finally, Performance Outcome 1.1 of the Heritage Adjacency Overlay states:

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

The adjoining dwelling at 114 Osmond Terrace is a Local Heritage Place, but the proposed development is not considered to dominate, encroach or unduly impact on the setting of this Place consistent with this PO.

Hazards – Flooding

The northern portion of the allotment is partially comprised of First Creek (although this does not form part of the subject site for the proposed development). As a consequence, the site is partially located within both the Hazards (Flooding) Overlay and the Hazards (Flooding – General) Overlay – although only to the extent of the allotment that is comprised of First Creek (see **Attachment 2**). Nonetheless, the application was referred to Council's external hydrological engineer for feedback on the proposal.

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

“Development sited and designed to minimise exposure of people and property to unacceptable flood risk.”

The application proposes stormwater discharge from the site directly into First Creek via two discharge points, an existing one at the rear of the site and a new one closer to Osmond Terrace. Both discharge points will be fitted with a flap gate to prevent backflow into the site during peak rainfall periods when the water levels in First Creek may be higher than the level of the discharge points, consistent with the advice provided to Council (see **Attachment 7**).

As a result of this proposed arrangement, the site could be subject to flooding during a 1% AEP flood event – not as a result of overflows from First Creek, but from an inability to discharge stormwater from the site into the creek. To overcome this, the application proposes a sealed pump system with a 1,125L capacity that can detain and pump surface stormwater from the site to Osmond Terrace via a third stormwater discharge outlet in such events. The capacity of the pump has been confirmed by Council's external hydrological engineer as being sufficient to minimise exposure of the site and property to unacceptable flood risk, consistent with PO 2.1 (above).

Finally, Council's external hydrological engineer has advised that the installation of a water quality improvement device for the carpark is not necessary, due to: the relatively small size of the car parking area; the limited number of vehicle movements; and the use of permeable paving.

CONCLUSION

This application has both positive and negative qualities about it. On the one hand, the application seeks the adaptive re-use and revitalisation of a local heritage place that has remained disused for the best part of 18 years. The reuse of the building for non-residential purposes is generally envisaged within the Established Neighbourhood Zone providing the application can demonstrate the land use is able to exist in harmony with surrounding residential uses and without detracting from the residential character and amenity of the neighbourhood. The restoration works proposed to the local heritage place are appropriate and welcomed (subject to further consideration of colours and materials), the proposed front fence will complement the subject building and the extent of landscaping proposed will help maintain the residential character and amenity of the locality. Moreover, the proposed land use is not anticipated to create any interface issues by way of noise emissions, traffic movements or otherwise.

On the other hand, the positioning of a car parking area between the local heritage place and the Osmond Terrace boundary will negatively affect the siting and heritage values of the local heritage place, and will also

impede views of the building during operation of the consulting rooms. This is at significant variance with the provisions of the Local Heritage Place Overlay, but, as earlier highlighted, any future non-residential use of this building will inevitably result in the same outcome due to the constraints of the site.

Despite the impacts on the siting and heritage value of the local heritage place, the application, on balance, has merit for the reasons outlined above. Appropriate conditions that limit the hours of operation and length of appointments will ensure that this use can continue to operate into the future without prejudice to the surrounding residential amenity, and similar conditions with respect to the front boundary landscaping seek to mitigate the overall impact that the car parking area will have on the heritage value of the local heritage place.

RECOMMENDATION

Grant Planning Consent

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 23004961, by Minicozzi (Osmond Terrace) Pty Ltd is granted Planning Consent subject to the following conditions and reserved matters:

RESERVED MATTERS

Planning Consent

Pursuant to section 102 (3) of the Planning, Development and Infrastructure Act of 2016, the following matter(s) shall be reserved for further assessment prior to the granting of Development Approval:

An amended schedule of colours and materials shall be provided to the satisfaction of the Assessment Manager prior to the issuing of development approval.

CONDITIONS

Planning Consent

Condition 1

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

Condition 2

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

Condition 3

That the plantings specified between the front boundary and the adjacent car park be planted with a minimum planting height of 600mm.

Condition 4

That the plantings along the front boundary be maintained at a height that does not exceed the height of the masonry-pillared front fence.

Condition 5

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

Monday to Friday: 8am to 6pm

Saturday: 9am to 2pm

Condition 6

Appointments associated with the consulting room use shall not be less than 30 minutes long.

Reason: to ensure the nature and frequency of vehicle movements in and out of the site do not adversely affect the amenity of surrounding sensitive receivers.

Condition 7

All deliveries to the site and waste collection from the site shall be restricted to the following times:

Monday to Saturday: 7am to 7pm

Condition 8

All car parking spaces shall be line marked or delineated in a distinctive fashion, with the marking maintained in a clear and visible condition at all times.

Condition 9

Wheel stopping devices shall be placed at the end of each parking bay so as to prevent damage to adjoining fences, buildings or landscaping to the reasonable satisfaction of the Council or its delegate.

Condition 10

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

Condition 11

All refuse and stored materials shall be screened from public view to the reasonable satisfaction of the Assessment Manager.

Condition 12

All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building. In particular, stormwater discharge from the site shall occur in accordance with the stamped plan herein approved entitled "Proposed Site Layout Plan", prepared by SCA Engineers (Drawing No: 230390-C2/B, dated 01.5.23).

ADVISORY NOTES

Planning Consent

Advisory Note 1

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

Advisory Note 2

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

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

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

Advisory Note 3

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

Advisory Note 4

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

Advisory Note 5

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

Advisory Note 6

The 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 7

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 8

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

Advisory Note 9

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 10

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

Mr Brunning elected not to attend or address the meeting.

Mr Wilkinson addressed the Council Assessment Panel from 8:42pm until 8:51pm

Mr and Mrs Griggs addressed the Council Assessment Panel from 8:52pm until 8:57pm

Dr Brine addressed the Council Assessment Panel from 8:57pm until 9:06pm

Moved by Mr Adcock

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 23004961, by Minicozzi (Osmond Terrace) Pty Ltd is Refused Planning Consent for the following reasons:
 - The proposed development does not satisfy the Performance Outcomes 1.1 and 1.2 and 1.3 and 1.4 of the Established Neighbourhood Zone.
 - The proposed development will detrimentally affect the heritage value of the associated Local Heritage Place, at odds with Performance Outcomes 1.1 and 1.2 of the Local Heritage Place Overlay.
 - The proposed layout and use of the site for client and staff parking will not reinforce streetscape characteristics of the area or the setting and landscape character of the Local Heritage Place contrary to the Desired Outcome 1 and Performance Outcomes 1.1 and 3.2 of the Character Area Overlay and Performance Outcomes 1.7 and 2.2 of the Local Heritage Place Overlay.

Seconded by Mr Moorhouse
Carried

6. DEVELOPMENT APPLICATIONS – DEVELOPMENT ACT
7. REVIEW OF ASSESSMENT MANAGER DECISIONS
8. ERD COURT APPEALS
9. OTHER BUSINESS
Nil
10. CONFIDENTIAL REPORTS
11. CLOSURE

The Presiding Member declared the meeting closed at 9.33pm

Terry Mosel
PRESIDING MEMBER

Geoff Parsons
MANAGER DEVELOPMENT ASSESSMENT