

Council Assessment Panel Minutes

16 December 2024

Our Vision

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

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

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

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VENUE Council Chambers, Norwood Town Hall

HOUR 7:00pm

PRESENT

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

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

APOLOGIES Cr Christel Mex

ABSENT

1. **COMMENCEMENT AND WELCOME**

2. **APOLOGIES**

3. **CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT
PANEL HELD ON 18 NOVEMBER 2024**

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

4. **DECLARATION OF INTERESTS**

5. DEVELOPMENT APPLICATIONS – PDI ACT

5.1 DEVELOPMENT NUMBER – ID 24026013 – STEVIE-ANN SPENCER –
16 FULLARTON ROAD NORWOOD

DEVELOPMENT NO.:	24026013
APPLICANT:	Stevie-Ann Spencer
ADDRESS:	16 FULLARTON RD NORWOOD SA 5067
NATURE OF DEVELOPMENT:	Change of use to an indoor recreation centre (fitness centre)
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Suburban Business <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Future Road Widening • Prescribed Wells Area • Regulated and Significant Tree • Traffic Generating Development • Urban Transport Routes <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height (Levels) (Maximum building height is 3 levels)
LODGEMENT DATE:	27 Aug 2024
RELEVANT AUTHORITY:	Assessment panel at City of Norwood, Payneham & St Peters
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.15 15/8/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Kieran Fairbrother, Senior Urban Planner
REFERRALS STATUTORY:	Commissioner of Highways
REFERRALS NON-STATUTORY:	Rebecca Van Der Pennen, Traffic Engineer

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

DETAILED DESCRIPTION OF PROPOSAL:

The proposed development is to change the use of the building on the subject site to an indoor recreation facility, which is defined by the Planning & Design Code as “a building designed or adapted primarily for recreation or fitness pursuits”. No changes are proposed to the externality of the existing building or to the car parking areas in front of and behind the building. No signage is proposed either.

This facility intends to offer general fitness classes, pilates classes, yoga classes and open general gym use (during class times), with a maximum capacity of 22 participants plus 2 staff members. The proposed hours of operation range from 5:00am to 6:15pm on weekdays and include Saturday mornings, with no classes proposed on Sundays.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 16 FULLARTON RD NORWOOD SA 5067

Title ref.: CT 5093/368 **Plan Parcel:** F100211 AL1 **Council:** THE CITY OF NORWOOD PAYNEHAM AND ST PETERS

Shape:	regular
Frontage width:	approx. 10m
Area:	approx. 433m ²
Topography:	relatively flat
Existing Structures:	a two-storey building and associated car parking
Existing Vegetation:	nil

Locality

The locality selected for this assessment extends along Fullarton Road for approximately 100m in both directions and includes the first few properties on both Chapel Street (east) and King William Street (west), as well as the residential properties on Edmund Street (east) that share access over the rear lane with the subject site, as shown in **Attachment 2**.

The locality is predominantly characterised by a mix of single- and two-storey buildings of non-residential land uses fronting Fullarton Road, including offices, consulting rooms, a bulky goods outlet and a personal services establishment. The Chapel Street portion of this locality is characterised by two-storey non-residential buildings, whereas Edmund Street is located within an Historic Area Overlay, characterised by single-storey historic dwellings on smaller sites, and enjoys a decent level of amenity by virtue of consistent street tree plantings and the residential nature of the street (notwithstanding it backs on to properties that front a State-maintained road).

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Indoor recreation facility: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed

- **REASON**
P&D Code

PUBLIC NOTIFICATION

- **REASON**
Indoor recreation facility is not exempt from public notification per Table 5 of the Zone unless the development site is not adjacent to a site used for residential purposes in a neighbourhood zone. The development site is adjacent a site used for residential purposes in a neighbourhood-type zone and therefore public notification is required.

- **LIST OF REPRESENTATIONS**

First Name	Surname	Address	Position	Wishes to be heard?
Lui	Schipani	18 Fullarton Road NORWOOD	Opposed	No
Helen	Parker	5 Edmund St NORWOOD	Opposed	Yes
Malcolm	Hockley	7 Edmund St NORWOOD	Opposed	No
Dimitrios	Mitris	PO Box 3121 UNLEY	Opposed	No
Sandra	Ross	9 Edmund St NORWOOD	Support, with concerns	Yes
Car	Francis	1/6 Chapel St NORWOOD	Support, with concerns	No
Dale	Smith	3/6 Chapel St NORWOOD	Opposed	No

- **SUMMARY**

The concerns raised by the representors can be summarised as follows:

- The lack of on-site car parking compared to the maximum number of participants in a class;
- A general lack of on-street car parking availability in the local area won't be able to support this business;
- Concerns that attendees to this gym will park on other sites because they won't get a park on the subject land or in nearby streets;
- There will be increased traffic volumes because of the crossover of fitness classes, with participants arriving early before classes and staying late after classes;
- The increased traffic will detriment the amenity of the area;
- The need for vehicles to reverse out onto Fullarton Road represents a hazard;
- The increased traffic conflict between other businesses and dwellings who share use of the rear lane, including concerns about vehicles blocking access to other sites;
- Concerns regarding the noise generated from the fitness centre, which will detriment the amenity of nearby residences;
- The potential for gym activities to occur outside of the building and in the rear lane, causing amenity issues for nearby dwellings and traffic safety concerns.

AGENCY REFERRALS

- Commissioner of Highways

The Commissioner of Highways is supportive of the proposal, subject to several conditions.

INTERNAL REFERRALS

- Rebecca Van Der Pennen, Traffic Engineer

Council's Traffic Engineer is not supportive of the proposal, citing the safety concerns with the non-conformant (albeit existing) car park and the need for vehicles to reverse out of the site into Fullarton Road.

PLANNING ASSESSMENT

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

Land Use

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. Residential development within the area is subordinate to employment uses and generally includes medium-density housing designed to complement and not prejudice the operation of existing businesses.”

Performance Outcome 1.1 of the Suburban Business Zone states:

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

Performance Outcome 1.2 of the Suburban Business Zone states:

“Retail, business and commercial development is of a scale that provides a local convenience service without undermining the vibrancy and function of zones primarily intended to accommodate such development.”

Performance Outcome 1.1 of the Out of Activity Centre Development module of the general development policies states:

“Non-residential development outside Activity Centres of a scale and type that does not diminish the role of Activity Centres:

- (a) As primary locations for shopping, administrative, cultural, entertainment and community services*
- (b) As a focus for regular social and business gatherings*
- (c) In contributing to or maintain a pattern of development that supports equitable community access to services and facilities.”*

Performance Outcome 1.1 of the Out of Activity Centre Development module of the general development policies states:

“Out-of-activity centre non-residential development complements Activity Centres through the provision of services and facilities:

- (a) That support the needs of local residents and workers, particularly in underserved locations*
- (b) At the edge of Activity Centres where they cannot readily be accommodated within an existing Activity Centre to expand the range of services on offer and support the role of the Activity Centre.”*

DPF 1.1 of the Suburban Business Zone provides a non-exhaustive list of land uses that might generally be envisaged in this Zone. While an indoor recreation facility is not a land use listed in DPF 1.1, it is useful to take note of some of the land uses listed therein for contextual consideration of the land use herein proposed. To this end, DPF 1.1 includes light industry, motor repair station and warehouse as some of the land uses envisaged within this Zone. An indoor recreation facility can have considerably lower off-site impacts than a motor repair station or light industry might, and is therefore, in principle, considered to satisfy Performance Outcome 1.1 of the Zone.

An indoor recreation facility is a type of ‘emerging business’ that provides a service to local residents and workers. The scale of the fitness centre is confined to the existing building, which has a total floor area of

approximately 300m² (less than the 500m² guidance provided by DPF 1.2 of the Zone for offices and the like). Accordingly, the proposed land use is considered to accord with Performance Outcome 1.1 above.

Indoor recreation facilities are abundant in Metropolitan Adelaide and are not necessarily confined to any particular zone. In other words, there are not particular zones within the Planning & Design Code that more readily envisage indoor recreation facilities than other zones, with the exception perhaps of the Community Facilities Zone. As such, the addition of this land use in this locality is not considered to undermine the function or vibrancy of other zones or activity centres, consistent with the abovementioned Performance Outcomes from the Out of Activity Centre Development module.

Noise Emissions / Amenity Impact

Whether or not this particular indoor recreation facility is appropriate for this site depends on consideration of the off-site impacts, consistent with Desired Outcome 1 and Performance Outcome 1.1 of the Zone, both of which state that non-residential uses should have low level off-site impacts.

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 unreasonable impact the amenity of sensitive receivers (or lawfully approved sensitive receivers).”

The corresponding Designated Performance Feature suggests that achieving compliance with the relevant *Environment Protection (Commercial and Industrial Noise) Policy* criteria will satisfy this Performance Outcome. Council administration agrees with this view.

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 or an adjacent sensitive receiver (or lawfully approved sensitive receiver) or zone primarily intended to accommodate sensitive receivers.”

The corresponding Designated Performance Feature suggests that this Performance Outcome may be satisfied if any amplified music achieves a noise level no more than 8 decibels above the level of background noise measured at the nearest sensitive receiver (with specific acoustic engineering criteria applied thereto).

The Applicant has supplemented their application with an Acoustic Report, prepared by National, Noise and Vibration (an acoustic engineering firm based in New South Wales) – see **Attachment 1**.

The Acoustic Report provides details of the acoustic modelling undertaken to determine whether the proposed indoor recreation facility will achieve the relevant Environment Protection Policy criteria, to therefore satisfy the abovementioned Performance Outcomes. This modelling assumed the following parameters:

- That all doors, windows and roller doors to the premises are closed;
- That the facility is operating at full capacity (24 people) with half emitting noise through raised voices;
- That two AC units are operating continuously;
- That 4 rower machines, 4 bicycles, 4 ski machines and 4 treadmills are being used simultaneously;
- That amplified music is playing continuously;
- That 7 vehicles enter and exit the site within the 15-minute assessment period, each idling for a few seconds;

- That, simultaneously, an 80kg barbell is dropped from knee height onto the floor, a barbell is dropped onto a squat rack, a 25kg dumbbell is dropped onto the floor and 25kg kettlebell is dropped onto the floor.

The modelling was based on a worst-case scenario with the facility operating at full capacity, half of the occupants raising their voices and four participants dropping heavy weights at the exact same time. In so doing, the modelling concluded that the operation of the proposed indoor recreation facility will achieve all relevant day time and nighttime noise criteria (as prescribed by the *Environment Protection Policy*) for the two closest sensitive receivers at 16 Chapel Street and 5 Edmund Street. Consequently, the proposed land use is considered to satisfy Performance Outcomes 4.1 and 4.6 of the Interface Between Land Uses module (above).

To ensure continued compliance with the relevant noise criteria is achieved, Condition No 4 reinforces the need to keep all building openings closed during the operation of the facility.

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

“Non-residential development does not unreasonable impact the amenity of sensitive receivers (or lawfully approved sensitive receivers) or an adjacent zone primarily for sensitive receivers through its hours of operation having regard to:

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

In the context of the acoustic modelling undertaken, the proposed hours of operation are considered reasonable and reflect the typical hours of operation for such facilities. These hours are reflected in Condition No 3, which provides further scope for operations on Saturdays, with the applicant at liberty to apply to vary those hours.

Traffic Impact, Access and Parking

Performance Outcome 1.1 of the Urban Transport Routes Overlay states:

“Access is designed to allow safe entry and exit to and from a site to meet the needs of development and minimise traffic flow interference associated with access movements along adjacent State maintained roads.”

Performance Outcome 1.4 of the Transport, Access and Parking module of the general development policies states:

“Development is sited and designed so that loading, unloading and turning of all traffic avoids interrupting the operation of and queuing on public roads and pedestrian paths.”

The application does not seek to alter the existing access arrangements for the site, or the car parking spaces within the site. Vehicle access is available via the existing Fullarton Road crossover or via the rear lane. The rear lane is a private road under private ownership, over which the subject land and other sites have rights of way.

Several representors raised concerns about the use of the lane for this development, suggesting that the increased traffic volumes through the lane would be a detriment to the residential amenity of the dwellings behind. It is prudent to note, firstly, that there are only three (3) car parking spaces at the rear of the subject building that can be accessed by this lane. Secondly, this site is one of more than a dozen sites that use this lane for access. Accordingly, the volume of traffic in the lane that is expected to be generated by this land use is not considered to be such that would cause a detrimental impact to the adjacent sensitive receivers.

Council’s Traffic Engineer has concerns with the safety of movements associated with the Fullarton Road car park because it requires vehicles to reverse out of the site into traffic on Fullarton Road. However, these undesirable movements are not caused by this development – these conditions already exist (albeit it might

be that this development will experience an increase in such movements compared to the previous use, but that is unknown).

The Applicant's traffic engineer suggests that two (2) of the four (4) spaces in front of the building will be allocated for staff who will arrive and leave the premises outside of Fullarton Road's peak traffic times, thereby minimising the potential for conflict during egress movements. The other two (2) spaces would be available for clients and are anticipated to generate four (4) peak hour movements according to the Applicant's traffic engineer, which is akin to the traffic generation associated with the site's existing office use. Because the development involves a change of use of an existing building, with no building work or changes to parking proposed, the applicant cannot be expected to make good an existing undesirable situation where that undesirable situation is not expected to be aggravated by the proposal.¹ As such, and despite the valid concerns of Council's traffic engineer, the proposal is considered to accord with the abovementioned Performance Outcomes. This is reinforced by the Commissioner of Highways' support for the proposal.

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 [several] factors that may support a reduced on-site rate..."

The corresponding Designated Performance Feature suggests that satisfaction of the rates in Table 1 or Table 2 of the module (as applicable) will generally satisfy this Performance Outcome. This is the generally adopted approach in planning assessments, unless special circumstances apply. No such circumstances are considered to apply in this instance. The subject land is located within a designated area for the purposes of car parking and accordingly Table 2 of this module prescribes the applicable car parking rate.

To this end, Table 2 prescribes a rate of 3 spaces per 100m² of gross leasable floor area for all non-residential development except tourist accommodation. It is well-established in planning law that any existing car parking shortfall can be carried over to any new land use where the total floor area to be used is not being altered. This principle is directly applicable to this application because the total floor area of the subject building is not changing because of the development. Accordingly, because the same car parking rate is prescribed to the existing office use as it is to the proposed indoor recreation facility use, the existing shortfall on site is the same shortfall that would exist in respect of the proposed use, and therefore the existing number of on-site car parks are considered sufficient for the proposed use. Thus, Performance Outcome 5.1 (above) is satisfied. Notwithstanding this, the proposed use has a gross leasable floor area of approximately 300m², which would require nine (9) spaces per Table 2 of this module. Accordingly, the existing shortfall is only 2 spaces when assessed against the P&D Code.

Both the Applicant's and Council's traffic engineers recognise that the land use is likely to generate a demand for up to 22 vehicles, all of which cannot be accommodated on site and will therefore need to utilise the on-street network or rely on visitors finding alternative transport methods. However, this is simply a consequence of the site being located in a designated area and it would be inconsistent with existing case law to not support the application on this basis.

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 encourage cycling as an active transport mode."

The corresponding Designated Performance Feature suggests that the provision of bicycle parking spaces commensurate with the rates specified in Table 3 of the module is sufficient to satisfy this Performance Outcome. In this respect, Table 3 suggests that the development should provide two (2) bicycle parking spaces based on the number of staff and floor area of the building.

No bicycle parking areas have been provided for this development. Nonetheless, there is room available either next to the pedestrian door at the front of the building, or within the building, for two (2) bicycle parking spaces.

¹ *Wong v Metcash Trading Australasia Ltd* [2003] SASC 314; *City of Woodville v Horbelt* (1980) 42 LGRA 286.

Accordingly, a Reserved Matter has been recommended, requiring the Applicant to provide for two (2) bicycle parking spaces on the site.

Question of Seriously at Variance

Having considered the proposal against the relevant provisions of the Planning & Design Code (version 2024.15, 15/08/2024), the proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code for the following reasons:

- The land use proposed is not at odds with the types of land uses envisaged within the Suburban Business Zone;
- The acoustic modelling provided demonstrates compliance with relevant industry standards;
- The site is in a designated area for car parking; and
- The traffic concerns associated with the use are pre-existing and cannot expect to be remedied by the subject proposal.

CONCLUSION

Indoor recreation facilities are an anticipated land use in the Suburban Business Zone providing they are of a scale appropriate for the locality and do not result in adverse impacts to any adjacent sensitive receivers. The acoustic assessment provided with the application demonstrates that the land use achieves the relevant *Environment Protection Policy* noise criteria providing the external openings of the building remain closed during operation. Conditions 4 and 5 recommended below ensure ongoing compliance with this, to protect the amenity of the adjacent sensitive receivers.

The subject land is located within a designated area for the purposes of car parking and consequently the development is not expected to provide any more on-site car parking spaces than what already exists. This will result in a reliance on on-street parking in the locality, or alternative transport methods, but this is a consequence that cannot be avoided in designated areas and is not considered to be a reason for non-support of the proposal. The Fullarton Road car park is an existing, non-compliant car park whose operation will result in vehicles needing to reverse onto Fullarton Road. However, the Applicant cannot be expected to remedy this existing deficiency, and this is recognised by the Commissioner of Highways in their support for the proposal.

Similarly, the site has a right to use the rear lane for access purposes and so while the representors have a right to not support the likely increase in vehicle movements along this lane, the increased movements are not considered to be such that any impact caused to these residences justifies the refusal of the application. Conversely, the impacts are considered to be acceptable.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.
2. Development Application Number 24026013, by Stevie-Ann Spencer is granted Planning Consent subject to the following conditions:

RESERVED MATTER

Planning Consent

An amended site plan (or floor plan) shall be provided to the reasonable satisfaction of the Assessment Manager that includes at least two (2) bicycle parking spaces on the site (or within the building in a convenient location).

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

Pursuant to Section 127(1) of the *Planning, Development and Infrastructure Act 2016*, the power to impose further conditions of consent in respect of the reserved matter(s) above is delegated to the Assessment Manager.

CONDITIONS

Planning Consent

Condition 1

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

Condition 2

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

Condition 3

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

- Monday to Friday (excluding public holidays), 5:00am to 7:00pm
- Saturday, 7:00am to 5:00pm

Condition 4

All external openings to the building (including but not limited to roller doors, pedestrian doors and windows) shall remain closed while the facility is being used.

Condition 5

All classes and fitness-related activities shall be undertaken wholly within the building.

Condition 6

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

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

Condition 7

All access to/from the development shall be gained in accordance with the Dimensioned Site Plan produced by CIRQA, Project No: 24399, Sheet No. 02_SH01, Version A, dated 11/09/2024.

Condition 8

All on-site vehicle manoeuvring areas shall remain clear of any impediments.

Condition 9

Clear sightlines, as shown in Figure 3.3 'Minimum Sight Lines for Pedestrian Safety' in *AS/NZS 2890.1:2004*, shall be provided at the property line to ensure adequate visibility between vehicles leaving the site and pedestrians on the adjacent footpath.

Condition 10

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

ADVISORY NOTES

Planning Consent

Advisory Note 1

The Applicant is reminded of its responsibilities under the *Environment Protection Act 1993*, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged

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

Advisory Note 2

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

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

Advisory Note 3

The Applicant is advised that construction noise is not allowed:

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

Advisory Note 4

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

Advisory Note 5

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

Advisory Note 6

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

Advisory Note 7

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

Advisory Note 8

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

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

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

Advisory Note 9

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

Ms Spencer answered questions from the Council Assessment Panel from 7:03 pm until 7:06pm

Moved by Mr Adcock

1. *The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the Planning, Development and Infrastructure Act 2016.*
2. *Development Application Number 24026013, by Stevie-Ann Spencer is granted Planning Consent subject to the following conditions:*

RESERVED MATTER

Planning Consent

An amended site plan (or floor plan) shall be provided to the reasonable satisfaction of the Assessment Manager that includes at least two (2) bicycle parking spaces on the site (or within the building in a convenient location).

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

Pursuant to Section 127(1) of the Planning, Development and Infrastructure Act 2016, the power to impose further conditions of consent in respect of the reserved matter(s) above is delegated to the Assessment Manager.

CONDITIONS

Planning Consent

Condition 1

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

Condition 2

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

Condition 3

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

- *Monday to Friday (excluding public holidays), 5:00am to 7:00pm*
- *Saturday, 7:00am to 5:00pm*

Condition 4

All external openings to the building (including but not limited to roller doors, pedestrian doors and windows) shall remain closed while the facility is being used.

Condition 5

All classes and fitness-related activities shall be undertaken wholly within the building.

Condition 6

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

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

Condition 7

All access to/from the development shall be gained in accordance with the Dimensioned Site Plan produced by CIRQA, Project No: 24399, Sheet No. 02_SH01, Version A, dated 11/09/2024.

Condition 8

All on-site vehicle manoeuvring areas shall remain clear of any impediments.

Condition 9

Clear sightlines, as shown in Figure 3.3 'Minimum Sight Lines for Pedestrian Safety' in AS/NZS 2890.1:2004, shall be provided at the property line to ensure adequate visibility between vehicles leaving the site and pedestrians on the adjacent footpath.

Condition 10

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

ADVISORY NOTES

Planning Consent

Advisory Note 1

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

Advisory Note 2

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

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

Advisory Note 3

The Applicant is advised that construction noise is not allowed:

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

Advisory Note 4

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

Advisory Note 5

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

Advisory Note 6

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

Advisory Note 7

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

Advisory Note 8

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

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

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

Advisory Note 9

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

**Seconded by Mr Rutt
CARRIED**

**5.2 DEVELOPMENT NUMBER – ID 24017924 – TEODORA JANKUNAS –
114 SYDENHAM ROAD NORWOOD**

DEVELOPMENT NO.:	24017924
APPLICANT:	Teodora Jankunas
ADDRESS:	114 SYDENHAM RD NORWOOD SA 5067
NATURE OF DEVELOPMENT:	Partial Demolition of a single storey detached dwelling, and construction of a two-storey detached dwelling with retention of an existing boundary wall and garage
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 • Heritage Adjacency • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Traffic Generating Development • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Frontage (Minimum frontage is 8m) • Minimum Site Area (Minimum site area is 300 sqm) • Maximum Building Height (Levels) (Maximum building height is 1 level)
LODGEMENT DATE:	20 Jun 2024
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.11 20/06/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Edmund Feary - Senior Urban Planner
REFERRALS STATUTORY:	None
REFERRALS NON-STATUTORY:	City Arborist and Traffic Engineer

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 4:	Representations
ATTACHMENT 1:	Application Documents	ATTACHMENT 5:	Response to Representations
ATTACHMENT 2:	Locality, Zoning and Character/Historic Area Overlays Map		
ATTACHMENT 3:	Representation Map		

DETAILED DESCRIPTION OF PROPOSAL:

The site contains an existing single-storey, double-front cottage, which would be almost entirely demolished, with only the existing garage at the rear and boundary wall remaining. A new, two-storey detached dwelling would then be built, incorporating the retained elements.

Despite the retention of these parts of the existing dwelling, it is nonetheless considered to be a proposal for a new dwelling, given that the vast majority of the existing dwelling is to be demolished, and a new, distinct built form is to replace it.

The proposed dwelling would be two storeys in nature but with a mostly single-storey streetscape appearance. It would also include a new garage accessed via a new crossover to Sydenham Road, in addition to the retained garage which is accessed via the private lane to the rear.

BACKGROUND:

Under the Council's former *Development Plan*, the site was in the Residential Character (Norwood) Zone and was in a "character pocket". These were areas of more intact buildings where:

"the redevelopment of sites ... will provide continuity with regard to the form, height and siting (in terms of front, side and rear set-backs) of the surrounding pre-1940's dwellings. Building heights will generally be limited to maintain a single-storey streetscape appearance, however in some locations where a single storey built form character is particularly intact, may be further limited to single storey. The design of new dwellings may be traditional or contemporary but in all cases will make reference to the architectural detail of the surrounding pre-1940's dwellings, in particular the roof forms, front verandah treatments, window proportions and the use of different materials and finishes. Flat roof pitches, large unbroken expanses of glass or walling and monochromatic colour schemes will not occur where it will be highly visible in the streetscape or from surrounding properties."

When this Zone was transitioned into the *Planning and Design Code*, some of the nuances of this policy were lost, with a Maximum Building Height (Levels) TNV providing that development should be single storey, and a Character Area Overlay applied.

The applicant sought advice regarding a proposal for a two-storey detached dwelling in May of this year, with an application submitted in June. A lengthy process of exploration and negotiation has followed.

The application underwent public notification from 29 October-18 November 2024. Eleven representations were received, but of these, one was submitted four times, and another twice, meaning that there are seven representors.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 114 Sydenham Road NORWOOD SA 5067

Title ref.: CT 5850/377

Plan Parcel: F100052 AL50

Council: The City of Norwood Payneham & St Peters

Shape: Regular

Frontage width: 11.15m

Area: 307.5m²

Topography: Mostly flat

Existing structures: Single storey double fronted cottage constructed circa 1890, with later additions at the rear along with verandah, garage and shed

Existing vegetation: Limited vegetation in the front yard

Locality

The locality for the site is defined in **Attachment 2**. It extends:

- 120m north along Sydenham Road;
- 90m south along Sydenham Road; and,
- 90m east along Rosemont Street.

The sites to the south and east are generally also in the Character Area Overlay, while the sites to the north are in the Established Neighbourhood Zone but neither the Character, nor Historic Area Overlays. Uses are almost wholly residential, with the exception being a longstanding crash repair business at 126 Sydenham Road.

The locality's built form character is somewhat mixed, having single and double-fronted cottages, but also a variety of newer development both in the form of more recent dwellings, including group dwellings and residential flat buildings developed around 1960-2000.

While the majority of dwellings are single storey, there are a number of two storey dwellings, often presenting as outwardly two-storey to the street.

There are a broad range of site areas, ranging from around 200-1600 m².

Sydenham Road in particular has an avenue of street trees, with London Plane Trees on the eastern side and oak trees on the western side.

The locality generally exhibits a high degree of amenity.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
New housing
Detached dwelling: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

- **REASON**
Exceeds maximum building height TNV
- **LIST OF REPRESENTATIONS**

First Name	Surname	Address	Position	Wishes to be heard?
Chris	Zotti	1 Rosemont Street NORWOOD	Opposed	No
Steve	Mackie	112b Sydenham Road NORWOOD	Support, with concerns	No
Violet	Mackie*	112b Sydenham Road NORWOOD	Support, with concerns	No
Elisa	Star	N/A	Opposed	No
Thomas	Wanner	120 Sydenham Road NORWOOD	Opposed	No

Deborah	Heysen	122 Sydenham Road NORWOOD	Opposed	No
Thyme	Burdon**	Unit 1/28 Lamrock Avenue BONDI NSW	Opposed	Yes

* Ms Mackie submitted four representations due to technical issues

** Ms Burdon also submitted her representation twice due to technical issues. She is the owner of 116 Sydenham Road, Norwood

- **SUMMARY**

Representors raised a variety of concerns, including:

- The two-storey nature of the proposal;
- Overshadowing;
- Visual amenity and design;
- Overlooking and visual privacy;
- Construction disturbance;
- The demolition of the existing dwelling;
- Fencing;
- Streetscape appearance;
- Stormwater management;
- Roof and gutter access; and
- The feasibility of retaining the existing boundary wall.

These matters are addressed in the response to representations provided by the applicant. It is noted that:

1. Fencing below 2.1m does not require approval and no such fencing is included in this application;
2. No Planning and Design Code policies relate to construction disturbance, roof/gutter access or the method by which stormwater is disposed;
 - a. Nonetheless the stormwater matter has been addressed by the applicant by amending the gutter form on the existing wall to ensure it can be disposed of appropriately;
3. Structural engineering matters relating the boundary wall are also not a matter reflected in any Planning and Design Code policies;
 - a. If the applicant concludes that it is not feasible to retain the existing boundary wall, a variation will need to be lodged and considered;
 - b. It is taken at face value that the wall is to be retained.

These matters will not be discussed further below, as they are not considered material to the assessment of the Planning Consent. Other matters raised by representors are discussed in turn.

AGENCY REFERRALS

None

INTERNAL REFERRALS

- Rebecca Van Der Pennen, Traffic Engineer

Council's Traffic Engineer provided advice and support relating to the useability of the rear lane. She advised that she could not make a turning manoeuvre work either for a reverse or forward movement, using swept path turning diagrams.

- Matthew Cole, City Arborist

Advice was sought from Council's City Arborist in relation to impacts on the street tree in front of the property.

PLANNING ASSESSMENT

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

Land Use

The proposed development is residential in nature. Established Neighbourhood Zone PO 1.1 expects, "Predominantly residential development". The proposed development of a detached dwelling is consistent with this.

Building Height

As noted under the background section, some policy nuance regarding building height was lost in the transition from the *Development Plan* to the *Planning and Design Code*. While the site has a single storey TNV, it was not the original intent of this policy to reflect any kind of "blanket ban" on two-storey development. Rather, the appropriateness of two-storey development needed to be assessed based on the characteristics of the locality.

As outlined in the locality section, with particular examples identified in the applicant's response to representations, this locality does not have an intact single storey character.

While the single storey TNV is Established Neighbourhood Zone DPF 4.1, the associated Performance Outcome, PO 4.1, states:

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

Given that the prevailing character and the heights of nearby buildings are mixed, the fundamental two storey nature of the proposal is not at odds with this policy.

There are also two relevant policies in the Character Area Overlay, the first being PO 1.1:

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

The Character Area Statement outlines that one of these valued attributes is that dwellings have a "generally single storey streetscape appearance".

The plans provided by the applicant demonstrate that, given the high roof pitch of the ground floor component, from directly in front, the upper floor would be relatively difficult to see. However, oblique views would be possible, particularly when coming down Sydenham Road from the north, because of the width of the driveway servicing the group dwelling at 112A-D Sydenham Road.

This is a similar situation to the view of 1 Rosemont Street's two-storey addition, while looking down the laneway at the rear.



Image: view of the existing dwelling at 114 Sydenham Road looking down the driveway to the north (left) and (right) the view of the existing two storey dwelling addition at 1 Rosemont Street looking down the laneway to the west.

Nonetheless, the driveway in this case is a greater width, which will result in a greater visual prominence from the street than this comparison scenario.

On the whole however, it is considered that the streetscape appearance of the proposed dwelling would be generally single storey.

The other key policy in this respect is Character Area Overlay PO 2.2:

Development is consistent with the prevailing building and wall heights in the character area.

To aid in interpretation of this policy, it may be helpful to consider the Overlay's Desired Outcome. While not a policy in its own right, DO1 may provide a lens through which to understand the intent of these policies:

Valued streetscape characteristics and development patterns are reinforced through contextually responsive development, design and adaptive reuse that responds to the attributes expressed in the Character Area Statement.

While "development pattern" could possibly be interpreted more broadly, it is considered that this Overlay is therefore generally focused on streetscape outcomes, more so than on the impacts of development on neighbouring land.

While it is difficult to suggest that there is a "prevailing building and wall height" in the Character Area, the

existing dwelling and the row of dwellings to the south maintain a fairly consistent wall height. In this case, with the existing side wall being retained, this height would be matched by the lower floor component.

Therefore, the street perception of the building height would be consistent with that prevailing height.

Streetscape Appearance

Consideration of the impact of the building height on the streetscape is outlined above, being generally single storey, consistent with the Character Area Statement.

The front setback of the proposed development is 3.2m, with the verandah projecting forward of this by 1.8m. Visually, the wide driveway to the north breaks up the streetscape pattern, and the visual reference for the site is more aligned with the row of dwellings to the south. These have a consistent setback of approximately 2m. The existing building on this site is set behind this at 3.8m, but again the verandah projects forward of this such that it aligns with the dwellings to the south.

The new dwelling's setback is more consistent with the dwellings to the south than is the existing dwelling. With the visual impact of the verandah factored in, the overall appearance is generally consistent with the pattern of the streetscape as sought by Established Neighbourhood Zone PO 5.1.

The Character Area Statement outlined a series of valued streetscape characteristics which will be considered in turn. In general, the facade design presents as a contemporary interpretation of traditional forms, which is a contextual design approach in line with the Desired Outcome of the Character Area Overlay.

Roof Form and Pitch

The Character Area has predominantly pitched roofs, with these sometimes being hipped, and sometimes gabled. The proposed hipped roof is consistent with this.

While the 45-degree pitch of the roof is unusually steep for a traditional roof, the row of single fronted cottages to the south also has unusually steep roofs of approximately this pitch, leading to a gable end. While the proposed roof does not have a gable end, its pitch is consistent with these, leading to a sufficiently consistent outcome. This higher pitch also aids in hiding the upper floor.

Eave Form

The Character Area Statement also says that buildings in the Character Area generally have "traditional pre-1940s ... eaves" and indeed buildings in the Area do generally have eaves (though usually relatively small eaves).

The proposed upper floor would have eaves, but given the boundary wall on the southern side, it would not be possible to have eaves here. The existing wall does have a gutter overhang but this (presumed encroachment) would be resolved by the development. The northern side maintains this boundary gutter form in order to preserve symmetry in the design.

The gutter profile is relatively reflective of the appearance of the traditional eave form, which is considered sufficient.

Verandah Treatment

The verandah provided is a contemporary blade canopy which is a modern take on the traditional verandah forms. This is generally appropriate and provides for a cohesive streetscape.

Window Proportions

While the windows are somewhat larger in the proposed facade than is traditional, the stone pillars being set forward of these windows breaks up the overall appearance so that this is less visually prominent.

Materials

The proposed stonework is reflective of (but does not replicate) the traditional bluestone used in the Character Area.

Garage Prominence

The design provides a single garage with a door that makes up 22.5% of the site's frontage. This is less than the 30% guideline outlined in Established Neighbourhood Zone DPF 10.1 (c). The garage is also set back 500mm from the building line consistent with part (a) of this DPF. However, it is not set back 5.5m as sought by part (b).

Setting the garage back so far would negatively impact the overall cohesion of the facade, and given the limited front setback of the dwelling, the garage does not dominate the appearance of the dwelling and is consistent with Established Neighbourhood Zone PO 10.1.

Impact on Neighbours

This section will consider the proposed site coverage, boundary setbacks, overshadowing and privacy impacts.

The site coverage is calculated at 70%, equating to 215m² out of a total site area of 307.5m² (measurements based on scaled plans to preserve proportionality rather than achieving an exact square meterage). Although this represents a high site coverage, particularly in comparison to the 50% sought by Established Neighbourhood Zone DPF 3.1, such site coverages are commonplace within the locality. Furthermore, this proposal results in a reduction in site coverage compared to the existing dwelling.

In terms of the proposed works and the relevant setbacks, the following table compares the relevant DPFs with the proposed setbacks:

Setback	DPF	Proposed
Ground floor northern side	0.9m	1m
Ground floor southern side	0.9m	N/A- wall is existing and would be retained for this development
Ground floor rear	4m	8m to rear wall 5m to terrace, but the DPF generally intends for this to refer to the wall, rather than a projecting element such as a verandah or balcony.
Upper floor northern side	0.9m + 1/3 rd the wall height above 3m i.e. 1.9m	1m
Upper floor southern side	1.9m + 1/3 rd the wall height above 3m i.e. 2.9m	1.9m
Upper floor rear	6m	8m to rear wall 5m to balcony, but, as above, but the DPF generally intends for this to refer to the wall, rather than a projecting element such as a verandah or balcony.

Therefore, the ground floor setbacks comply with Established Neighbourhood Zone DPFs 8.1 and 9.1, however the upper floor side setbacks do have shortfalls compared to these DPFs. To this end, the relevant Zone policy is PO 8.1:

Buildings are set back from side boundaries to provide:

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

Visual Impact

The PO above frames this in terms of "complementing the established character of the locality". This may be interpreted as referring to this character as it may be perceived from both the street and from neighbouring properties.

Unfortunately, the only somewhat comparable example (i.e. a two-storey dwelling with a single storey streetscape appearance) is 1 Rosemont Street. This site oriented differently, and the laneway to the side of it forms part of its site as it is under the ownership of 1 Rosemont Street. The upper floor addition here has a setback from this lane of only 350mm, but from the neighbouring allotments this equates to a setback of 4.2m. On the other side, which does adjoin another residence, the upper floor setback is 1.9m.

While the orientation is different, and the character and ownership of the laneway/driveway which the site abuts is different, both of these sites have an upper floor with a limited setback to a common driveway, and a 1.9m setback on the side which abuts a residence.

Most other examples of two storey development around the locality have a limited setback differential between upper and lower floors- though this is less so the case with the semi-detached dwellings at 4A&4B, and 5A&5B Rosemont Street, where there is space for a single car carport/garage in the setback area.

Therefore, it is generally considered that the upper floor setbacks are not uncomplimentary to the established character of the locality.

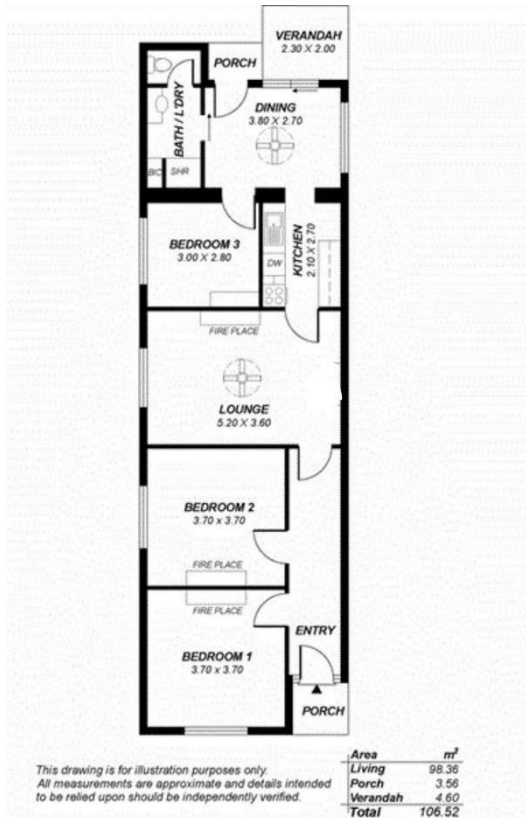
Overshadowing

Naturally, the shadowing of the dwelling to the south, 116 Sydenham Rd, will be an important consideration. Consideration of shadowing is one part of Zone PO 8.1 above, but there are other, more detailed overshadowing policies in the Interface Between Land Uses module, which are outlined in the following table:

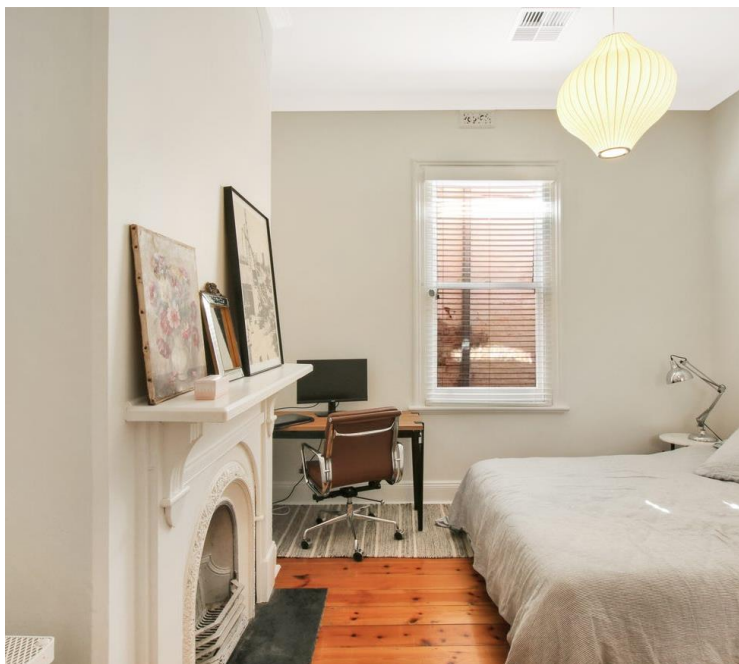
<p>PO 3.1 Overshadowing of habitable room windows of adjacent residential land uses in:</p> <ul style="list-style-type: none"> a) A neighbourhood-type zone is minimised to maintain direct winter sunlight b) Other zones is managed to enable access to direct winter sunlight 	<p>DTS/DPF 3.1 North-facing windows of habitable rooms of adjacent residential land uses in a neighbourhood-type zone receive at least 3 hours of direct sunlight between 9.00am and 3.00pm on 21 June.</p>
<p>PO 3.2 Overshadowing of the primary area of private open space or communal open space of adjacent residential land uses in:</p> <ul style="list-style-type: none"> a) A neighbourhood-type zone is minimised to maintain direct winter sunlight b) Other zones is managed to enable access to direct winter sunlight 	<p>DTS/DPF 3.2 Development maintains 2 hours of direct sunlight between 9.00 am and 3.00 pm on 21 June to adjacent residential land uses in a neighbourhood-type zone in accordance with the following:</p> <ul style="list-style-type: none"> a) for ground level private open space, the smaller of the following: <ul style="list-style-type: none"> i) half the existing ground level open space or ii) 35m² of the existing ground level open space (with at least one of the area's dimensions measuring 2.5m) b) for ground level communal open space, at least half of the existing ground level open space.

PO 3.3 of this module relates to overshadowing of solar panels, however, of the dwellings to the south of the site, only 1 Rosemont Street has solar panels, and given that these are on an upper storey, they would not be affected by the proposed development.

Regarding overshadowing of windows, 116 Sydenham Road has three windows to habitable rooms along the northern side wall as shown in the floor plan below sourced from realestate.com.au:



The owner of 116 has noted that they presently receive northern light through the north facing windows, and has supplied photos which show this in their representation (which are also available on realestate.com.au). There is a 1m setback along this northern side.



Considering the shadow diagrams provided, these windows would be unlikely to receive any direct light between 9am and 3pm on 21 June, either pre or post development, so consideration of the DPF is somewhat redundant in this case. The windows would, however, receive sun in other seasons where the sun's angle would be higher.

The Performance Outcome seeks to “minimise” overshadowing- a concept which is difficult to assess when it does not specify what is to be maintained while minimising the overshadowing.

For reference, on the equinox (March 20th) at 12pm, a 6m tall wall (representing the proposed upper floor) would cast a shadow of 5m length. A 3.45m tall wall, representing the existing boundary wall, would cast a shadow of 2.88m. When considering the upper floor’s additional setback of 1.9m, this would result in only 200mm of additional shadow length. Therefore, it is likely that the windows will continue to receive direct sunlight at other times of year.

On the whole, the difference between the pre and post development shadowing extent is not considered to be so dramatic as to be unacceptable.

Considering DPF and PO 3.2 regarding private open space, in the morning, it is the existing boundary wall which causes the shadow in the backyard. Therefore, before about 12pm, this extent of overshadowing will remain largely unchanged.

The open area of the adjoining backyard appears to be approximately 50m². As the DPF refers to the smaller of the two areas it outlines, this would therefore be half of this area, or 25m² receiving at least two hours of direct sunlight between 9am and 3pm on 21 June.

The shadow diagrams provided show that at 9am, there is 33.6m² of private open space receiving direct sunlight post-development, and at noon, 22.1m². This interval, of course, is three hours, and it is therefore highly likely that at 11am, there would be an additional 3m² that receives direct sunlight.

As a result, it is considered that the proposed development complies with Interface Between Land Uses DPF 3.2.

Overlooking/Visual Privacy

The proposed upper floor balcony includes screening up to a height of 1.7m, consistent with Design in Urban Areas DPF 10.2 (b). The upper floor windows also have a sill height of 1.7m above floor level, though only 1.5m is required by DPF 10.1. As a result, any privacy implications from the development are considered to be within the bounds of what is considered reasonable by the Code.

Landscaping & Private Open Space

The site at present has virtually no soft landscaping, with a strip of approximately 2m in the front yard being the sum total of landscaping on the site.

With the proposed development, soft landscaping would cover 11.7m² of the 35.3m² between the building line and primary street boundary, or 33%. This is consistent with the 30% sought by DPF 22.1 of the Design in Urban Areas module.

Across the site as a whole, there are 53.8m² of soft landscaping on an area of 308m² or 17.5%(measurements are not exact as this was measured using a scaled plan to preserve proportionality). This is 2.5% short of the 20% sought by the same DPF for a site of this size. This represents a variance of 8%.

The corresponding PO 22.1 seeks for landscaping to contribute to a series of outcomes, namely minimising the urban heat island effect, stormwater infiltration, biodiversity, shade, shelter, and enhanced appearance. Given that an area of a particular size does not necessarily contribute much to these outcomes, high quality landscaping may often make up for shortfalls in quantity. To this end, the applicant has indicated a series of trees and shrubs on the plan which, given the limited quantum of the shortfall, can be considered sufficient.

As the proposed development is a new dwelling, and the site is in the Urban Tree Canopy Overlay, a small tree must be planted with a minimum soil area of 10m². An area which complies with these requirements is provided at the rear of the site, with a tree shown on the plans accordingly. This

requirement will be reinforced by the application of the mandatory condition required by Practice Direction 12.

The ground level private open space of 55.6m² is slightly short of the 60m² sought by Design in Urban Areas Table 1, but there is an additional 18.8m² for the balcony for a total of 74.4 m². Given

this overall number is sufficient to meet the 60m² sought, it is considered sufficient to meet the needs of occupants consistent with Design in Urban Areas PO 21.1

Traffic and Parking

Transport, Access and Parking module Table 1 states that for a dwelling with three or more bedrooms (as is the case here) two off-street parking spaces should be provided. The site currently has one off-street parking space, accessed via the private lane at the rear of the site. The lane is quite narrow (~3.9m) and relatively long for lanes of this type (~33m). The lack of width means that vehicles have to reverse the length of the laneway (whether entering or exiting).

Swept path turning diagrams have been unable to demonstrate that it is possible to safely and conveniently manoeuvre in and out of this garage, but the owner has provided videos to demonstrate that it is practically possible. However, they do have to reverse the length of the laneway to do this.

This being the case, the existing parking space is not considered to facilitate safe and convenient access to the site. Redesigning to allow for a vehicle to be able to turn around generally seems impractical- a solution involving a turntable was considered but determined not to be reasonable.

As a result, this parking space at the rear is not considered a formal parking space which should be counted towards the number of parking spaces sought by the Code.

In addressing this, the applicant has sought to provide vehicle access from Sydenham Road via a new crossover. This crossover provides 500mm separation from the stobie pole and 2m separation from the street tree consistent with Design in Urban Areas DPF 23.4, but it does conflict with the tree's root zone. Further consideration of the impact of the development on the street tree is provided below.

To work around the inconveniently located stobie pole, the driveway is not completely straight, however the turn required to access the garage is not generally unreasonable. The applicant has only provided a single garage here as the appearance of a double garage would generally be inconsistent with the character of the area.

As a result of the limited front setback, there is not space for another vehicle to park uncovered in the driveway as may usually be the case in arrangements such as this. Pushing the garage back further would compromise the design substantially (noting that the garage setback would likely need to be more than 5.5m given the angle of the driveway), again compromising the streetscape appearance.

Transport, Access and Parking PO 5.1 allows for the consideration of reduced car parking rates:

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

- (a) availability of on-street car parking*
- (b) shared use of other parking areas*
- (c) in relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site, the provision of vehicle parking may be shared*
- (d) the adaptive reuse of a State or Local Heritage Place.*

This list of reasons is not exhaustive, and the Relevant Authority may consider that there may be other reasons to justify a reduced rate.

On balance, it is considered that what would be necessary to provide two compliant parking spaces would so compromise the design that a shortfall of one compliant space (noting that an additional non-compliant space is retained) is warranted.

It is also noted that the dimensions of the garage door and parking space comply with Design in Urban Areas DPF 23.1.

Representations also raised concerns about the loss of an on-street parking space. The southern edge of the proposed crossover is approximately 5.5m from the northern boundary of the site, so it would indeed

result in the loss of one space. It is, however, noted that Design in Urban Areas DPF 23.6 only seeks the retention of 0.33 spaces per dwelling on the site (rounded up to the nearest whole number), and one space is retained to the south of the crossover.

Given that it is generally reasonable for a site to have street access for safe and convenient on-site parking (noting that existing arrangements are not safe and convenient), it is considered that this reduction in on-street parking is not unreasonable.

Impact on Street Tree

In front of the site on the Sydenham Road verge is a large London Plane Tree. The tree has a Structural Root Zone (SRZ) of radius 2.8m, but there is a gap of only 5.6m from the tree to the stobie pole on the northern side. With a minimum crossover width of 3m, and a minimum separation from the stobie pole of 500mm, the crossover will conflict with the SRZ of the tree. This means that there is the potential for the presence of large, structural roots which may be cut during excavations for the proposed crossover, which may then cause a structural failure of the tree.

The tree itself is a large, mature and healthy tree, which forms part of an important avenue of trees along Sydenham Road, providing a high degree of amenity. The tree is very much considered worthy of retention.

The applicant made enquiries with SA Power Networks regarding moving the stobie pole. SAPN quoted \$80,000 to do this, which is not considered a reasonable alternative. This being the case, and noting that access via the rear lane is not safe and convenient, it is considered that there are no reasonable alternatives to the proposed crossover location (that is to say, the proposed crossover location minimises potential damage to the tree).

The applicant was asked to conduct hydrovac investigations to determine whether any structural roots would be present, and therefore whether the tree could survive the crossover being located here. Due to time constraints, the applicant was unable to provide this hydrovac investigation, but a report from an arborist, David Mably, has been provided which suggests that the crossover and the tree may be able to co-exist, subject to conditions.

Council's City Arborist remains concerned, and believes that the hydrovac investigations are necessary to know convincingly whether the tree can survive this work.

In essence, there are three options to resolve this conflict:

1. The development does not have a crossover from Sydenham Road;
2. A crossover can be created, with retention of the tree; or,
3. A crossover can be created, with removal of the tree.

The Code generally allows for the provision of a vehicle crossover, and indeed it considers 2m to be a reasonable separation from a street tree (which is provided in this case), and in this case there are no other ways that a vehicle crossover could be provided. If it is the case that a driveway must be permitted, because otherwise the development would no longer comply with the Code in respect of vehicle parking etc, then option 1 is no longer an option.

Therefore, if the proposed crossover location must be accepted, whether the tree can or cannot survive is not necessarily fundamental to the application. If it is the case that tree could not survive the excavations for the crossover, then Council would support the tree's removal in order to allow this crossover. However, it may be that the removal of the tree is not necessary, and this would be the preferred scenario.

As a result, it is considered reasonable to apply a Reserved Matter to provide for the hydrovac investigations to determine whether the tree could survive or not. The findings from this would then allow for appropriate conditions to be applied to either ensure the tree's survival, or require payment of an appropriate fee to cover Council's cost of removing the tree and planting a replacement.

Question of Seriously at Variance

Having considered the proposal against the relevant provisions of the Planning & Design Code (version 2024.11), the proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code for the following reasons:

- The development is a detached dwelling, consistent with the residential forms of development envisaged by the Established Neighbourhood Zone;
- The development has a mostly single storey streetscape appearance.

CONCLUSION

The proposed development does “push the envelope” in a number of different areas of Code policy, including building height, vehicle parking, streetscape impact, street tree impact and overshadowing. However, when considering the context of the locality and constraints on the site, the proposed development is considered to sufficiently mitigate these impacts within the bounds of what the Code considers reasonable.

Therefore, the proposed development is considered to sufficiently comply with the Planning and Design Code to warrant consent.

RECOMMENDATION

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

1. The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.
2. Development Application Number 24017924, by Teodora Jankunas is granted Planning Consent subject to the following reasons/conditions/reserved matters:

RESERVED MATTERS

Planning Consent

The Authority notes that the proposed crossover from Sydenham Road conflicts with the Structural Root Zone (SRZ) of the mature London Plane street tree. The construction of the crossover is hereby approved, subject to investigations and potential further conditions relating to either protection or removal of the street tree.

The SRZ has been measured as 2.8m from the centre of the trunk of the tree. Non-intrusive excavations (e.g. hydrovac) shall be undertaken to confirm whether any structural roots extend through the area of the SRZ which would be affected by excavation for the crossover.

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

Pursuant to Section 127(1) of the Planning, Development and Infrastructure Act 2016, the power to impose further conditions of consent in respect of the reserved matter(s) above is delegated to the Assessment Manager.

CONDITIONS

Planning Consent

Condition 1

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

Condition 2

Either:

1. Tree(s) must be planted and/or retained in accordance with DTS/DPF 1.1 of the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). New trees must be planted within 12 months of occupation of the dwelling(s) and maintained.

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

Condition 3

The approved development must include rainwater tank storage which is:

1. connected to at least 60% of the roof area;
2. connected to one toilet and either the laundry cold water outlets or hot water service;
3. with a minimum retention capacity of 2000 litres;
4. if the site perviousness is less than 30%, with a minimum detention capacity of 1000 litres; and
5. where detention is required, includes a 20-25 mm diameter slow release orifice at the bottom of the detention component of the tank

within 12 months of occupation of the dwelling(s).

Condition 4

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

Condition 5

The balustrade of the balcony located at the rear of the proposed dwelling shall be treated to a height of 1700mm above floor level, prior to occupation of the building, in a manner that restricts views being obtained by a person occupying the balcony, to the reasonable satisfaction of the Assessment Manager and such treatment shall be maintained at all times.

Condition 6

The upper floor windows to the side and rear elevations shall either have sill heights of a minimum of 1500mm above floor level or be treated to a minimum height of 1500mm above floor level, prior to occupation of the building, in a manner that restricts views being obtained by a person within the room to the reasonable satisfaction of the Assessment Manager and such treatment shall be maintained at all times.

NOTE: this does not apply to the sliding door of the upper floor lounge room, as the balcony screening sufficiently restricts any view that may be obtained through this door.

Condition 7

All stormwater from buildings and hard-surfaced areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the

stormwater drainage system shall be directly connected into either the adjacent street kerb & water table or a Council underground pipe drainage system.

ADVISORY NOTES

Planning Consent

Advisory Note 1

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

Advisory Note 2

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

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

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

Advisory Note 3

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

Advisory Note 4

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

Advisory Note 5

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

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

Advisory Note 6

The Applicant is advised that construction noise is not allowed:

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

Advisory Note 7

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

require the closure of the footpath and / or road to undertake works on the development site, will require the approval of the Council pursuant to the *Local Government Act 1999* prior to any works being undertaken. Further information may be obtained by contacting Council's Public Realm Compliance Officer on 8366 4513.

Advisory Note 8

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

Advisory Note 9

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

Advisory Note 10

The Authority wishes to note that the parking space in the retained garage at the rear is not compliant with contemporary access standards, and cannot be relied upon for the purposes of vehicle parking.

It is also noted that the space between the garage and the front boundary of the property is generally insufficient to park a vehicle. Any vehicles parked in this space and overhanging the footpath may receive a parking ticket as a result.

Ms Burdon addressed the Council Assessment Panel from 7:18pm until 7:24pm

Ms Jankunas and Mr Harrow addressed the Council Assessment Panel from 7:26pm until 7:35pm

Moved by Mr Adcock

1. *The proposed development is considered at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the Planning, Development and Infrastructure Act 2016.*
2. *Development Application Number 24017924, by Teodora Jankunas is Refused Planning Consent for following reasons:*
 - *The proposal fails to satisfy Performance Outcome PO4.1 of the Established Neighbourhood Zone. The dwelling does not contribute to the prevailing character of the neighbourhood does not complement the height of the nearby buildings.*
 - *The proposal fails to satisfy Performance Outcome PO8.1 of the Established Neighbourhood Zone. The building is not set back from the side boundary to provide separation for access to natural light.*

Seconded by Mr Moorhouse
CARRIED

**5.3 DEVELOPMENT NUMBER – ID 24024095 – LANEWAY BOULDERS –
41-43 HENRY STREET STEPNEY**

DEVELOPMENT NO.:	24024095
APPLICANT:	LANEWAY BOULDERS
ADDRESS:	41 -43 HENRY ST STEPNEY SA 5069
NATURE OF DEVELOPMENT:	Change of use to an indoor recreation facility (indoor rock climbing) and associated signage
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Employment <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Hazards (Flooding) • Hazards (Flooding - General) • Prescribed Wells Area • Regulated and Significant Tree • Traffic Generating Development <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height (Levels) (Maximum building height is 2 levels)
LODGEMENT DATE:	9 August 2024
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham & St. Peters
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.14 1/8/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Kieran Fairbrother - Senior Urban Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Rebecca Van Der Pennen, Traffic Engineer

CONTENTS:

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

DETAILED DESCRIPTION OF PROPOSAL:

By way of Development Authorisation ID 21027830, approval was granted for the “construction of two (2) warehouses with ancillary office space and associated car parking”. The car parking area associated with this development is comprised of 11 spaces, including one accessible space, and is approved as a shared car parking area. One of the warehouse tenancies has been leased to a plumbing business and the second tenancy is the subject of this application, which seeks to change the use to an indoor recreation facility. More specifically, this application is for a change of use to a rock-climbing facility.

The rock-climbing facility is proposed to operate during the following hours:

- Monday to Friday, 6am to 10pm
- Saturday, 8am to 9pm
- Sunday, 8am to 7pm

The facility will utilise the shared car parking area, and it is understood that the typical peak times of the rock-climbing facility will not coincide with those of the warehouse.

One (1) advertisement display is also proposed with this development.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 41 -43 HENRY ST STEPNEY SA 5069

Title ref.: CT
5827/531

Plan Parcel: F134791
AL40

Council: THE CITY OF NORWOOD PAYNEHAM AND
ST PETERS

Shape:	regular
Frontage width:	30.5 metres
Area:	approx. 1758m ²
Topography:	flat
Existing structures:	two (2) warehouse buildings with at-grade car parking
Existing vegetation:	areas for landscaping is provided in the car parking area, but has not yet been planted.

Locality

The locality considered for this assessment extends along Henry Street for approximately 100m in both directions, along Stepney Street for approximately 50m north and south to where it intersects with Union Street, and includes 2 Union Street (that shares a boundary with the subject land).

This locality is characterised by a mix of single- and two-storey buildings that exhibit a variety of land uses. This includes dwellings, a childcare centre, warehouses, light industrial uses, an ambulance station, a gym and offices. This locality experiences a low level of amenity as a result of the diverse mix of land uses, the emissions produced by some light industrial uses, and the infrequent street tree plantings.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Indoor recreation facility: Code Assessed - Performance Assessed
Advertisement: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

- **REASON**
Indoor Recreation Facilities are not exempt from public notification per Table 5 of the Employment Zone
- **LIST OF REPRESENTATIONS**

First Name	Surname	Address	Position	Wishes to be heard?
Buick	Osborne	8 Silvia Street BLAIR ATHOL	Opposed	Yes
Shelby	Sawka	9A Nelson Street STEPNEY	Support, with concerns	No
David	Pedlar	39 Henry Street STEPNEY	Opposed	Yes

- **SUMMARY**

The representors concerns can generally be summarised as follows:

- Noise nuisance from vehicle movements and the activity of the centre;
- Increased traffic movements in Henry Street;
- The lack of on-site car parking provided for the development;
- Pedestrian safety within the car park, being an integrated car park with a plumbing business.

INTERNAL REFERRALS

- Rebecca Van Der Pennen, Traffic Engineer

Council's Traffic Engineer is supportive of the proposal, despite its heavy reliance on on-street parking. This is predominantly due to the occupancy surveys undertaken which indicate an under-utilisation of on-street car parking in the immediate area.

PLANNING ASSESSMENT

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

Land Use (including interface impacts)

Desired Outcome 1 of the Employment Zone states:

"A diverse range of low-impact light industrial, commercial and business activities that complement the role of other zones accommodating significant industrial, shopping and business activities."

Performance Outcome 1.1 of the Employment Zone states:

“A range of employment-generating light industrial, service trade, motor repair and other compatible businesses servicing the local community that do not produce emissions that would detrimentally affect local amenity.”

Although Designated Performance Features are to be used as a guide to the relevant authority as to what may generally satisfy the corresponding Performance Outcome, DPF 1.1 lists indoor recreation facility as a land use envisaged within this Zone. In this case, an indoor recreation facility is considered an appropriate land use for this site and within this locality, consistent with PO 1.1 above, subject to an assessment of any potential impact the use may have on the amenity of the locality.

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

“Non-residential development does not unreasonable impact the amenity of sensitive receivers (or lawfully approved sensitive receivers) or an adjacent zone primarily for sensitive receivers through its hours of operation having regard to:

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

The proposed hours of operation are:

- Monday to Friday, 6am to 10pm
- Saturday, 8am to 9pm
- Sunday, 8am to 7pm

In considering whether these hours satisfy Performance Outcome 2.1 above, it is appropriate to have regard to the types of land uses envisaged in the Employment Zone and the location of any sensitive receivers and their expected level of amenity.

Five (5) sensitive receivers are located adjacent to the subject land – dwellings at 39 Henry Street, 37B Henry Street, 15 Stepney Street, and 2 Union Street and a childcare centre at 42-46 Henry Street. All these premises are located in the same Employment Zone. DPF 1.1 of the Employment Zone provides a non-exhaustive list of land uses that might be generally acceptable in the Employment Zone. Some of these land uses include light industry, motor repair station, retail fuel outlet, warehouse, and the proposed land use of indoor recreation facility. Dwellings are not envisaged in the Employment Zone. Accordingly, the sensitive receivers located adjacent the subject land cannot expect to have the same level of amenity as a dwelling or childcare centre in a neighbourhood-type zone, where they would be surrounded by other dwellings. Contrarily, these sensitive receivers should expect a low level of amenity given the land uses that are generally accepted in this Zone and locality (and notwithstanding the land uses that already exist in this locality).

In this context, the proposed hours of operation are considered reasonable and are not expected to have an *unreasonable* impact on the amenity of sensitive receivers, consistent with Performance Outcome 2.1 (above).

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 unreasonable impact the amenity of sensitive receivers (or lawfully approved sensitive receivers).”

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 or an adjacent sensitive receiver (or lawfully approved sensitive receiver) or zone primarily intended to accommodate sensitive receivers.”

As discussed above, the surrounding sensitive receivers can expect a low level of amenity by virtue of their being in an Employment Zone. The rock-climbing facility is not expected to emit noise levels that would unreasonably impact this level of amenity. Rock climbing is not a noisy activity; the only noise being that of people talking or clapping, or persons dropping onto the mats below the climbing walls. It is likely that music will be played within the facility, but this is not anticipated to be played at such a level as to be audible outside of the premises. Rock climbing and bouldering are activities that require a lot of focus, and the playing of loud music in such facilities is not conducive to these activities.

Notwithstanding this assessment, other land uses that might be approved in this building (such as the approved warehouse use, a motor repair station or light industry) would produce greater off-site impacts by way of noise from vehicles, machinery, plant and equipment than what the proposed rock-climbing facility will. Consequently, the proposed land use is not considered to produce an unreasonable impact on the amenity of the local area and therefore satisfies the abovementioned Performance Outcomes.

With respect to the light spill that has been raised by Representor No. 3, the Panel should note that this light issue has not arisen by virtue of this application, the installation of the offending light is not a form of development, and therefore this issue is outside the remit of this development application and the Council Assessment Panel.

Signage

Performance Outcome 6.1 of the Employment Zone states:

“Freestanding advertisements are not visually dominant within the locality.”

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.”

As part of Development Authorisation ID 21027830, a 10m² area (5m x 2m) for signage was approved above the roller door to the building. The sign proposed as part of this application is slight larger – 5m x 2.5m – but located in the same area above the roller door.

The sign proposed is a simple logo design that integrates well with the building, consistent with the abovementioned Performance Outcomes. The sign is an appropriate scale and size for this building and the locality and will not detrimentally affect local amenity.

Traffic Impact, Access and Parking

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 such as:

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

*(b) Shared use of other parking areas
...*

The proposed land use will operate as part of a two-tenancy complex which, together, have 11 car parking spaces between them. It is understood that the subject tenancy will have access to the five (5) car parking spaces located directly in front of the subject building while the other tenancy is operating. When the other tenancy closes, the subject land use will then have access to all 11 car parking spaces on the site.

Table 1 of the Transport, Access and Parking module prescribes theoretical car parking rates for different land uses. It is generally accepted that satisfaction of the rates in Table 1 is considered sufficient to meet the needs of a particular development. In the case of an indoor recreation facility, Table 1 prescribes a rate of 4.5 spaces per 100m² of total floor area. For warehouses, Table 1 prescribes a rate of 0.5 spaces per 100m² of total floor area.

Looking at this as part of an integrated complex, the two (2) warehouses approved as part of Development Authorisation ID 21027830 had a combined total floor area of 1145m². When assessed against Table 1, this land use therefore generated a theoretical demand of six (6) car parking spaces (rounded up). Thus, a surplus of five (5) spaces was provided.

The proposal to change one of the warehouses to an indoor recreation facility changes the theoretical on-site parking demand as follows. The one warehouse tenancy remaining, with a total floor area of 547m², requires 2.75 spaces. The indoor recreation facility has a total floor area of 598m² and therefore generates a demand for 27 spaces. Taken together, this integrated complex has a total demand for 30 parking spaces (rounded up) while both tenancies are operating. In other words, there is a shortfall of 19 on-site spaces while both tenancies operate; reduced to 16 spaces when it is only the rock-climbing facility operating.

The Applicant's traffic engineer (Cirqa) justifies accepting this shortfall for the following reasons (see **Attachments 1 and 6**):

1. The land use is anticipated to generate a maximum of 28 vehicle trips during the peak hour (assuming full capacity and 75% of trips associated with a single-occupant vehicle);
2. Occupancy surveys demonstrate that there is sufficient on-street parking within 150m of the subject site to support the theoretical shortfall; and
3. The peak occupancy times for the rock-climbing facility are outside typical business hours and will therefore not coincide with the peak times of most other land uses within the locality.

Ordinarily, Council administration is unlikely to support a development that relies on on-street car parking to support more than 50% of its theoretical car parking demand. Council's traffic engineer has undertaken their own occupancy surveys of on-street car parking availability on a Wednesday and Friday evening, to verify the data used by Cirqa in their justification (see **Attachment 7**). In so doing, Council's traffic engineer confirms there is an underutilisation of on-street car parking in this section of Stepney. Occupancy rates for the areas monitored were between 27% and 56%, which is below the optimum occupancy levels of 65-85% sought for this area. As such, Council's traffic engineer is somewhat supportive of the on-site shortfall, noting the availability on on-street parking to support this. However, they do express concerns with the resultant inequitable use of public parking spaces.

Criteria (a) and (b) of Performance Outcome 5.1 (above) grant a relevant authority discretion to support a shortfall of on-site parking provisions where that shortfall can be readily accommodated by other means. In this instance, there are sufficient on-street car parking spaces to accommodate vehicles that cannot park on the site and the proposed development is not expected to utilise more than 50% of such parks. Further, the proposed development is part of an integrated complex whose two tenancies have differing peak periods, supporting the shared car parking arrangement. Accordingly, despite the shortfall of 16 on-site spaces (when assessed against the rates in Table 1), the proposed development is considered to satisfy Performance Outcome 5.1 of the Transport, Access and Parking module.

Performance Outcome 1.3 of the Transport, Access and Parking module of the general development policies states:

“Industrial, commercial and service vehicle movements, loading areas and designated parking spaces are separated from passenger vehicle car parking areas to ensure efficient and safe movement and minimise potential conflict.”

Performance Outcome 6.4 of the Transport, Access and Parking module of the general development policies states:

“Pedestrian linkages between parking areas and the development are provided and are safe and convenient.”

It is expected that this rock-climbing facility will host groups of school children at times. On such occasions, the visitors are expected to arrive at the site via bus. The Applicant’s traffic engineer has noted that the bus may park on the street, in front of the subject site, to drop off and pick up the school children and supervisor(s). This parking space may not always be available, and the preferable arrangement would be for the bus to park on the site, to satisfy Performance Outcome 6.4 above.

Accordingly, the Applicant was asked to provide an alternative arrangement that could be accommodated entirely on the site. The Applicant responded accordingly (see **Attachment 8**), by indicating a drop-off/pick-up zone that can be accommodated in front of the roller door of the building. A bus parked in this area will not inhibit passenger vehicle movements through the site and is therefore considered acceptable and consistent with Performance Outcome 1.3 above. Given the low frequency of bus visits to the site, and the low traffic volumes expected in the car park (by both tenancies combined), it is not considered necessary to require a permanent drop-off / pick-up zone to be line marked on the site, nor to require drop off and pick-ups to occur only on the site.

Question of Seriously at Variance

Having considered the proposal against the relevant provisions of the Planning & Design Code (version 2024.14, dated 1/8/2024), the proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code for the following reasons:

- The land use is envisaged within the Employment Zone (DPF 1.1);
- The land use is not expected to have a detrimental effect on the amenity of the locality; and
- Some car parking is provided on the site despite a possible reliance on on-street parking.

CONCLUSION

The proposed development is for a change of use to an indoor recreation facility – a land use that is envisaged within the Employment Zone (DPF 1.1). The land use is not expected to produce any emissions that would be considered detrimental to the amenity of the local area or to the amenity of the four adjacent sensitive receivers, noting that these dwellings have an expected lower level of amenity because they are located within an Employment Zone and not a typical neighbourhood-type Zone.

The one aspect of the development that is challenging to support is its potentially heavy reliance on on-street car parking spaces to support the use. In particular, the development will have access to, at most, 11 on-site parking spaces whereas the theoretical demand for this site is 27 spaces. Accordingly, the development may rely on 16 public car parking spaces at any time, which is ordinarily an outcome that cannot be supported.

However, occupancy surveys undertaken by both the Applicant’s traffic engineer and the Council’s traffic engineer evidence an under-utilisation of on-street parking in the locality, and an availability of spaces during the anticipated peak times of the proposed land use that can support the proposed land use without fully monopolising the on-street parking network. This will represent an inequitable use of such spaces, but this is not considered to be a reason to refuse the proposal in this instance because of how underutilised these spaces currently are. Accordingly, on balance, this development application is considered to be worthy of support.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.
2. Development Application Number 24024095, by LANEWAY BOULDERS is granted Planning Consent subject to the following conditions:

CONDITIONS

Planning Consent

Condition 1

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

Condition 2

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

- Monday to Friday, 6am to 10pm
- Saturday, 8am to 9pm
- Sunday, 8am to 7pm

Condition 3

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 4

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

ADVISORY NOTES

Planning Consent

Advisory Note 1

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

Advisory Note 2

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

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

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

Advisory Note 3

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

Advisory Note 4

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

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

Advisory Note 5

The Applicant is advised that 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 6

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

Advisory Note 7

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

Advisory Note 8

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

Advisory Note 9

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.

Mr Pedler addressed the Council Assessment Panel from 8:12pm until 8:17pm
Mr Manos addressed the Council Assessment Panel from 8:18pm until 8:28pm

Moved by Mr Bateup

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**Seconded by Mr Rutt
CARRIED**

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

8. ERD COURT APPEALS

**8.1 CONFIDENTIAL MATTER – ID 23020223 – FP WHYALLA PTY LTD
263-277 PAYNEHAM ROAD ROYSTON PARK**

Moved by Mr Adcock

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

Seconded by Mr Bateup
CARRIED

Moved by Moorhouse

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

Seconded by Mr Adcock
CARRIED

9. OTHER BUSINESS

9.1 SCHEDULE OF COUNCIL ASSESSMENT PANEL MEETINGS FOR 2025

PURPOSE OF REPORT

The purpose of the report is to obtain the Panel's endorsement of the draft Schedule of Meetings of the Council Assessment Panel for the period January 2025 to December 2025.

BACKGROUND

Pursuant to Clause 1.2 of the Meeting Procedures, ordinary meetings of the City of Norwood Payneham & St Peters Council Assessment Panel (CAP) will be held at such times and places as determined by the CAP.

The CAP previously determined the times and places of meetings up until December 2024, corresponding with the end of the calendar year. As a new calendar year is shortly to commence, it is necessary for the CAP to consider its meeting dates and times for 2025 to ensure we maximise the opportunity to secure a quorum for each meeting.

DISCUSSION

In the past, ordinary meetings of the Council Assessment Panel have been held commencing at 7.00pm on the third Monday of each month, unless otherwise determined by the Panel. In the event of a public holiday and / or the re-scheduling of a Council meeting which clashes with a scheduled Panel meeting, the Council has previously resolved that Panel meetings be held on the third Wednesday of the month.

A draft Schedule of Meetings for this period has been prepared for consideration by the Panel based on this practice of conducting Panel meetings on the third Monday of the month. A copy of the draft Schedule is attached (**Attachment A**).

This Schedule has worked well in the past and in order to ensure consistency with the Elected Member on the Panel, staff and the community. It is recommended that this schedule be followed, unless the time and date is such that one or more Members of the Panel is unable to attend the scheduled meetings on a regular basis.

The venue of the Council Chambers / Mayor's Parlour is also recommended, as it is considered conducive to the format and operation of a typical Panel meetings, and has the necessary IT equipment.

Please note, no part of this report or the attached schedule would prevent a special meeting of the Panel being called, in accordance with clauses 1.12, 1.13 and 1.14 of the Meeting Procedures.

Finally, the Panel has previously discussed the possibility of an earlier commencement time for meetings (such as 6pm). In setting this Schedule for the 2025 calendar year, it is open to the Panel to consider an earlier starting time.

CONCLUSION

Determination of the times and places for ordinary meetings of the Panel, will ensure compliance with the requirements of the Meeting Procedures and enables administration to communicate these dates and times to the community.

RECOMMENDATION

1. That the Council Assessment Panel meetings for the 2025 calendar year be held in accordance with the Schedule of Council Assessment Panel Meetings attached to this report.

Moved by Mr Adcock

1. *That the Council Assessment Panel meetings for the 2025 calendar year be held in accordance with the Schedule of Council Assessment Panel Meetings attached to this report.*
2. *Ordinary meetings of the Council Assessment Panel be held commencing at 6.30pm.*

Seconded by Mr Rutt
CARRIED

10. **CONFIDENTIAL REPORTS**

11. **CLOSURE**

The Presiding Member declared the meeting close at 9.45pm

Stephen Smith
PRESIDING MEMBER

Geoff Parsons
MANAGER DEVELOPMENT & REGULATORY SERVICES