

Council Assessment Panel Minutes

15 November 2021

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 Concert Hall, Norwood Town Hall

HOUR 7:00pm

PRESENT

Panel Members Mr Terry Mosel
Mr John Minney
Mr Phil Smith
Ms Fleur Bowden
Ms Jenny Newman

Staff Carlos Buzzetti General Manager, Urban Planning & Development
Nenad Milasinovic Senior Urban Planner
Adam Bowey Senior Urban Planner
Tala Aslat Planning Assistant

APOLOGIES

ABSENT

- 1. CONFIRMATION OF THE MINUTES OF THE SPECIAL MEETING OF THE COUNCIL ASSESSMENT PANEL HELD ON 4 NOVEMBER 2021**

Seconded and Carried

2. STAFF REPORTS

2.1 DEVELOPMENT APPLICATION 21024418 – WENDY’S ELC MANAGEMENT PTY LTD –
123 KENSINGTON ROAD, NORWOOD SA 5067

DEVELOPMENT NO.:	21024418
APPLICANT:	Wendy’s ELC Management Pty Ltd
ADDRESS:	123 KENSINGTON RD NORWOOD SA 5067
NATURE OF DEVELOPMENT:	Change of use from a dwelling and offices to a childcare centre (including associated internal alterations to the Local Heritage Place), creation of associated car parking, erection of acoustic fencing and erection of freestanding business identification signage
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) • Heritage Adjacency • Local Heritage Place • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Traffic Generating Development • Urban Transport Routes • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Frontage (9m for detached dwellings; 8m for semi-detached dwellings; 6m for row dwellings; 18m for group dwellings; and 18m for residential flat buildings) • Minimum Site Area (250m² for detached dwellings; 250m² for semi-detached dwellings; 250m² for row dwellings; and 250m² for group dwellings) • Maximum Building Height (2 Levels)
LODGEMENT DATE:	26 Aug 2021
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	26 Aug 2021
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
REFERRALS STATUTORY:	N/A
REFERRALS NON-STATUTORY:	Council’s Heritage Advisor Manager, Traffic & Integrated Transport

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 4:	Representations
ATTACHMENT 1:	Application Documents	ATTACHMENT 5:	Response to Representations
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 6:	Heritage Advisor's Response
ATTACHMENT 3:	Zoning Map	ATTACHMENT 7:	Manager, Traffic & Integrated Transport

DETAILED DESCRIPTION OF PROPOSAL:

The Applicant seeks consent to change the use of the land and buildings to a childcare centre. The proposal includes internal alterations and refurbishments to the existing building, whilst utilising the associated car parking areas for parent/guardian and staff parking and erecting acoustic fencing adjacent the proposed outdoor play areas. A 3.6 metre high by 1.2 metre wide freestanding double-sided non-illuminated business identification sign is proposed adjacent the Kensington Road frontage of the subject land.

The existing buildings, comprising approximately 749m² of floor area (ie. ground level, lower ground level, upper level and the associated coach house), are proposed to be internally altered and refurbished. The main building is to accommodate administration areas along with a children's nursery, sleep and activity areas. The coach house is proposed to accommodate additional administration areas along with amenity areas (ie. kitchen and bathroom areas).

Acoustic fencing is proposed adjacent the outdoor children's play areas and is to vary in height between 1.8 metres along the northern boundary and 1.5 metres adjacent the southern front and eastern side boundaries.

The childcare facility is proposed to operate Monday to Friday between 7:30am and 5:30pm and is intended to accommodate a maximum of ninety (90) children. The 90 placements are to be spread across the following age cohorts:

- 6 month – 2 years: 16 places;
- 2 – 3 years: 34 places; and
- 3 years – school age: 40 places.

Two (2) outdoor play areas are proposed; one located north of the building (accommodating infants – 2 year olds) and one to the south and southeast of the Local Heritage Place (accommodating 3 – 5 year olds and 2 – 5 year olds respectively).

Two (2) car parking areas with a total of 24 spaces are proposed to service the childcare facility comprising nine (9) staff parking only spaces adjacent the western side boundary and fifteen (15) shared spaces (parents and/or staff) situated adjacent the eastern side and northern rear boundaries of the property.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 123 KENSINGTON RD NORWOOD SA 5067
Title ref.: CT **Plan Parcel:** F138808 **Council:** THE CITY OF NORWOOD PAYNEHAM AND ST PETERS
5281/296 AL28

The Local Heritage Place was originally constructed between 1915's – 1920's as a dwelling and is a prominent building on the corner of Kensington Road and George Street. The building is a grand Federation mansion 'built to impress' and is notable for its fine design and red terracotta tile roof.

In February 2008, Development Application 155/470/07, the existing owner of the land obtained Approval to "change of use from a dwelling to an integrated dwelling and office and a dwelling with ancillary detached accommodation building, the construction of a freestanding garage and a freestanding carport, demolition of an existing garage and the replacement of a front fence along Kensington Road and George Street." The

land is currently used for both residential and commercial (ie. an office) purposes as per the current development authorisation.

Locality

The locality is characterised by a relatively wide range of dwelling types and styles, including several original detached dwellings with heritage significance along George Street, later dwellings of various age and style and medium density infill in the form of group dwellings and residential flat buildings.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Childcare centre: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

- **REASON**
P&D Code
- **LIST OF REPRESENTATIONS**

Given Name	Family Name	Address	Position	Wishes To Be Heard	Represented By
Peter	Burke	Kensington Road, Toorak Gardens	Opposed	No	N/A
David	Bartolo	101 Queen Street, Norwood	Opposed	No	N/A
Angela & Keith	Brewerton	91B William Street, Norwood	Opposed	No	N/A
Bryan	Grogan	Unit 6, 121 Kensington Road, Norwood	Opposed	No	N/A
Julie	Reeves	109 Queen Street, Norwood	Opposed	Yes	Lee Dewhirst
Meredith	Fantham	Unit 3, 96 George Street, Norwood	Opposed	No	N/A
Pamela	Huntley	99A Queen Street, Norwood	Opposed	No	N/A
Lee	Houlson	3/94 George Street, Norwood	Opposed	No	N/A
Weihua	Chen	104 George Street, Norwood	Opposed	No	N/A
Sophia	Stegani	100 Kensington Road, Toorak Gardens	Opposed	Yes	Peter Hoban
Catherine & Peter	Hoban	119 Kensington Road, Norwood	Opposed	Yes	N/A
Mike and Patricia	Wallis-Smith	117 Edward Street, Norwood	Opposed	No	N/A

Given Name	Family Name	Address	Position	Wishes To Be Heard	Represented By
Geoffrey	Thompson	96 Kensington Road, Toorak Gardens	Opposed	No	N/A
Jack	Bailey	113 George Street, Norwood	Opposed	Yes	N/A
Nikolas	Ikonomakis	105 George Street, Norwood	Opposed	No	N/A
Peter	Jonas	112 George Street, Norwood	Opposed	Yes	N/A
Pam & Mike	Mayo	110 George Street, Norwood	Opposed	Yes	N/A
Gayle & Phil	Chadwick	114B George Street, Norwood	Opposed	Yes	N/A
Tanya	Kelly	Community Corporation 23471 Inc, JE White's Strata & Body Corporate Management Services, 55 Woodville Road, Woodville	Opposed	No	N/A
Emily	Coats	88A Queen Street, Norwood	Opposed	No	N/A
Helen	Cox	99 George Street, Norwood	Opposed	No	N/A
Ross	Ermidis	22 Little Archer Street, North Adelaide	Opposed	Yes	N/A
Paul & Sandra	Addle	7/121 Kensington Road, Norwood	Opposed	No	N/A
Caroline	Clark	123 Edward Street, Norwood	Opposed	Yes	N/A
Philip & Caroline	Fenlon	119 George Street, Norwood	Opposed	Yes	N/A
Miriam	Keane	2/116 George Street, Norwood	Opposed	Yes	N/A
Adrienne & David	Lohmeyer	101A George Street, Norwood	Opposed	Yes	N/A
Richard	Brownrigg	103 Queen Street, Norwood	Opposed	No	N/A
Brett	Allen	133 Edward Street, Norwood	Opposed	No	N/A
Neil & Angela	Ward	93 George Street, Norwood	Opposed	No	N/A

• **SUMMARY**

Thirty (30) representations were received during the notification process, all of which are opposed to the proposed development.

The key issues raised by representations are, in summary:

- the proposed land use is of a scale and intensity that is not anticipated the zone;
- the proposal will impact upon the living amenity (in particular noise impacts) of neighbouring residential occupiers;
- increase in the likelihood of vehicular accidents;

- increase in traffic volumes and congestion in the surrounding street network; and
- on-street car parking demand will be exacerbated

Mr David Bills, of URPS, has responded to the representations on behalf of the Applicant. A copy of Mr Bills' response is contained in **Attachment 5**.

AGENCY REFERRALS

N/A

INTERNAL REFERRALS

- Council's Heritage Advisor
- Manager, Traffic & Integrated Transport

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in **Appendix 1**. The Planning Portal has nominated this form of development as an "*all other code assessed*" type of application, such that all policies contained in the Code are listed as relevant. For brevity, the list of policies contained in **Appendix 1** has been condensed, to remove those policies which are clearly irrelevant to the application in a practical sense.

Land Use

Established Neighbourhood Zone Performance Outcome 1.4 states:

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

- a) *small scale commercial uses such as offices, shops and consulting rooms*
- b) *community services such as educational establishments, community centres, places of worship, preschools, childcare and other health and welfare services*
- c) *services and facilities ancillary to the function or operation of supported accommodation or retirement facilities*
- d) *open space and recreation facilities.*

At this point, it is important to recognise the distinction being made between *commercial uses* (eg. offices, shops and consulting rooms) and community services, including childcare. Of note, part (a) seeks to limit the scale of *commercial uses* to 'small scale', whereas the uses in parts (b), (c) and (d) are not qualified in the same way.

Performance Outcome 1.2 is concerned only with *commercial uses* only (eg. offices, shops and consulting rooms) and states that those commercial activities should be of a scale and type to maintain residential amenity. The Associated Designated Performance Feature 1.2 seeks to achieve this through limits on floor area dependent on various scenarios.

On the other hand, Performance Outcomes 1.1 and 1.3 contain policy relevant to all non-residential uses (not just commercial uses) and are therefore relevant to community services including childcare. They respectively seek non-residential uses which are:

- compatible with the established development pattern of the neighbourhood; and
- sited and designed to complement the residential character and amenity of the neighbourhood; and

Accordingly, it appears that the Established Neighbourhood Zone policies do not seek to curtail the scale or intensity of the establishment of community service uses in the same way that it does commercial uses such as offices, shops and consulting rooms. Instead, the relevant policies (PO's 1.1 and 1.3) are concerned with built form compatibility outcomes, including the development pattern and siting and design characteristics. In this respect, the proposal does not result in any significant change to the development pattern, siting or design characteristics, as existing buildings are proposed to be retained.

Interestingly, Established Neighbourhood Zone Performance Outcome 1.5 seeks to moderate the expansion of existing community services such as pre-schools (of which childcare is a subset), stating that such expansion should occur in a manner which complements the scale of development envisaged by the desired outcome for the neighbourhood. The associated Designated Performance Feature 1.5 sets out the following criteria:

- a) set back at least 3m from any boundary shared with a residential land use
- b) building height not exceeding 1 building level
- c) the total floor area of the building not exceeding 150% of the total floor area prior to the addition/alteration
- d) off street vehicular parking exists or will be provided in accordance with the rate(s) specified in Transport, Access and Parking Table 1 General OffStreet Car Parking Requirements or Table 2 OffStreet Car Parking Requirements in Designated Areas to the nearest whole number.

As the proposal is not for an expansion of an existing use, the above criteria is not directly relevant. However, the allowance for an existing childcare facility to expand to 150% of its existing size does help to provide some context as to the scale of community services which are envisaged in the zone. It is also useful to understand that expansions should not involve building to within 3m of a boundary of a residential use, or a building of more than 1 level.

The proposed childcare centre is intended to accommodate up to 90 children at any one time. Recently approved childcare centres within the Council area include those at:

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

Having regard to the above range of child care centre capacities, the proposed 90 child place centre is considered to be of a fairly average size/intensity.

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

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

In this regard, the following Assessment Provisions are applicable:

Performance Outcome	Deemed-to-Satisfy Criteria/Designated Performance Feature	
General Land Use Compatibility		
PO 1.1 Sensitive receivers are designed and sited to protect residents and occupants from adverse impacts generated by lawfully existing land uses (or lawfully approved land uses) and land uses desired in the zone.	DTS/DPF 1.1 None are applicable.	
PO 1.2 Development adjacent to a site containing a sensitive receiver (or lawfully approved sensitive receiver) or zone primarily intended to accommodate sensitive receivers is designed to minimise adverse impacts.	DTS/DPF 1.2 None are applicable.	
Hours of Operation		
PO 2.1 Non-residential development does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive	DTS/DPF 2.1 Development Operating within the following hours:	
	Class of Development	Hours of operation
	Consulting room	7am to 9pm, Monday to Friday

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

The subject land is bounded by residential properties to the north (119 George Street), west (121 Kensington Road) and east (116 George Street). A childcare facility has the potential to result in noise impacts on the occupants of neighbouring residential properties, primarily from when children are playing outside in the proposed outdoor play areas.

With this in mind, the Applicant has obtained an environmental noise assessment report from Mr Chris Turnbull of Sonus (an acoustic consulting engineering firm) to assess the acoustic impacts on adjacent and nearby residential occupiers. In his analysis, Mr Turnbull has assumed that the childcare facility is operating at capacity (ie. 90 children) and considered the sound of children's voices, as well as noise associated with vehicle movements/activity and within the car parking area.

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

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

- adjacent the northern proposed outdoor play area, construct a 1.8 metre high colorbond sheet metal fence within the existing brush fence and ensure that the junction of the new fencing and existing wall garage boundary wall (belonging to 119 George Street), along with the remaining sections of proposed fencing, is sealed airtight. In terms of the remaining section of fencing along the northern boundary (ie. situated adjacent the car parking area) the recommended acoustic fencing height is to be 1.8 metres in height;
- adjacent the southern front and eastern side boundaries (ie. adjacent the proposed outdoor play areas), construct a 1.5 metre high clear Perspex fence within the existing established hedge and ensure that fencing is sealed airtight;
- ensure that the existing timber fencing along the western side boundary should be sealed airtight at all junctions and in between panels; and
- limiting age groups of children to infants – 2 year olds to the northern outdoor play area, 2 – year olds to the south-eastern outdoor play area and 3 – 5 year olds to the southern outdoor play area (ie. between the front of the building and the Kensington Road frontage).

A copy of Mr Turnbull's report is contained in **Attachment 1 (Pages 60 – 75)**.

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

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

And

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

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

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

Furthermore, the re-adaptive use of the Local Heritage Place is consistent with Local Heritage Place Overlay Desired Outcome 1, which states:

Development maintains the heritage and cultural values of Local Heritage Places through conservation, ongoing use and adaptive reuse.

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

Heritage/Signage

As part of the proposed acoustic measures, the Applicant intends to erect a 1.5 metre high acoustic Perspex fence within the property and within the established hedge adjacent the Kensington Road and George Street property boundaries. In this context, the 1.5 metre high Perspex fencing will not be discernible when viewed within a streetscape context. In terms of the existing well-landscaped front garden, the Applicant is proposing to retain the garden in its current form and appearance.

In addition to this, the Applicant is proposing to erect a freestanding 3.6 metre high by 1.2 metre wide double-sided non-illuminated business identification sign.

The Council's Heritage Advisor, David Brown, has reviewed the proposed development and has advised that the proposal is acceptable in terms of the impacts upon the heritage value of the Local Heritage Place. In this regard and in relation to the proposed freestanding sign, the proposal is consistent with Local Heritage Place Overlay Performance Outcome 3.3, which states:

Advertising and advertising hoardings are designed to complement the Local Heritage Place, be unobtrusive, be below the parapet line, not conceal or obstruct heritage elements and detailing, or dominate the building or its setting.

A copy of David Brown's report is contained in **Attachment 6**.

Traffic Impact, Access and Parking

The proposed development incorporates 24 car parking spaces in total comprising 9 spaces of which are a combination of designated staff parking and an accessible space located on the western side of the property and accessed from Kensington Road and 15 spaces which are to be shared by staff and parents on the eastern side of the property that are accessed from George Street.

Transport, Access and Parking, Table 1 - Off-Street Car Parking Requirements, prescribes a rate of 0.25 spaces per child for a childcare centre. Applying this recommended rate, the proposal would generate a car parking demand of 23 spaces. As such, the provision of car parking is therefore consistent with both the criteria detailed in Table 1 and Designated Performance Feature 5.1(a), which states:

Development provides a number of car parking spaces onsite at a rate no less than the amount calculated using one of the following, whichever is relevant:

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

The Council's Manager, Traffic & Integrated Transport, has reviewed the proposed development and has not raised any traffic safety concerns with access and/or egress associated with the proposal. Some initial concerns with the car parking layout have been overcome through amended plans.

A copy of the Manager, Traffic and Integrated Transport's report is contained in **Attachment 7**.

CONCLUSION

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

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

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

The proposal will not impact negatively on the setting of the Local Heritage Place on the land.

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

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 21024418, by Wendy's ELC Management Pty Ltd is granted Planning Consent subject to the following conditions:

CONDITIONS

Planning Consent

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

- supporting planning report (Reference Number: 21ADL-0025) prepared by Mr David Bills of URPS; and
 - acoustic recommendations detailed in the Environmental Noise Assessment (Reference Number S6787C4 and dated August 2021) prepared by Mr Chris Turnbull.
1. Operating hours for child care services, herein approved, shall be limited to the following times:
Monday – Friday: 7:30am – 5:30pm
 2. All refuse and stored materials shall be screened from public view to the reasonable satisfaction of the Assessment Manager.
 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.
 4. All external lighting of the site, including car parking areas and buildings, shall be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site to the reasonable satisfaction of the Assessment Manager.
 5. 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.
 6. Wheel stopping devices shall be placed at the end of each parking bay so as to prevent damage to adjoining fences, buildings or landscaping to the reasonable satisfaction of the Council or its delegate.

ADVISORY NOTES

General Notes

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.
2. 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.

3. A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - b. if an appeal is commenced—
 - i. until the appeal is dismissed, struck out or withdrawn; or
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).

Ms Newman declared conflict of interest for item 2.1 and left the meeting at 7:05pm

Mr Hoban addressed the Council Assessment Panel Members from 7:08pm until 7:14pm
Mr Williams addressed the Council Assessment Panel Members from 7:15pm until 7:19pm
Mr Weaver addressed the Council Assessment Panel Members from 7:20pm until 7:26pm
Mr Clark addressed the Council Assessment Panel Members from 7:30pm until 7:32pm
Ms Fenlon addressed the Council Assessment Panel Members from 7:33pm until 7:38pm
Mr Chadwick addressed the Council Assessment Panel Members from 7:39pm until 7:43pm
Mr Levinson addressed the Council Assessment Panel Members from 7:46pm until 7:51pm
Mr Parolin addressed the Council Assessment Panel Members from 7:53pm until 7:55pm
Mr Wilson addressed the Council Assessment Panel Members from 7:56pm until 7:57pm

MOVED

It is recommended that the Council Assessment Panel resolve that:

1. *Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and*
2. *Development Application Number 21024418, by Wendy's ELC Management Pty Ltd is granted Planning Consent subject to the following conditions:*

CONDITIONS

Planning Consent

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

- *supporting planning report (Reference Number: 21ADL-0025) prepared by Mr David Bills of URPS; and*
 - *acoustic recommendations detailed in the Environmental Noise Assessment (Reference Number S6787C4 and dated August 2021) prepared by Mr Chris Turnbull.*
1. *Operating hours for child care services, herein approved, shall be limited to the following times:
Monday – Friday: 7:30am – 5:30pm*
 2. *All refuse and stored materials shall be screened from public view to the reasonable satisfaction of the Assessment Manager.*
 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.*

4. *All external lighting of the site, including car parking areas and buildings, shall be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site to the reasonable satisfaction of the Assessment Manager.*
5. *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.*
6. *Wheel stopping devices shall be placed at the end of each parking bay so as to prevent damage to adjoining fences, buildings or landscaping to the reasonable satisfaction of the Council or its delegate.*

ADVISORY NOTES

General Notes

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

Seconded and Carried

Ms Newman returned to the meeting at 8:31pm

2. STAFF REPORTS

2.2 DEVELOPMENT APPLICATION 21020254 – BEYOND INK – 136 PAYNEHAM ROAD, STEPNEY

DEVELOPMENT NO.:	21020254
APPLICANT:	Beyond Ink
ADDRESS:	136 PAYNEHAM RD STEPNEY SA 5069
NATURE OF DEVELOPMENT:	Construction of a two-storey office building with associated car parking
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Business Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Advertising Near Signalised Intersections • Future Road Widening • Hazards (Flooding - General) • 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 is 2 Levels
LODGEMENT DATE:	17 Aug 2021
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	12 Aug 2021
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
REFERRALS STATUTORY:	Commissioner of Highways
REFERRALS NON-STATUTORY:	Manager, Traffic & Integrated Transport City Arborist

CONTENTS:

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

DETAILED DESCRIPTION OF PROPOSAL:

The Applicant seeks consent to construct a two-storey office building with associated at-grade car parking and landscaping. The ground floor of the proposed building incorporates two (2) tenancies, each ranging in floor area between 153 and 158m², an entrance foyer, a lift, a stairwell and amenities and wet areas. The at-grade car parking area comprises 20 car parking spaces and a designated parking area for bicycles adjacent the rear (south-western) entrance to the building. At first floor level, a further two (2) tenancies, each ranging in floor area between 153 – 157m², along with amenities and wet areas is to be situated directly over the lower ground level.

The proposed building has large expanses of fenestration (a combination of translucent glazing and colour-back “white” glazing) to the Payneham Road, and Loch Street elevations, and precast concrete walling. The remaining north and south-eastern elevations are to be constructed of precast concrete walling broken up by sections of glazing panels.

Two-way vehicular access and egress is proposed via Loch Street to the at-grade car parking area.

Landscaping comprising a mix of trees, shrubs and groundcovers is proposed.

Business identification signage details have not been provided and as such, a separate Development Application would need to be lodged for any such signage.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 136 PAYNEHAM RD STEPNEY SA 5069

Title ref.: CT
5823/89

Plan Parcel: F135073
AL22

Council: THE CITY OF NORWOOD PAYNEHAM AND
ST PETERS

The subject land is currently vacant, having recently been cleared. The subject land has two crossovers, both located adjacent Loch Street. The north-eastern crossover is located approximately 10 metres from the junction of Payneham Road and Loch Street. The south-western crossover is located approximately 5.6 metres from the south-eastern rear boundary.

The subject land contains a significant tree (a *Quercus illex* or holm oak). The significant tree has a trunk circumference of 4.95m and a large spreading canopy.

Another significant tree is located adjacent to the subject land in the Council verge on Loch Street. The tree is a *Quercus robur* or English oak and has a trunk circumference of 3.25 metres and a large spreading canopy.

A regulated tree is also located adjacent to the subject land in the Council verge on Loch Street, closer to the junction with Payneham Road. This tree is also a *Quercus robur* and has a trunk circumference of 2.2 metres and a relatively one-sided canopy over Loch Street.

Locality

The subject land is located at the junction of four different zones.

Apart from properties fronting Payneham Road, properties within Loch Street are within the Established Neighbourhood Zone. This includes a triangular Council reserve (Stanford Reserve), located diagonally adjacent to the subject land. Dwellings within Loch Street are varied and include single storey detached dwellings and two storey residential flat buildings.

The subject land and other land fronting the southern side of Payneham Road northeast of Loch Street, are located in the Business Neighbourhood Zone. This includes a dwelling which has been converted to two dwellings at 138 Payneham Road, consulting rooms within a converted villa at 140 Payneham Road and an office within a converted villa at 140 Payneham Road.

Properties fronting the southern side of Payneham Road west of Loch Street are located in the Suburban Activity Zone. Adjacent the subject land, at 134 Payneham Road, this includes shops within converted warehouses with mezzanine levels. Further west are more shops within single storey purpose-built shop buildings at 116-128 Payneham Road.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

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

PUBLIC NOTIFICATION

- **REASON**

The Application does not satisfy item 4 of Table 5 – Procedural Matters of the Business Neighbourhood Zone, which relates to floor area requirements for performance assessed development. Specifically, offices that exceed 250m² in gross leasable floor area are subject to public notification.

- **LIST OF REPRESENTATIONS**

Given Name	Family Name	Address	Position	Wishes To Be Heard
Brooke	<i>not provided</i>	1/181 Payneham Road, St Peters	Opposed	No
Matt	Burns	2B Battams Street, Stepney	Support	No
Muhammad	Emad Ehsan	1A Westminster Street, St Peters	Support with concerns	Yes
Samina	Tariq	1A Westminster Street, St Peters	Support with concerns	Yes
George	Samra	6 Loch Street, Stepney	Opposed	No
Charles	Gilchrist	73 Church Terrace, Walkerville	Opposed	No
Joseph	Vannelli	1 Wheaton Road, Stepney	Opposed	Yes
Tony	Vannelli	3 Wheaton Road, Stepney	Opposed	Yes

A copy of the representations received is contained in **Attachment 4**.

- **SUMMARY**

Eight (8) representations were received during the notification period, of which five (5) are opposed and three (3) support the application (albeit with concerns in two instances).

The key issues raised by representors are, in summary:

- loss of visual privacy;
- potential increase in traffic volumes in the surrounding street network;
- potential impact of proposed development on the significant tree on the subject land;
- the contemporary design response is considered incompatible with the historic character of the area;
- shadowing implications; and
- comprised visual outlook for neighbouring residential occupiers.

The Applicant has responded to the representations received and a copy of their response is contained in **Attachment 5**. In summary, the Applicant has responded as follows:

- the upper floor window areas to the north-western and south-eastern elevations are to have translucent glazing to a height of 1.5 metres above the finished floor level;
- the proposed building will provide a buffer to the residential properties located to the rear fronting Loch Street;
- the proposed office land use will result in minimal vehicle movements during the course of the day and will have sufficient on-site car parking to cater for the anticipated demand;
- the architectural design response is considered to be compatible with the mixed architectural styles along Payneham Road and will not comprise the streetscape nor views of neighbouring residential occupiers;
- arboricultural advice have been obtained in order to ensure minimal impact to the significant tree on the land and the two large council trees located on the Loch Street verge area; and
- the proposed built development will not unreasonably overshadow adjoining land.

AGENCY REFERRALS

- Commissioner of Highways
 - No Objection, with comments

The Commissioner of Highways has provided no comments on the application, instead directing a series of conditions and notes which have been added to the staff recommendation.

INTERNAL REFERRALS

- Manager, Traffic & Integrated Transport
- City Arborist

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in **Appendix 1**. The Planning Portal has nominated this form of development as an “*all other code assessed*” type of application, such that all policies contained in the Code are listed as relevant. For brevity, the list of policies contained in **Appendix 1** has been condensed, to remove those policies which are clearly irrelevant to the application in a practical sense.

Land Use/Interface Between Land Uses

Business Neighbourhood Zone Desired Outcome 01 states:

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

Performance Outcome 1.1 of the Business Neighbourhood Zone states:

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

Designated Performance Feature 1.1(d) lists an office as an envisaged land use.

Performance Outcome 1.2 states:

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

Designated Performance Feature 1.2 seeks a maximum gross leasable floor area of 250m² for shops, offices and consulting rooms (or any combination thereof). The proposed two-storey building has a gross leasable floor area of 622m².

The subject land is located adjacent to the Suburban Activity Centre Zone on the opposite corner of Loch Street and Payneham Road. Desired Outcome 1 of the Suburban Activity Centre Zone states:

An active commercial precinct supporting neighbourhood-scale shopping, business, entertainment and recreation facilities to provide a focus for business and community life and most daily and weekly shopping needs of the community. Buildings and pedestrian areas create a high quality, activated public realm that is integrated with pedestrian and cycle networks and establish well-defined connections to available public transport services.

Within the Suburban Activity Centre Zone, an office is an anticipated land use but unlike the Business Neighbourhood Zone, there is no maximum floor area for an office and as such, the P&D Code anticipates offices greater than 250m² within the neighbouring Suburban Activity Centre and not the Business Neighbourhood Zone.

Ordinarily, an office land use is considered to provide for a reasonable transition between residential land uses and more intense land uses such as those found within the Suburban Activity Zone. In particular, offices are generally less intensive in terms of traffic generation than other commercial land uses such as shops and consulting rooms.

Fundamentally, an office is considered to be an acceptable land use for the subject land, provided that Performance Outcome 1.2 is achieved, insofar as it complements and enhances the prevailing neighbourhood character. According to the rules of interpretation of the Planning & Design Code, the 250m² floor area limit in DPF 1.2 provides a guide as to what is generally considered to satisfy Performance Outcome 1.2, but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

An office with a floor area of 250m² would often be within a single storey building, such as former dwelling which has been adapted, or potentially a purpose built building with a relatively small upper level. Up to 8 (8) car parking spaces with associated traffic movements could be expected with an office of up to 250m².

By contrast, the proposed development involving a relatively large and bulky outwardly two storey building, with a car parking demand of 19 spaces with associated traffic movements, has a very different impact on the prevailing neighbourhood character. Although the floor area limit of 250m² is ‘just one way’ of achieving Performance Outcome 1.2, it is difficult to see how a building nearly three times larger could do so.

There are no significant mitigating circumstances that apply in this instance to warrant the establishment of an office of the scale proposed within the Business Neighbourhood Zone. The fact that the subject land is located adjacent to the Suburban Activity Centre Zone is not considered to be a mitigating circumstance, as there is little to distinguish the subject land from other sites located adjacent to the Suburban Activity Centre Zone. In this context, if approved, the proposed development could act as a precedence for similar scale office buildings within the Business Neighbourhood Zone.

Building Height

Performance Outcome 3.1 of the Business Neighbourhood Zone states:

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

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

The proposed two level building is consistent with the two storey Designated Performance Feature. As the Business Neighbourhood Zone is a strip along Payneham Road in this instance, it is difficult for the desire for “taller buildings positioned towards the centre of the zone and away from any adjoining neighbourhood type zone” as expressed in PO 3.1, to be achieved. The subject land interfaces directly with the Established Neighbourhood Zone and the proposed building is a tall building in the context of the heights anticipated for the Business Neighbourhood Zone (ie. low rise up to two storeys). Therefore, the proposal is considered inconsistent with Performance Outcome 3.1, despite being within the two storey height criteria.

Setbacks, Design & Appearance

Performance Outcome 3.2 of the Business Neighbourhood Zone states:

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

Designated Performance Feature 3.2(a) states:

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

at least the average setback to the building line of existing buildings on adjoining sites which face the same primary street (including those buildings that would adjoin the site if not separated by a public road or a vacant allotment)

The proposed new building is set back between 4.8 and 6.2 metres from the Payneham Road property boundary. Specifically, the front elevation of the new building has 21 metre wide front elevation to Payneham Road of which the 4.8 metre occupies a 9.3 metre width or 44% of the elevation.

To the northeast, the directly adjoining single-storey building at 138 Payneham Road has a setback of approximately 6 metres from Payneham Road. To the southwest, the other adjoining two-storey building (ie. the other side of Loch Street) at 134 Payneham Road is setback approximately 6 metres and 8.7 metres when measured to the verandah and the building line respectively from Payneham Road. The average setback of these two adjoining buildings is 7.4 metres.

The front setbacks of existing buildings within the locality of Payneham Road vary as shown on **Attachment 2**. The existing buildings located at 116, 120, 124, 126 and 128 Payneham Road are all built to the Payneham Road boundary whereas the former dwellings located at 140 and 142 Payneham Road have front setbacks that are similar to the building at 138 Payneham Road which is in the order of 6 metres. Directly to the northwest (ie. across the other side of Payneham Road) the three-storey residential flat building at 181 Payneham Road has a front setback ranging between 3 – 4.0 metres whereas the retained facade of the Jam Factory at 167-169 Payneham Road to the southwest abuts the Payneham Road frontage.

In this context, whilst the proposed front setback is not consistent with Designated Performance Feature 3.2(a), the setback is considered to be a compatible distance to buildings on adjacent and nearby land.

Performance Outcome 3.3 of the Business Neighbourhood Zone states:

Buildings set back from secondary street boundaries (other than rear laneways) contribute to a consistent streetscape.

Designated Performance Feature 3.3(a) states:

Building walls are set back from the secondary street frontage:

the average of any existing buildings on adjoining sites having frontage to the same street

The proposed building is to have a setback of 8.1 metres from Loch Street

With regard to the setback pattern from the northern side of Loch Street, this consists of a single-storey detached dwelling at 2, a two-storey residential flat building at 4 and another detached dwelling 6 Loch Street set back approximately 13.5 metres, 7 metres and 14 metres respectively from the street. Beyond these dwellings, the buildings located between 10 – 16 Loch Street tend to display an inconsistent front setback pattern. The proposed setback of 8.1 metres from Loch Street to the new office building is inconsistent with the front setback of two of these neighbouring buildings.

That said, consideration should be given to the fact that this is the secondary frontage of the building and is typical for secondary street setbacks on corner sites, to be less than the primary street setback pattern of dwellings on the same street. However, in this instance, the secondary setback of the proposed office building is greater than the primary setback from Payneham Road. With these factors in mind, the secondary setback from Loch Street is also considered acceptable.

Performance Outcome 3.6 of the Business Neighbourhood Zone states:

Buildings are set back from side boundaries to provide:

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

Designated Performance Feature 3.6 states:

Other than walls located on a side boundary, building walls are set back at least 900mm from side boundaries.

The north-eastern side set back of the proposed office building is to be 3 metres to both the ground and upper levels. The proposed side setback is consistent with this Designated Performance Feature.

Designated Performance Feature 3.7 states:

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

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

In terms of the south-eastern rear elevation of the proposed office building, both the ground and upper levels are setback equal distances that ranges between 18.7 – 19 metres from the rear boundary. The proposed rear setbacks of the two level building is consistent with this Designated Performance Feature.

Performance Outcome 2.1 of the Business Neighbourhood Zone states:

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

In addition to this, Design in Urban Areas Performance Outcome 1.1 states:

Buildings reinforce corners through changes in setback, articulation, materials, colour and massing (including height, width, bulk, roof form and slope).

Payneham Road Character

The adjacent buildings at 138, 140 and 142 Payneham Road are a combination of villas and/or bungalows whereas the buildings to the southwest at 116, 120, 124, 126 and 128 Payneham Road are predominantly original shop buildings and have front verandahs situated over the footpath area.

The proposed development is of a contrasting style and bulk to the existing development within the locality displaying a distinctly contemporary commercial appearance. There is very little commonality in architectural elements and features between the proposed building and existing buildings on adjoining and nearby land.

The solid external elements of the proposed building primarily comprise natural finish precast concrete panels, tinted, translucent and/or coloured glazing with a concealed roof over the second level. In addition to this, the proposed building is to be situated on a base that is "framed out" by brickwork facing both Payneham Road and Loch Street. Some of the proposed materials and finishes (ie. the precast concrete panels) are not consistent with buildings on adjacent and nearby land. In terms of the proposed brickwork, this is consistent with both the colours and external construction materials used on dwellings/former dwellings at 138, 140 and 142 Payneham Road Loch Street that are predominantly constructed of sandstone, bluestone and brickwork.

The proposed office building is reasonably well articulated and incorporates a good degree of fenestration. It is considered that the high quality appearance of the building, combined with the proposed landscaping, will ensure that the character and visual amenity of the locality is maintained.

There is adequate space between the adjacent single-storey building at 138 Payneham Road, as well as the two-storey saw tooth roof building at 134 Payneham Road (situated on the other side of the junction of Loch Street) and the proposed building, to provide an appropriate rhythm of building spacing along Payneham Road.

Loch Street Character

The bulk and scale of the proposed building is larger than that of the adjacent dwelling at 2 Loch Street as well as the surrounding detached/semi-detached dwellings fronting Loch Street, all of which are located within the Establish Neighbourhood Zone. The only exception to this established built form character is the outwardly two-storey residential flat building at 4 Loch Street.

The proposed building is well separated from the adjacent residential development, in that it is to be set back between 18.7 - 19.0 metres from the rear south-eastern boundary (with the dwelling at 2 Loch Street setback approximately 2.5 metres from the same boundary). In addition, the Loch Street elevation of the proposed office building includes brickwork at the street level which in turn is consistent with the residential building material palette that can be found within Loch Street. In combination with a good degree of proposed landscaping, including the retention of the existing regulated and significant street trees along the Loch Street frontage, the proposal is considered to result in an acceptable built form interface with the adjacent Established Neighbourhood Zone.

Despite these positive interface design features, the scale and design of the proposed building is not considered to complement surrounding built form, streetscapes and local character, contrary to Performance Outcome 2.1 of the Business Neighbourhood Zone.

Traffic Impact, Access and Parking

The proposal was referred to the Commissioner of Highways in accordance with Schedule 9(3)(4) of the *Planning, Development and Infrastructure (General) Regulations 2017*, Future Road Widening Overlay.

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

- vehicular access arrangements reflecting the proposed plans prepared by the applicant;
- any landscaping within the 4.5 metre x 4.5 metre corner junction of Payneham Road and Loch Street is to have a mature height not exceeding 1 metre;
- any redundant crossovers are to be reinstated; and
- stormwater run-off to be collected and discharged via appropriate stormwater drainage infrastructure.

Transport, Access and Parking, Table 2 - Off-Street Car Parking Requirements in Designated Areas, prescribes a rate of 3 spaces per 100m² of gross leasable floor area for sites located within a Business Neighbourhood Zone.

Applying the rate of 3 spaces per 100m² of gross leasable floor area to the 622m² of floor area equates to a car parking demand of 19 spaces. The proposed development includes the provision of a total of 20 car parking spaces at-grade and as such, the provision of car parking is therefore consistent with the criteria detailed in Table 2.

The proposal also includes designated bicycle provision (ie. 5 parks) adjacent the south-eastern rear elevation and the car parking area. In terms of bicycle parking rates, Table 3 Off-Street Bicycle Parking Requirements, prescribes a rate of 1 space for every 200m² of gross leasable floor area plus 2 spaces plus 1 space per 1000m² of gross leasable floor area for visitors.

With respect to the car parking layout and configuration, the Councils Manager, Traffic & Integrated Transport, Gayle Buckby, has undertaken a review of the proposed development. In summary, Mr Bucky has advised the following:

- whilst a queuing vehicle entering the site would overhang Loch Street, the extent of clearance for on-street parking combined with the relatively low traffic volumes along Loch Street, the likelihood of queuing actually occurring would be minimal;
- the access point to the main car parking area is located directly opposite the junction of Loch Street and Battams Street which in turn is identified as a prohibited location pursuant to Clause 3.2.3 of AS/NZS 2890.1:2004 *Parking facilities - Off-street car parking*. That said, Ms Buckby notes that this clause does not apply if physical constraints make it impossible to meet this requirement; and
- the dimensions of the parking bays and aisle widths comply with AS/NZS 2890.1:2004.

With respect to the concern with the access point, it is important to note that this is currently an existing crossover that is to be modified. Furthermore, maintaining the south-eastern crossover in its current location minimises further encroachments within the significant Holm Oak's Tree Protection Zone whilst also having the main vehicle access/egress point as far as practicably away from the junction of Payneham Road and Loch Street. That said, limiting to the scale and intensity of development on the site to 250m² as is envisaged for the Business Neighbourhood Zone would significantly reduce any vehicular conflict in this location.

Environmental Factors

Significant and Regulated Trees

Regulated and Significant Tree Overlay Performance Outcome 2.1 states:

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

A report by Mr Ben Seamark of Tree Inspection Services was submitted with the application, assessing the impact of the proposal on significant Holm Oak on the subject land and the significant and regulated street trees, both of which are English Oaks, located on the Loch Street verge area.

The report was reviewed by the Council's City Arborist, Matthew Cole. Mr Cole has concurred with the arboricultural recommendations that been detailed by Mr Seamark. Specifically, Mr Cole has recommended that the following recommendation be conditioned:

To minimise impacts during construction the following should be applied:

- 3.1) A project Arborist nominated and engaged to develop a site-specific Tree Protection Plan (TPP) in accordance with AS4970-2009 *Protection of Trees on Development Sites*.
- 3.2) The TPP plan should detail any pruning requirements, material storage areas, ground protection measures and other construction activities that may impact trees.
- 3.3) The TPP should be applied during the construction of the project and activities within these areas prescribed through the TPP.

- 3.4) *The TPP should be communicated and made available to all site workers and this documented.*
- 3.5) *The TPP should be monitored by nominated Project Arborist with Roles and Responsibilities' clearly articulated through the TPP.*
- 3.6) *A certificate of compliance provided at the completion of the project.*

That said, Mr Cole has expressed concerns that he has observed damage sustained to the canopies of both the significant Holm Oak and the significant English Oak street tree. Mr Cole has advised that he will organise pruning work to be undertaken in order to rectify the damage that has been sustained to this tree.

Landscaping

General Development Policies, Design in Urban Areas Performance Outcome 3.1 states:

Soft landscaping and tree planting are incorporated to:

- (a) *minimise heat absorption and reflection*
- (b) *maximise shade and shelter*
- (c) *maximise stormwater infiltration*
- (d) *enhance the appearance of land and streetscapes.*

The Applicant has proposed landscaping beds adjacent to both the Payneham Road frontage (2.6 – 4.0 metres in width) and the Loch Street frontage (1.8 - 6.8 metres in width) as part of the development proposal. In addition to this, two landscaping beds are proposed either side of the south-easternmost crossover, one of which encompasses the significant Holm Oak tree and is approximately 5.2 metres in width and 11 metres in depth whereas the other landscaping bed is 5.2 metres in width and 6 metres in depth. The landscaping includes a mixture of shrubs, small trees and ground covers which in overall terms, is considered to be generally consistent with Performance Outcome 3.1.

Stormwater Management

Design in Urban Areas Performance Outcome 42.3 states:

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

The subject land was largely covered with roof structures and bituminised car parking and manoeuvring areas up until mid-2021, when all the buildings were demolished and the land was cleared (ie. except for the significant Holm Oak tree). In this context, the amount of impervious area proposed does not exceed that of the pre-development state of the subject land.

The Applicant is seeking to relocate an existing side-entry-pit that is located next to the south-easternmost crossover adjacent the Loch Street frontage. Specifically, this crossover is intended to be modified and widened (in a northwest direction) in order to enable a two-vehicle crossover to be created. The Council's Urban Services Department have advised that in principle it is feasible to relocate the side-entry-pit northwest of its current location along the Loch Street frontage.

CONCLUSION

Desired Outcome 1 of the Business Neighbourhood Zone states:

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

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

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

That said, the scale of the proposed office building is greater than is contemplated (ie. maximum gross floor area of 250m²) for office uses anticipated within the Business Neighbourhood Zone. The development is well in excess of the prescribed maximum floor area criterion of 250m². This has consequences in terms of the compatibility of the building with the surrounding built form, streetscapes and local character, as well as traffic impacts within the adjacent local streets. It is considered that there are no significant mitigating circumstances that warrant the approval of an office land use of this scale in this instance.

Accordingly, it is considered that the proposal does not sufficiently accord with the Planning and Design Code to warrant consent.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 21020254, by Beyond Ink is **refused** Planning Consent subject to the following reasons:
 - The scale of the proposed office land use is contrary to Business Neighbourhood Zone Performance Outcome 1.2, in that is not complementary nor does it enhance the established and prevailing neighbourhood character along the south-eastern side of Payneham Road.
 - The proposed office building is at odds with Business Neighbourhood Zone Designated Performance Feature 1.2, which prescribes that offices do not exceed 250m² in gross leasable floor area.
 - The proposed office building does not complement surrounding built form, streetscapes and local character, contrary to Performance Outcome 2.1 of the Business Neighbourhood Zone.

Mr Joseph Vannelli addressed the Council Assessment Panel from 8:33pm until 8:35pm

Mr Tony Vannelli addressed the Council Assessment Panel from 8:36pm until 8:37pm

Mr Ashcroft addressed the Council Assessment Panel from 8:38pm until 8:45pm

MOVED

It is recommended that the Council Assessment Panel resolve that:

1. *Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and*
2. *Development Application Number 21020254, by Beyond Ink is **refused** Planning Consent subject to the following reasons:*
 - *The scale of the proposed office land use is contrary to Business Neighbourhood Zone Performance Outcome 1.2, in that is not complementary nor does it enhance the established and prevailing neighbourhood character along the south-eastern side of Payneham Road.*

- *The proposed office building is at odds with Business Neighbourhood Zone Designated Performance Feature 1.2, which prescribes that offices do not exceed 250m² in gross leasable floor area.*
- *The proposed office building does not complement surrounding built form, streetscapes and local character, contrary to Performance Outcome 2.1 of the Business Neighbourhood Zone.*

Seconded and Carried

3. OTHER BUSINESS

Nil

4. CONFIDENTIAL REPORTS

Nil

5. CLOSURE

The Presiding Member declared the meeting closed at 9:10pm

Terry Mosel
PRESIDING MEMBER

Adam Bowey
ACTING MANAGER DEVELOPMENT ASSESSMENT