

Council Assessment Panel Minutes

21 November 2022

Our Vision

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

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

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City of
Norwood
Payneham
& St Peters

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VENUE Council Chambers, Norwood Town Hall

HOUR 7:00pm

PRESENT

Panel Members Mr Terry Mosel
Mr Mark Adcock
Mr Ross Bateup
Ms Jenny Newman

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

APOLOGIES

ABSENT

**1. CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT
PANEL HELD ON 19 SEPTEMBER 2022**

Seconded and Carried

2. STAFF REPORTS

2.1 DEVELOPMENT NUMBER 22024795 – YUNYUN LIU – UNIT 2, 74 FULLARTON ROAD, NORWOOD

DEVELOPMENT NO.:	22024795
APPLICANT:	Yanyun Liu
ADDRESS:	UNIT 2 74 FULLARTON RD NORWOOD SA 5067
NATURE OF DEVELOPMENT:	Change of use from an office to a martial arts studio
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 • 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 (Levels) (Maximum building height is 3 levels)
LODGEMENT DATE:	31 Jul 2022
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	31 Jul 2022
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Kieran Fairbrother Senior Urban Planner
REFERRALS STATUTORY:	Commissioner of Highways
REFERRALS NON-STATUTORY:	None required

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:	Prescribed Body Responses
ATTACHMENT 3:	Zoning Map		

DETAILED DESCRIPTION OF PROPOSAL

The Applicant is seeking to change the use of a ground-floor tenancy in a two-storey commercial building from an office to a martial arts studio. The proposed martial arts studio will be used to teach participants boxing, martial arts and physical training. For the majority of the time, the premises will be used for one-on-one or one-on-two training, with a couple of larger classes being held on evenings and weekends (with a maximum of 8 participants). The proposed hours of operation in this respect are:

- Monday & Tuesday – 4pm-6pm (group classes)
- Wednesday-Friday – 8am-6pm (one-on-one and one-on-two classes)
- Saturday & Sunday – 11am-6pm (group classes)

The predominant clientele base is young children, although some of the more personalised classes will involve adults too. The martial arts studio will not utilise music in any of its classes, with the only source of noise to come from instruction and participation.

SUBJECT LAND & LOCALITY

Site Description

Location reference: UNIT 2 74 FULLARTON RD NORWOOD SA 5067

Title ref.: CT
5022/781

Plan Parcel: S4501
UN2

Council: THE CITY OF NORWOOD PAYNEHAM AND
ST PETERS

The subject site is located on the eastern side of Fullarton Road, and is one tenancy in a two-storey building that comprises six (6) tenancies in total. The subject site is the middle tenancy on the ground floor.

A car park is located to the rear of the building and the car park and the building combined occupy a majority of the site. Established street trees are in place in the public realm along the Fullarton Road frontage of the site.

Locality

The subject site is surrounded by a mixture of residential and non-residential uses. The eastern side of Fullarton Road is comprised of non-residential uses, mainly in the form of offices and other low-impact non-residential uses, while the western side of Fullarton Road is comprised of a mixture of single- and two-storey dwellings. Surrounding streets such as Montrose Avenue, Boskenna Avenue and Wakefield Street are typified by residential land uses.

As demonstrated in **Attachment 3**, the eastern side of Fullarton Road is zoned as Suburban Business Zone, whereas the western side immediately adjacent the subject site is zoned as Established Neighbourhood Zone. Similarly, Montrose Avenue and Boskenna Avenue are zoned as Established Neighbourhood in their majority.

Overhead power lines are a feature in the locality, as are established street trees. The surrounding road network is a relatively high traffic environment, catering to residential, business and commuter traffic.

The area enjoys a relatively high level of amenity.

CONSENT TYPE REQUIRED

Planning Consent

CATEGORY OF DEVELOPMENT

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

PUBLIC NOTIFICATION REQUIRED

Yes

- **REASON**

P&D Code - Suburban Business Zone - Table 5 (2) - the site of development is adjacent land to a site used for residential purposes in a neighbourhood-type zone (the opposite side of Fullarton Road is residential (Established Neighbourhood Zone))

- **LIST OF REPRESENTATIONS**

Given Name	Family Name	Address	Position	Wishes to be heard?
Diana	Stenta	1-6 Montrose Ave Norwood	Opposed	No
Steve	Harris	11 Montrose Ave Norwood	Opposed	No
██████	██████	██████████████████ ██████	Opposed	No
Vincent	Anderson	10 Montrose Ave Norwood	Opposed	No
Ros	Marsh	12 Montrose Ave Norwood	Opposed	Yes
Neil	Spence	PO Box 695 Fullarton	Opposed	No

- **SUMMARY**

All representors were opposed to the development, as demonstrated in **Attachment 4**. A summary of their reasons is outlined below:

- Inadequate off-street car parking provided;
- The potential for clients to park on neighbouring land and in Montrose Avenue;
- Increased traffic congestion (and associated safety concerns);
- Music and other noise from the proposed use becoming a source of nuisance to neighbouring residential properties;
- Concern that the number of participants will exceed 8 persons;
- Concern that the number of classes will exceed those proposed to be commercially viable; and
- Question whether classes will be systematically scheduled to avoid overlapping of clients in respect of car parking.

AGENCY REFERRALS

- Commissioner of Highways

The Commissioner of Highways responded to the referral with no comment to make on the proposal (see **Attachment 6**)

INTERNAL REFERRALS

None required.

PLANNING ASSESSMENT

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

Land Use

Desired Outcome 1 of the Suburban Business Zone seeks *“a range of emerging businesses which have low level off-site impacts.”*

Performance Outcome 1.1 of the Suburban Business Zone seeks *“shops, office, consulting room, low-impact industry and other non-residential uses...supported by a variety of compact, medium-density housing and accommodation types”*. The associated Designate Performance Feature (DPF 1.1) lists a variety of non-residential uses envisaged in the zone such as consulting room, light industry and service trade premises.

The proposed use of this site is not specifically envisaged by DPF 1.1 of the Zone, but is a form of non-residential use capable of satisfying the corresponding Performance Outcome and Desired Outcome 1, providing any impacts from the proposed use are considered low-impact. This is addressed under the relevant sections below.

The proposed hours of operation for the fitness studio are as follows:

- Monday & Tuesday, 4pm to 6pm (classes with up to 8 participants);
- Wednesday to Friday, 8am to 6pm (one-on-one and one-on-two classes);
- Saturday and Sunday, 11am to 6pm (classes with up to 8 participants).

Traffic Impact, Access and Parking

The proposal does not intend to create any new access or egress points, but it has the potential to alter the nature and number of vehicular movements in and out of the site. The application was consequently referred to the Commissioner of Highways because the crossover is within 25m of the intersection of Fullarton Road and Montrose Avenue. The Commissioner of Highways had no comment to make on the proposal (see **Attachment 6**).

Each representation submitted opposed to this application expressed concerns about car parking, and specifically that the existing site does not adequately cater for the car parking demand anticipated as a result of this proposal.

DPF 5.1 of *General Development Policies – Transport, Access and Parking* states that development should provide a number of on-site car parking spaces in accordance with Table 1 or Table 2 of this Policy, as applicable. The subject site is located in the Suburban Business Zone, and is located within 200 metres of any section of road reserve along which a bus service operates as a high frequency public transit service (i.e. The Parade, Norwood). Consequently, the site is considered to be in a *Designated Area* for the purposes of car parking, and so the rates specified in Table 2 are applicable to this proposal.

Transport, Access and Parking Table 2 prescribes a car parking rate for all non-residential development of 3 spaces per 100m² of gross leasable floor area.

The proposal involves 130m² of gross leasable floor area, which demands 4 car parking spaces as per Table 2.

The whole site, comprising the 6 individual tenancy units located at 74 Fullarton Road, Norwood, currently only has a total of five (5) on-site car parking spaces, with the tenancy the subject of this application being allocated only one of those five car parking spaces. As such, a car parking shortfall of three (3) spaces currently exists in respect of the subject tenancy, with that shortfall proposed to be carried over to the new use.

Because the site is located in a *Designated Area* the same car parking rate applies to all non-residential land uses, indiscriminate to whether that use involves an office, a consulting room or a martial arts studio. As such, because the applicant is not proposing to make any built form changes as part of their proposal, it is considered reasonable to allow a change of use to occur without requiring an increase in off-street car parking provision to be provided. In any case, no additional space exists on the site to increase the off-street car parking provision. To expect otherwise would severely limit the potential for any change in land use to occur on this site without requiring the full redevelopment of the site.

Notwithstanding this, in response to the representations made, the applicant has sought to lease and obtain the use of more on-site car parking spaces from adjoining tenants within the same building. To that end, the applicant has secured the use of three (3) additional car parks to use at any time, and a fourth to be used outside of business hours (evenings and weekends) (see **Attachment 5**). The tenants that offered to lease these parks indicate that they do not have a current demand for them, and so this arrangement should not produce an on-flow effect with respect to on-street parking. This provides the applicant with the use of four (4) onsite car parks at all times, and five (5) onsite car parks on evenings and weekends, which satisfies the requirements of *Transport, Access and Parking* Table 2 while this arrangement continues to exist.

Interface Factors

Noise Emissions

Performance Outcome 1.2 of *General Development Policies – Interface Between Land Uses* states that “*development adjacent to a site containing a sensitive receiver... or zone primarily intended to accommodate sensitive receivers is designed to minimise adverse impacts*”.

Performance Outcome 2.1 of *General Development Policies – Interface Between Land Uses* states that “*non-residential development does not unreasonable impact the amenity of 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*
- (d) *measures that might be taken in an adjacent zone primarily for sensitive receivers that mitigate adverse impacts without unreasonable compromising the intended use of that land.*

The residential land directly west of the subject site (on the opposite side of Fullarton Road) is located in the Established Neighbourhood Zone, and is considered a sensitive receiver for the purposes of the above Performance Outcomes.

The proposed use does not involve the broadcasting of any amplified music during classes, which was a concern for several representors. The only equipment proposed to be installed in relation to this use will be boxing bags, and so the only anticipated source of noise will be from the instructor, participation and the hitting of boxing bags. Therefore, any anticipated impact from noise emissions is considered minimal, and the Applicant has confirmed their willingness to accept a condition that prohibits the playing of amplified music from the site.

Signage

No signage is proposed as part of this development application.

CONCLUSION

The Suburban Business Zone envisages “a range of emerging businesses which have low-level off-site impacts”. While a martial arts studio is not a specifically-envisaged land use per DPF 1.1. of the Zone, the Applicant has reasonably demonstrated that any potential off-site impacts from this use will be of a low level, which is considered consistent with the Desired Outcome of the Zone, and compatible with adjacent land uses.

No building work or signage is proposed as part of this application and as such the proposal will not result in any built form impacts.

Given the specificity with which the land use has been defined, and the fact that the Applicant is willing to accept a condition that no amplified music is to be played, there should be little risk of the proposed land use causing interface issues in the future.

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 22024795, by Yanyun Liu is granted Planning Consent subject to the following reasons/conditions:

CONDITIONS

Planning Consent

1. The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.
2. That no amplified music shall be broadcast from the premises at any time.
3. The applicant / business operator shall ensure that information is made available to clients of the business regarding the parking arrangements that are available on site.

ADVISORY NOTES

Planning Consent

1. Consents issued for this Development Application will remain valid for the following periods of time:
 - a. Planning Consent is valid for 24 months following the date of issue, within which time Development Approval must be obtained;
 - b. Development Approval is valid for 24 months following the date of issue, within which time works must have substantially commenced on site;
 - c. 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.

2. 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.
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.

Ms Marsh addressed the Council Assessment Panel from 7:03pm until 7:06pm

Mr Kwiatkowski addressed the Council Assessment Panel from 7:08pm until 7:11pm

MOVED

1. *Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and*
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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.*

Seconded and Carried

3. OTHER BUSINESS

- a. The Council Assessment Panel expressed its grateful appreciation to Cr John Minney for his contribution and commitment to the Panel over a number of years, and wished him well for the future;
- b. The Assessment Manager advised that a new Council Member and a new Deputy Council Member would likely be appointed to the Council Assessment Panel at the December Meeting of Council (subject to the resolution of the Council). Training will be arranged for all Panel Members and Development Assessment staff prior to Council Assessment Panel meeting which will be held in January 2023;
- c. The Assessment Manager advised that the administration was currently considering the format and availability of attachments for reports to the Council Assessment Panel and further advice would be provided.

4. CONFIDENTIAL REPORTS

Nil

5. CLOSURE

The Presiding Member declared the meeting closed at 7:41pm

Terry Mosel
PRESIDING MEMBER

Geoff Parsons
MANAGER DEVELOPMENT ASSESSMENT