

Council Assessment Panel Minutes

23 June 2025

Our Vision

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

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

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

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VENUE St Peters Town Hall

HOOR 6.30pm

PRESENT

Panel Members Mr Stephen Smith
 Cr Christel Mex
 Mr Paul Mickan
 Mr Ross Bateup

Staff Kieran Fairbrother, Senior Urban Planner
 Ned Feary, Senior Urban Planner
 Tala Aslat, Administration Officer
 Daniella Hadgis, Administration Officer

APOLOGIES Mr Julian Rutt
 Mr Mark Adcock

ABSENT

1. **COMMENCEMENT AND WELCOME**

2. **APOLOGIES**

3. **CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT
PANEL HELD ON 19 MAY 2025**

Moved by Mr Mickan Seconded by Mr Bateup
CARRIED

4. **DECLARATION OF INTERESTS**

5. DEVELOPMENT APPLICATIONS – PDI ACT

**5.1 DEVELOPMENT NUMBER ID 25001212 – YOGO DESIGN & CONSULTING PTY LTD
- 68 SYDENHAM RD NORWOOD SA 5067**

DEVELOPMENT NO.:	25001212
APPLICANT:	YOGO DESIGN & CONSULTING PTY LTD
ADDRESS:	68 SYDENHAM RD NORWOOD SA 5067
NATURE OF DEVELOPMENT:	Construction of a two-storey group dwelling, with change of use from a detached dwelling to a group dwelling and two-storey dwelling addition to a Local Heritage Place
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) • Historic Area • Heritage Adjacency • Local Heritage Place • 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 Site Area (Minimum site area is 200 sqm) • Maximum Building Height (Levels) (Maximum building height is 2 levels)
LODGEMENT DATE:	28 Jan 2025
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) 2025.1 16/01/2025
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Edmund Feary - Senior Urban Planner
REFERRALS STATUTORY:	None
REFERRALS NON-STATUTORY:	Heritage Advisor

CONTENTS:

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

DETAILED DESCRIPTION OF PROPOSAL:

The proposal seeks to retain the existing single storey cottage (which is a Local Heritage Place), with associated restoration work, and construct a two-storey addition to the rear of this, and another dwelling alongside this.

As a result of them both sharing a driveway, these are considered group dwellings. As a result, there is also a change of use component to reflect that the existing detached dwelling would be changing use to a group dwelling.

There would be a limited amount of partial demolition to the Local Heritage Place by altering existing openings, with the later addition and verandah at the rear to be removed along with the existing carport. The non-original front verandah is proposed to be retained.

The development also involves the construction of an arbor/pergola over the driveway.

BACKGROUND:

The site was identified as being recommended for local heritage listing during the 1994 Heritage Survey, with the Heritage Survey Report provided in **Attachment 8**. This recommendation was accordingly adopted, and the site was listed.

This development application was lodged on 28 January 2025, with assessment and a period of negotiations meaning that the notification period ran from 22 April to 13 May 2025, with one opposed representation received.

SUBJECT LAND & LOCALITY:

Site Description:

Title ref.: CT 5078/579	Plan Parcel: F100061 AL23	Council: THE CITY OF NORWOOD PAYNEHAM AND ST PETERS
Shape:	Regular	
Frontage width:	15.25m	
Area:	550m ²	
Topography:	Mostly flat, fall of 500mm in a north-westerly direction	
Existing structures:	Early Victorian two roomed bluestone cottage (Local Heritage Place) with a modified front verandah and timber picket fence	
Existing vegetation:	Lawn to front and rear yards	

Locality

The locality is shown in **Attachment 2**. It is considered to extend some 65m north to The Parade, approximately 65m east along Edsall Street, and 80m south along Sydenham Road (both sides).

The Parade is an activity centre with a much more commercial form. The corners of The Parade and Sydenham are reinforced with two-storey buildings with zero setback, with both of these having their carpark accessed from Sydenham Road. There is then a transition into a more residential character along Sydenham Road to the south, though a number of small-scale commercial uses occupy former dwellings and corner shops along Sydenham Road.

Immediately opposite the site on Sydenham Road is the Wynwood Nursing Home (though it has been vacant for some time). This is an historic building on a far larger scale than any others in the locality, meaning that it does not follow the same pattern, with its large, landscaped grounds. That said, it does contribute to the historic character of the Sydenham Road streetscape, which is predominantly formed of cottages (both single and double fronted).

The Edsall Street streetscape is less historic than Sydenham Road, having a greater preponderance of newer, infill development. In both Sydenham and Edsall, the residential development pattern is relatively compact.

There is a relatively moderate level of tree canopy coverage, though this is mostly on public land, and the locality overall exhibits a high degree of amenity.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Demolition
Group dwelling: Code Assessed - Performance Assessed
Partial demolition of a building or structure: Code Assessed - Performance Assessed
New housing
Dwelling alteration or addition
Dwelling addition: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code; No other pathway- LHP

PUBLIC NOTIFICATION

- **REASON**
Involves partial demolition of an LHP due to the internal works in the bluestone cottage.
- **LIST OF REPRESENTATIONS**

First Name	Surname	Address	Position	Wishes to be heard?
Lance	Worrall	70 Sydenham Road, NORWOOD	Opposed	Yes

- **SUMMARY**
The representor was concerned primarily by overshadowing, with additional points relating to mass and scale, and a lack of soft landscaping

AGENCY REFERRALS

None

INTERNAL REFERRALS

- Heritage Advisor, David Brown

Council's Heritage Advisor has provided advice at various stages through the application, including negotiations regarding amendments, some of which have been incorporated into the current proposal. Notwithstanding this, he is not supportive of the proposal, for reasons outlined in **Attachment 7**. This will be discussed further in the Heritage section of the assessment.

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, as envisaged in Established Neighbourhood Zone (ENZ) PO 1.1: *"Predominantly residential development with complementary non-residential activities compatible with the established development pattern of the neighbourhood."*

While the proposal would result in a change of use within the broader "genus" of residential uses, these uses are envisaged in the ENZ, and it is considered acceptable.

Density

The site has a Minimum Site Area Technical and Numeric Variation (TNV) of 200m², with the proposed average allotment size (including common property) for this proposal being 225m². Therefore, the proposed site areas accord with the anticipated site areas in the Zone.

The locality exhibits similarly compact development, including using common driveways such as at 66 Sydenham Road, immediately to the north. It is considered that the proposal would be consistent with the prevailing development pattern in the locality as sought by ENZ PO 2.1.

Building Height

The site has a Maximum Building Height TNV of two levels, which the proposal complies with. The Historic Area Statement also envisages building heights of "Up to two storeys".

Setbacks, Design & Appearance

The overall design of the development seeks to work with the single storey form at the front of the site, and transition to a two-storey form at the rear.

The proposed site coverage of 46% is within the 50% expected by ENZ DPF 3.1, meaning that the building footprint is generally consistent with the character and pattern of the neighbourhood, as sought by the associated PO.

The proposal's ground floor side setbacks comply with ENZ DPF 8.1 in that they are greater than 900mm. In terms of upper floor side setbacks, the wall height of 6m results in DPF 8.1 expecting 1.9m on northern side and 2.9m on the southern side. The proposal does indeed comply with this.

The ground floor rear setback is less than the 4m sought by ENZ DPF 9.1, and the upper floor rear setback is also only 3m compared to the 6m expected in the DPF.

Considering the associated PO:

Buildings are set back from rear boundaries to provide:

- (a) *separation between buildings in a way that complements the established character of the locality*
- (b) *access to natural light and ventilation for neighbours*
- (c) *private open space*
- (d) *space for landscaping and vegetation.*

The locality is characterised by relatively tightly packed dwellings with 70 Sydenham and 1A Edsall similarly falling short of this DPF. Proximity to The Parade is also noteworthy in this regard, where rear setbacks of zero is commonplace.

This is not considered contrary to the character of the area.

Shadowing is considered further below, as are the matters of private open space and landscaping.

Overshadowing

As noted above, the development does comply with the side setback guidelines of the Code, which, given the southern boundary is a side boundary, are the key guidelines with regard to overshadowing. Nonetheless, the Code does provide three further policies in relation to overshadowing in the Interface Between Land Uses Module:

<p>PO 3.1</p> <p>Overshadowing of habitable room windows of adjacent residential land uses in:</p> <p>a neighbourhood-type zone is minimised to maintain access to direct winter sunlight.</p> <p>other zones are managed to enable access to direct winter sunlight.</p>	<p>DTS/DPF 3.1</p> <p>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</p> <p>Overshadowing of the primary area of private open space or communal open space of adjacent residential land uses in:</p> <p>a neighbourhood type zone is minimised to maintain access to direct winter sunlight.</p> <p>other zones is managed to enable access to direct winter sunlight.</p>	<p>DTS/DPF 3.2</p> <p>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> <p>for ground level private open space, the smaller of the following:</p> <p>half the existing ground level open space or</p> <p>35m² of the existing ground level open space (with at least one of the area's dimensions measuring 2.5m)</p> <p>for ground level communal open space, at least half of the existing ground level open space.</p>
<p>PO 3.3</p> <p>Development does not unduly reduce the generating capacity of adjacent rooftop solar energy facilities taking into account:</p> <p>the form of development contemplated in the zone.</p> <p>the orientation of the solar energy facilities</p> <p>the extent to which the solar energy facilities are already overshadowed.</p>	<p>DTS/DPF 3.3</p> <p>None are applicable.</p>

From what can be seen on a desktop inspection, the representor's dwelling at 70 Sydenham Road has its main area of private open space on the southern side of the dwelling, so this would be unaffected by the proposed development. While the exact position of any north facing windows on this dwelling is unknown, it would seem that an existing hedge would provide substantial shading to these windows at present. This hedge is shown in the images below from both an aerial and streetview perspective.



In their response to representations, the applicant suggested that the representor has since removed their solar panels, rendering any consideration of these moot. This has not been verified, but in any event, the applicant's shadow diagrams show that these solar panels would not be shadowed beyond 10am on the winter solstice. Noting again that the Zone envisages two storey development, and that the relevant setback, the southern side setback, complies with the relevant DPF, this is considered reasonable.

In terms of impacts on 1A Edsall Street, significant shade structures already cover much of this rear yard, and these structures would shade most of the north facing windows of this dwelling (at ground floor) and most of the private open space. Given the proximity of 1A Edsall Street to the rear boundary (approximately 2m at its narrowest point), this level of overshadowing is somewhat unavoidable. Again, given the proposed development complies with the setback and height guidance provided by the Code (with the exception of the rear boundary setback, which has a more limited shadowing impact), the level of overshadowing is not considered to be grounds to refuse the development.

Heritage

Council's Heritage Advisor was involved in negotiations relating to an amended proposal and the proposal as it stands reflects some of his commentary. Notwithstanding this, he remains of the view that the proposal is "not a good outcome for the Local Heritage Place". His advice is outlined in detail in **Attachment 7**. The key points are:

- Objection to the addition being set hard against the Local Heritage Place, meaning no visual separation and requiring an alteration to the existing roof form;
- Limited acknowledgement of the context of the development; and,
- Imbalance in scale between the Local Heritage Place and the new development.

Performance Outcome 2.1 of the Local Heritage Place Overlay states:

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

Performance Outcome 1.2 of the Local Heritage Place Overlay is also of relevance:

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

It is noted that the original Heritage Survey sheet (**Attachment 8**) for the site makes the following recommendation:

“Retention and protection of the original form of the building its setting and all associated original building fabric, as viewed from the road.”

The last part of this: “as viewed from the road”, is worthy of some consideration. This is generally a distinction held between Representative Buildings and Local Heritage Places, i.e. that a Local Heritage Place should preserve fabric beyond just its streetscape presentation; however, that seems not to have been the intent with the listing of this LHP. The alterations which are made to the original fabric are all in a position where these would not be visible from the street. Therefore, despite not reflecting best practice in heritage architecture, the proposal does achieve the outcome intended by the heritage listing.

Regarding the imbalance in scale, the Heritage Advisor notes that the northern approach to the site consists of three driveways in a row, because of the driveway handle of 66A Sydenham Road. This does open out more views of the addition, however these will, to at least some extent, be mitigated by carports. The development proposes an arbor to the northern side of the heritage place, which would block much of the view down the driveway of this site. There is also a solid roofed carport structure for 66 Sydenham Road- i.e. the most northerly and southerly of the three driveways have structures obscuring views of the new development. The middle driveway is the vehicle parking area for 66A Sydenham Road, and it is noted that this site has no other covered parking area. There is therefore some potential that there may be a carport here in future as well, though naturally this cannot be relied upon.

Therefore, while finely balanced, the recommendation considers that despite the Heritage Advisor's view, the proposal does not compromise the Local Heritage Place to such an extent that it would warrant refusal.

Access and Parking

The development proposes to continue using the existing crossover, so there would be no impact on existing verge infrastructure or on-street parking.

The proposal includes a double garage for each dwelling, providing two spaces for each in accordance with Transport, Access and Parking Table 1. This Table does not seek for any visitor parking to be provided as less than three dwellings are proposed.

The double garages both accord with the minimum dimensions outlined in Design in Urban Areas DPF 23.1.

Design in Urban Area DPF 33.4 states:

Driveways providing access to more than one dwelling, or a dwelling on a battle-axe site, allow a B85 passenger vehicle to enter and exit the garages or parking spaces in no more than a three-point turn manoeuvre.

The applicant was asked to provide swept path turning diagrams to demonstrate this. The applicant has provided such diagrams which show that the manoeuvring is constrained, but it is possible to make the manoeuvres work with a B85 vehicle in no more than a three-point turn. Practically, swept path turning diagrams tend to be relatively conservative for the vehicle type they portray, but this is balanced by the fact that B99 vehicles are now commonly used for domestic purposes. Overall however, the proposal is considered to achieve that manoeuvring standard which is expected by the Code.

Private Open Space

The front dwelling provides a total of 28m² of private open space across two areas; a ground level space of 20m² and a balcony of 8.1m². Using the average site area of 225m², Design in Urban Areas Table 1 would expect 24m² of private open space to be provided, which it is. That said, it would also expect at least 16m² of this, with a minimum dimension of 3m, to be directly accessible from a living room.

The ground floor open space does comply with this size and minimum dimension, but it is only accessible either through the garage or via the kitchen and then turning left.

In terms of the balcony, this has a minimum dimension of 1.8m, which is the minimum balcony dimension that the Code provides for a studio apartment (i.e. essentially the minimum viable balcony envisaged by the Code). It is also oriented north for better solar access.

Overall, the question is whether this is “suitable to meet the needs of occupants” as per Design in Urban Areas PO 21.1 and “positioned to provide convenient access from internal living area” per Design in Urban Areas PO 21.2. It is noted that a separate clothesline area is also provided, which improves the useability of the remainder of the areas, and realistically, walking through the kitchen and turning a corner is not a massive impost. Therefore, the area is considered suitable.

The rear dwelling has a slightly more conventional private open space arrangement, with a 42.6m² backyard and again complies with the guidance of Design in Urban Areas Table 1.

Soft Landscaping

The proposal includes a total of 113.7m² of soft landscaping, or 20.7% of the total area. For group dwellings with an average site area of between 200-450m², the Code at Design in Urban Areas DPF 22.1 provides a guideline of 20% of the site area as soft landscaping. Therefore, the proposal modestly exceeds the expected amount of soft landscaping across the site as a whole.

Stormwater Management

The site levels, with a slight slope towards the street, allow for gravity-fed stormwater to be discharged to the street water table. The proposal also includes rainwater tanks consistent with Stormwater Management Overlay DPF 1.1, and 50% of the driveway surface would be constructed from permeable paving consistent with Design in Urban Areas DPF 34.2 (a).

Council's Heritage Advisor has suggested that the area of permeable paving next to the dwelling has the potential to increase cracking and stability issues. Therefore, while a permeable paving area should be provided, a Reserved Matter is proposed to revise the location of the permeable paving to ensure that it will not impact the stability of the Local Heritage Place.

Waste Management

The proposal includes a defined space for bins for the rear dwelling, and it is clear that space would be available to the southern side of the front dwelling. The development would be eligible for kerbside collection with individual bins for each dwelling.

Privacy

The plans show upper floor windows obscured to a height of 1.5m above floor level, and the balcony balustrades obscured up to a height of 1.7m, consistent with Design in Urban Areas DPF 10.1 and 10.2 respectively. Therefore, the development is considered to suitably mitigate direct overlooking in the manner expected by the Code.

Question of Seriously at Variance

The proposed development comprises two group dwellings and associated works subordinate to this work. It is located in the Established Neighbourhood Zone. Development of this nature is appropriate within the site, locality and in the subject Zone for the following reasons.

- 1) The Zone is a Neighbourhood-Type Zone which primarily intends residential development, as is proposed here;
- 2) The proposal retains a Local Heritage Place

The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.

CONCLUSION

On balance, the development is considered to sufficiently comply with the provisions of the Planning and Design Code to warrant approval. The works to the original fabric of the Local Heritage Place are not visible from the public realm and are relatively insubstantial. The more substantial new works for the dwelling addition and the new dwelling are of a scale which is concerning, but are sufficiently set back from the street, and obscured by other structures, such that it will not unduly dominate the appearance of the Local Heritage Place.

While the scale and mass of the development does appear significant at first glance, the proposal does comply with the relevant side setback guidelines, and the departures from the rear setback guidelines is not such that its impact is unacceptable.

With regard to functional requirements, while there are some challenges, the development is considered to meet the standard of functionality sought by the Code.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.
2. Development Application Number 25001212, by YOGO DESIGN & CONSULTING PTY LTD is granted Planning Consent subject to the following reserved matter/conditions:

RESERVED MATTER

An updated Site & Drainage Plan shall be prepared and provided to the reasonable satisfaction of the Assessment Manager that:

- Shows the proposed permeable paving, including construction details, in such a manner as to ensure that the permeable paving does not compromise the structural integrity of the Local Heritage Place.

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

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

CONDITIONS PLANNING CONSENT

Condition 1

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

Condition 2

Either:

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

Condition 3

The approved development must include rainwater tank storage for each dwelling which is:

1. connected to at least 80% 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 proposed common driveway shall be constructed from at least 50% permeable material. This permeable material shall be maintained in such a state that reasonably ensures its continued permeability, to the reasonable satisfaction of the Assessment Manager.

Condition 6

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

Condition 7

The upper floor windows to side (northern and southern) and rear (eastern) 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.

Condition 8

The balustrades of the balconies located on the northern side of each 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.

**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

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

Mr Worrall addressed the Council Assessment Panel from 6.33pm until 6.38pm

Mr Troncone addresses the Council Assessment Panel from 6.42pm until 6.43pm

Moved by Mr Bateup

1. The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the Planning, Development and Infrastructure Act 2016.
2. Development Application Number 25001212, by YOGO DESIGN & CONSULTING PTY LTD is granted Planning Consent subject to the following reserved matter/conditions:

RESERVED MATTERS

RESERVED MATTER 1

An updated Site & Drainage Plan shall be prepared and provided to the reasonable satisfaction of the Assessment Manager that:

- Shows the proposed permeable paving, including construction details, in such a manner as to ensure that the permeable paving does not compromise the structural integrity of the Local Heritage Place.

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

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

RESERVED MATTER 2

- A detailed landscaping plan, showing a suitable mix and density of plantings (trees, shrubs and ground covers) in all areas marked as either "lawn" or "mulch" on the herin approved Site Plan (prepared by Yogo design and consulting PTY LTD, drawing No. AA001, project No, Y241008, dated 26 May 2025), shall be prepared to the satisfaction of the Assessment Manager.

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

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

**CONDITIONS
PLANNING CONSENT**

Condition 1

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

Condition 2

Either:

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

Condition 3

The approved development must include rainwater tank storage for each dwelling which is:

- 1. connected to at least 80% 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 proposed common driveway shall be constructed from at least 50% permeable material. This permeable material shall be maintained in such a state that reasonably ensures its continued permeability, to the reasonable satisfaction of the Assessment Manager.

Condition 6

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

Condition 7

The upper floor windows to side (northern and southern) and rear (eastern) 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.

Condition 8

The balustrades of the balconies located on the northern side of each 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.

**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

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

Seconded by Mr Mickan
CARRIED

5.2 DEVELOPMENT NUMBER ID 25010783 – STEVIE-ANN SPENCER - 16 FULLARTON ROAD NORWOOD SA 5067

DEVELOPMENT NO.:	25010783
APPLICANT:	Stevie-Ann Spencer
ADDRESS:	16 FULLARTON RD NORWOOD SA 5067
NATURE OF DEVELOPMENT:	Variation to Development Application 24026013 to amend the approved hours of operation (Condition No. 3)
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:	21 Apr 2025
RELEVANT AUTHORITY:	Assessment panel at City of Norwood Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2025.7 10/04/2025
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	No
RECOMMENDING OFFICER:	Kieran Fairbrother, Senior Urban Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 4:	Minutes from Previous Meeting
ATTACHMENT 1:	Application Documents	ATTACHMENT 5:	Approval DNF
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 6:	Approval Stamped Plans
ATTACHMENT 3:	Zoning Map		

BACKGROUND & DESCRIPTION OF PROPOSAL:

At its meeting on 16 December 2024, the Council Assessment Panel granted Planning Consent to Development Application 24026013 which was for a change of use of the land to an indoor recreation centre. In so doing, the Council imposed the following condition:

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

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

The applicant now seeks to amend this condition to extend the approved hours of operation to:

- Monday to Friday, 5:00am to 7:30pm
- Saturday, 6:00am to 5:00pm
- Sunday, 8:00am to 4:00pm
- Public Holidays, 7:00am to 12:00pm (midday).

Because the Council Assessment Panel was the relevant authority for the original application, they remain the relevant authority for any subsequent variation – hence why this proposal is being provided to the Panel for consideration.

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

Public Notification was not required because:

- Section 128(1) of the *Planning, Development and Infrastructure Act 2016* states that the variation of a condition requires approval.
- Section 3(1) of the Act defines 'development'. Notably, this definition does not include the variation of a condition.
- Table 5 of the relevant Zone prescribes circumstances where public notification is required, pursuant to section 107 of the Act.
- Section 107 of the Act deals with performance assessed development. Similarly, the public notification triggers in Table 5 of the relevant zone refers to types of 'development'.
- Thus, since a variation of a condition is not 'development' as defined in the Act, it cannot be a trigger for public notification.

PLANNING ASSESSMENT

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

Noise Emissions

This application seeks to change the approved hours of operation for this facility and therefore the key consideration for assessment is whether the change in hours will result in any unreasonable impacts to adjacent sensitive receivers (residential land uses). The change in hours is not anticipated to have any additional traffic or parking impact that would warrant a re-assessment of these factors. Similarly, the change in hours is not so extensive as to warrant a consideration whether there is an increase in intensity that might constitute a further change in use of the land.

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 supplemented their original application with an Acoustic Report, prepared by National, Noise and Vibration (an acoustic engineering firm based in New South Wales) – see **Attachment 6**.

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 of those people 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 imposed on the original approval 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...”*

It is worth highlighting that the existing approved hours were conditioned based on the hours proposed by the applicant at the time of the original application and not based on any specific acoustic concerns or similar. In fact, in the original report to the Panel, it was intimated that the applicant would be at liberty to apply to vary the approved hours if they desired.

Having considered the acoustic modelling undertaken, and the fact that the facility will operate within the parameters set in the *Environment Protection Policy* completely throughout a 24-hour period, the expanded hours of operation will not have a detrimental effect on the amenity of adjacent sensitive receivers.

These hours remain consistent with hours typical of indoor recreation facilities and, as established when the original change of use application was approved, this land use is a desired land use in the Suburban Business Zone. With a frontage to a busy arterial road, it should be anticipated that this premises may operate on Sundays and Public Holidays and so the change of hours is not considered at odds with any of the Zone's Performance Outcomes.

To this end, the proposed change of hours is consistent with what might be expected of an indoor recreation facility, consistent with what might be expected to occur on a site within the Suburban Business Zone, and consistent with the hours one might expect of a non-residential use on a site fronting an arterial road. The acoustic report provided with the original change of use application demonstrates that the land use will not have a detrimental effect to adjacent sensitive receivers at any time of day or night. Accordingly, this variation application is considered to satisfy all abovementioned Performance Outcomes and therefore is considered to warrant planning consent.

Question of Seriously at Variance

Having considered the proposal against the relevant provisions of the Planning & Design Code (Version 2025.7, dated 10/04/2025), the proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code because the Code anticipates extended hours of operation for non-residential land uses where the off-site impacts can be appropriately mitigated, and the proposed hours of operation are not so unreasonable that no relevant authority would consider them.

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 25010783, by Stevie-Ann Spencer be granted Planning Consent subject to the following conditions:

CONDITIONS

PLANNING CONSENT

Condition 1

The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any), noting that all previous stamped plans and documentation, including conditions previously granted Planning Consent for Development Application ID No 24026013 are still applicable except where varied by this authorisation.

Condition 2

Condition No. 3 imposed on Planning Consent for Development Authorisation 24026013 is hereby deleted and replaced by the following condition.

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

- Monday to Friday, 5:00am to 7:30pm
- Saturday, 6:00am to 7:00pm
- Sunday, 8:00am to 4:00pm
- Public Holidays, 7:00am to 12:00pm (midday)

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

This approval varies the original consent / approval to which it applies, but it does not extend nor vary the operative date of the original consent / approval. The consent / approval must be acted upon within the operative date applicable, unless extended by the relevant authority via separate submission.

Ms Spencer addressed the Council Assessment Panel from 7.10pm until 7.13pm

Moved by Mr Mickan

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.
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PLANNING CONSENT

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Seconded by Cr Mex

CARRIED

6. DEVELOPMENT APPLICATIONS – DEVELOPMENT ACT

7. REVIEW OF ASSESSMENT MANAGER DECISIONS

8. ERD COURT APPEALS

- *ID 24017924 - 114 Sydenham Road NORWOOD, Court matter has been postponed until the reserved matter has been resolved.*
- *ID 24032150 - 48 Sixth Avenue ST. PETERS, a meeting has taken place with the Applicant to seek engagement with a structural engineer.*

9. OTHER BUSINESS

- *There may be a substantial number of items for the July CAP, so the scheduling of two meetings may be required.*

10. CONFIDENTIAL REPORTS

11. CLOSURE

The Presiding Member declared the meeting closed at 7.19pm

Stephen Smith
PRESIDING MEMBER

Ned Feary
SENIOR URBAN PLANNER