

Council Assessment Panel Minutes

18 March 2024

Our Vision

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

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

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

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VENUE Council Chambers, Norwood Town Hall

HOUR 7:00pm

PRESENT

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

Staff Kieran Fairbrother, Acting Manager, Development Assessment
Ned Feary, Senior Urban Planner
Tala Aslat, Planning Assistant

Staff

APOLOGIES

ABSENT

1. **COMMENCEMENT AND WELCOME**

2. **APOLOGIES**

3. **CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT
PANEL HELD ON 6 MARCH 2024**

Moved by Ms Newman and Seconded by Mr Bateup
CARRIED

4. **DECLARATION OF INTERESTS**

5. DEVELOPMENT APPLICATIONS – PDI ACT

5.1 DEVELOPMENT NUMBER 23034692 – BEN HOCK – 32 CHAPEL STREET, NORWOOD

DEVELOPMENT NO.:	23034692
APPLICANT:	Ben Hock
ADDRESS:	32 CHAPEL ST NORWOOD SA 5067
NATURE OF DEVELOPMENT:	Change of use to indoor recreation facility (martial arts studio- Taekwondo)
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) • Prescribed Wells Area • Regulated and Significant Tree • Traffic Generating Development <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height (Levels) (Maximum building height is 2 levels)
LODGEMENT DATE:	24 Nov 2023
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) - Version 2023.17 23/11/2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Edmund Feary Senior Urban Planner
REFERRALS STATUTORY:	None
REFERRALS NON-STATUTORY:	Rebecca Van Der Pennen

CONTENTS:

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

DETAILED DESCRIPTION OF PROPOSAL:

The proposal involves a change of use from a workshop with associated office, to an indoor recreation facility, specifically a martial arts studio (taekwondo). The business in question is currently located at 25 Sydenham Road, Norwood, with students aged 4 and up.

The business would typically have four staff, and 12-20 students on-site at a given time. Hours of operation would be:

- Monday-Thursday: 4pm-8:30pm
- Friday: 4pm-7pm
- Saturday: 8am-1:15pm

The site has two buildings- an office at the front and a large shed (workshop) at the rear. The applicant has stated that they intend to use the front building as a waiting room and classes for younger students, with older students in the rear building.

BACKGROUND:

The site has been used as a workshop (light industry) under existing use rights. Note that while the proposed use is a more sensitive use for the purposes of site contamination assessment, there is no building work proposed, and therefore no Preliminary Site Investigation or Site Suitability Declaration Form is required under *Practice Direction 14 – Site Contamination Assessment*.

The applicant sought preliminary advice from Council administration on a series of sites, with the advice given that this was likely to be the best site of those presented, as it was in a “designated area” and therefore there was no car parking shortfall in the context of the Planning & Design Code requirements.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 32 CHAPEL ST NORWOOD SA 5067

Title ref.: CT
5111/796

Plan Parcel: F33294
AL61

Council: THE CITY OF NORWOOD PAYNEHAM
AND ST PETERS

Shape: Rectangular

Frontage width: 18.7m

Area: 891m²

Topography: Mostly flat

Existing Structures: Two buildings:

- Large shed (~225 m²) at the rear of the site with a small lean-to and a shipping container on the eastern side
- Smaller (160 m²) office at the front of the site of red brick construction.

Existing Vegetation: Site is almost entirely paved, with one large (unregulated) tree in the driveway, and a small mulch section at the northeastern corner of the site.

Locality

The locality extends along Chapel Street between Edmund Street and Sydenham Road, and behind onto King Street for a central, 100m stretch.

The locality is mixed in character: historically predominately industrial, with some commercial and residential uses. Medium-density residential development has notably increased in the last 20 or so years, such that the subject site is now surrounded by residential development.

The opposite side of Chapel Street remains more industrial with primarily light industrial and warehousing uses, and immediately opposite the site is the cafe "33 Chapel", and a large, unpaved surface car park.

Chapel Street is a narrow street, with a carriageway width of only approximately 7.9m, with parallel parking only on the southern side. There is a moderate level of tree canopy on the street, though immediately in front of the site the southern footpath is too narrow to accommodate street tree planting.

Street parking on Chapel Street is unrestricted.

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; No pathway provided

PUBLIC NOTIFICATION

- **REASON**
Not of a form exempted by Table 5

• **LIST OF REPRESENTATIONS**

Given Name	Surname	Address	Position	Wishes to be heard?
Ingrid	Vogelzang	3/40 Chapel St, NORWOOD	Support, with concerns	No
Shannon	Slater	7 Staunton Rd, GOLDEN GROVE	Opposed	No
Joanne	Bussenschutt	PO Box 31, PASKEVILLE	Opposed	No
Nadia	Slade	PMB 2, YORKETOWN	Support, with concerns	No
Victoria	Bussenschutt	5/26 Chapel St, NORWOOD	Opposed	No
Sara	Slater	7 Staunton Rd, GOLDEN GROVE	Opposed	No
Paul	Bussenschutt	PO Box 31, PASKEVILLE	Opposed	No
Sally	Gurner	6/30 Chapel St, NORWOOD	Opposed	No
Joanne	Quigley	41 Chapel St, NORWOOD	Opposed	Yes
Maurice	Schievenin	28A Chapel St, NORWOOD	Opposed	No

• **SUMMARY**

The primary issue raised by representors was car parking and traffic safety given the increase in vehicle movements along Chapel Street. Two representors raised noise as a concern, and one raised land use as a concern.

AGENCY REFERRALS

None

INTERNAL REFERRALS

- Rebecca Van Der Pennen

Council’s Traffic Engineer reviewed the proposal and provided the following commentary:

The main traffic concerns I have with this application relate to the potential traffic safety issues along Chapel Street caused by the parking and drop off/pick up demand from the site.

The applicant has identified at the existing site on Sydenham Road drop off is currently occurring at the driveway. I note that there is also an existing 15min parking zone Mon-Fri 9am-5pm adjacent to this site which would also services the adjacent businesses during peak business hours. This parking zone would currently assist with the existing site operations.

The proposed site on Chapel Street has an existing yellow line across the driveway which would prohibit drop off and pick up adjacent to the site. The Chapel Street site therefore would rely on either the driveway pick up/drop off to be undertaken internally or available on-street parking adjacent to the site. If either of these options is not available parents may result in parking illegally or double parking to drop off which has the potential to block traffic in both directions due to the narrow width of the existing traffic lanes.

I understand that this application is located within a designated area and there are no requirements on the number of required off-street parking however we need to ensure that the development will not have any safety impacts on Council's roads. The following information should be provided by the applicant to assist with their application and an assessment of its traffic impact on Chapel Street;

- A site plan showing how the site will operate, existing car park dimensions and demonstrated vehicle movements including a turnaround onsite for parents that may be pulling in to drop off/pick up. This will confirm the number of car parks and that they operate satisfactorily based on the standards and shown the possibility of drop off and pick up of students being undertaken within the site.*
- On-street occupancy survey undertaken at peak periods on the weekday and weekend covering a reasonable walking distance from the site. Currently on-street car parking occupancy is known to be high, an occupancy survey will confirm this or potentially support the application if nearby parking is shown to be available.*

[Additionally], the applicant should consider installing bicycle parking to encourage alternative transport to support their application.

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One. Please note that the proposal is not of a kind with a specific pathway under Table 3 of the Business Neighbourhood Zone, and is therefore "all other Code assessed development". Appendix 1 has been expurgated of policies not considered relevant to the proposal.

Land Use

The site is in the Business Neighbourhood Zone (what was formerly the "Mixed Use A Zone" under the Development Plan.

Business Neighbourhood Zones Performance Outcomes 1.1, 1.2 and 1.3 relate to land use:

- 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.*
- Business and commercial land uses complement and enhance the prevailing or emerging neighbourhood character.*
- Changes in the use of land between similar businesses encourages the efficient reuse of commercial premises and supports continued local access to a range of services compatible to the locality.*

The locality has a substantial array of warehousing and light industry (which is predominately in the

same Zone), and the prevailing character is mixed-use. The proposed use for a recreation facility is therefore complementary to this neighbourhood character. The proposed use does also support continued access to services as per PO 1.3.

The question of impact on residential amenity will be considered in the sections below, however the land use is not fundamentally inappropriate.

Traffic Impact, Access and Parking

The site provides for eight parking spaces (although not linemarked or delineated), which is notably two more than the business' existing site, which is only some 133m to the southeast.

Firstly, it should be noted that the site is in a Designated Area for the purposes of off-street parking, due to being in a relevant Zone, and within 200m of a high frequency public transport area (Magill Road). This means that, for the purposes of the Code, the same parking rate applies to the proposed use as the existing use. Therefore, the proposal is considered to comply with Performance Outcome 5.1 of the Transport, Access and Parking module, in that it provides a sufficient amount of on-site vehicle parking.

The intent of the Designated Areas is to allow for the efficient reuse of commercial premises, considering that in these areas, there is a greater propensity for walking, cycling and public transport use which lessens the actual demand for car parking for a site. I note the follow which was provided as the "Need for the Amendment" under the *Existing Activity Centres Policy Review Development Plan Amendment* from 2016, which introduced the Designated Areas:

the State Government has taken on a greater role in assisting developers and investors navigate the land use planning system and expanded the responsibilities of the State's Development Assessment Commission to determine proposals in key locations that support mixed use and built form outcomes aligned to Planning Strategy objectives and targets....this DPA focuses upon achieving some high value improvements in the short term that can benefit many of the everyday development assessment activities that arise in our commercial centres across Greater Adelaide. In particular, this DPA proposes ways in which to:

- *facilitate the change of use of existing buildings from one commercial use to another particularly shops, offices and consulting rooms*
- *introduce additional complying development*
- *reduce the occurrence of non-complying development assessments*
- *reduce the potential for competitive appeals*
- *create more consistency across zoning provisions where local circumstances are not a significant consideration.*

Therefore, the intent of introducing the policy was primarily to encourage reuse of commercial buildings, rather than to redress an imbalance in "actual" car parking rates due to public transport use. Albeit, that the logic of utilising alternative transport lends further weight to the policy.

As a result, the Code supports the use of this site for alternative purposes, despite the increase in parking demand.

Many representors raised concerns about a lack of available on-street parking. While the on-street parking in the street may be in high demand, the Code supports the reuse of the site despite this.

The applicant's traffic report, provided by Empirical Traffic Advisory, makes the following observations from the business' existing site:

1. *There is minimal parking at the current site with only one car observed parking in the site by a staff member.*
2. *The peak changeover time on a weekday was between 5:00 to 5:30pm with 40 people arriving and 41 departing, and 10.45 to 11.15am on Saturday with 42 people arriving and 41 departing.*
3. *Approximately half of the people arriving (students) were dropped off at the main driveway gate by a parent, whilst the other half were observed to have walked from further distance away.*
4. *Between 5:00 and 5:15pm, 11 students walked into the site and 16 were dropped off with 4 of these from parked vehicles whilst the others were dropped off at the driveway.*
5. *There was an observed demand of 1 vehicle maximum at a time dropping people at the gate, with no queued vehicles waiting.*
6. *Parking adjacent the site was observed at a maximum of 4 vehicles, where parents would walk their child into the site or collect them from the site.*
7. *Similar observations were made for the departure of students but a higher number walked to other locations beyond the site, with few vehicles parked in front of the site*

I note this statement from Council's Traffic Engineer regarding these existing arrangements and their suitability at the Chapel Street site:

The applicant has identified at the existing site on Sydenham Road drop off is currently occurring at the driveway. I note that there is also an existing 15min parking zone Mon-Fri 9am-5pm adjacent to this site which would also services the adjacent businesses during peak business hours. This parking zone would currently assist with the existing site operations.

The proposed site on Chapel Street has an existing yellow line across the driveway which would prohibit drop off and pick up adjacent to the site. The Chapel Street site therefore would rely on either the driveway pick up/drop off to be undertaken internally or available on-street parking adjacent to the site. If either of these options is not available parents may result in parking illegally or double parking to drop off which has the potential to block traffic in both directions due to the narrow width of the existing traffic lanes.

The Code has limited policy with any relevance to these considerations. The following are taken from the Transport, Access and Parking module:

PO 1.1: Development is integrated with the existing transport system and designed to minimise its potential impact on the functional performance of the transport system.

PO 1.4: Development is sited and designed so that loading, unloading and turning of all traffic avoids interrupting the operation of and queuing on public roads and pedestrian paths.

PO 3.1 Safe and convenient access minimises impact or interruption on the operation of public roads.

Both 1.1 and 1.4 relate to "design" of a development, but the proposal is a change of use, so there is no design work being undertaken. PO 3.1 has a corresponding DPF which merely seeks for access to be provided via an existing crossover, which this proposal achieves.

As such, while the Traffic Engineer's concerns are noted, I do not believe that there is sufficient Code policy to refuse the proposal on this basis.

The applicant was asked to consider an alternative access arrangement whereby the two parking spaces in front of the brick building would become a drop-off zone, however this was rejected by the applicant on the following grounds:

I don't think the idea [from] Council will work with the levels of the site – there is quite a level difference to the footpath which will need a lot of work to overcome (cutting the site levels to create a ramp into the site. It will also remove 1 or 2 parking spaces in front of the site (it may need all parking to be removed between driveway crossovers on the street for instance).

You would also lose two parking spaces in the site.

While it is likely that the levels issue could be resolved, the loss of on-street car parking as a result would be less desirable.

I also note with some concern the applicant's suggestion that the front building will be used as a waiting area for parents. This would serve to encourage parents to stay during classes which would increase any car parking issues. However, it should again be noted that there is limited justification in the Code for any requirement that parents not be permitted to wait, or that this not be used as a waiting area.

Council's Traffic Engineer has also suggested that the applicant provide bicycle parking as part of the application. Table 3 of the Transport, Access and Parking module only seeks for the development to provide 3 bicycle parking spaces. It is considered that this can easily be accommodated for inside the building, without need for a floor plan specifying the location for such spaces.

In summary regarding traffic and parking, while the concerns that the proposal may exacerbate existing issues relating to traffic volumes and parking availability, it is considered that there is insufficient justification in the Code to warrant refusal.

Environmental Factors

Noise Emissions

Only two of the representors raised concerns about noise.

The applicant has indicated that they do not generally have music playing, and that any noise impacts would be limited to spoken word, and the striking of equipment such as bags and mitts.

The applicant has also provided further detail in their response to representations as to noise mitigation measures. This includes:

- Utilising the front (brick) building for noisier classes since this will contain noise more effectively;
- Fitting the rear shed with internal drywall and a lining of noise deadening insulation.

I have visited the business' existing premises on Sydenham Road in order to gauge a better understanding of noise levels. I found that the noise of the classes was barely discernible.

I have not asked the applicant to provide an acoustic engineer's report, as I felt that this was an unreasonable requirement.

Given the limited potential for noise generation from the activities proposed, I am satisfied that the proposal accords with Interface Between Land Uses PO 4.1 in that it would not unreasonably impact the amenity of sensitive receivers.

Hours of Operation

I note PO 2.1 of the Interfaces Between Land Uses Module:

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

- *the nature of the development*
- *measures to mitigate off-site impacts*
- *the extent to which the development is desired in the zone*
- *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.*

The business proposes for classes to cease by 8:30pm, with the earliest class being at 8am on a Saturday.

Waste Management

The applicant has advised that the standard Council collection will be sufficient for their needs.

CONCLUSION

The key questions of this application relate to land use, traffic, noise, and hours of operation.

Regarding land use, it is considered that the proposed use supports local access to services and is consistent with the prevailing character of the locality, in accordance with the Business Neighbourhood Zone.

Concerns from representors primarily related to traffic and parking. The Code supports changes of use between non-residential land uses without the need to provide additional parking spaces, by virtue of the site being in a “designated area”. As such, while concerns about on-street parking availability are noted, the Code supports the development despite this impact. Furthermore, concerns about traffic volumes and safety lack suitable Code policy to support a refusal on this basis.

Noise was a concern for some representors, however the nature of the noise generation for the activity, and the remedial measures proposed by the applicant are considered suitable to minimise these impacts. Similarly, hours of operation are considered suitable, given that the development is likely to have relatively limited noise impacts.

Therefore, while concerns regarding the proposal’s impact are noted, it is considered that the Code does not provide justification to refuse the application, and the application is therefore supported.

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 23034692, by Ben Hock is granted Planning Consent subject to the following reasons/conditions/reserved matters:

CONDITIONS

Planning Consent

Condition 1

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

Condition 2

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

- Monday-Friday: 4pm-8:30pm
- Saturday: 8am-1:30pm

Condition 3

Noise mitigation measures, as outlined in the response to representations dated 24 February 2024, shall be installed prior to the occupation of the site, to the reasonable satisfaction of the Assessment Manager.

Condition 4

Classes shall be limited to a capacity of 20 students and four (4) staff.

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) 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.

Ms Quigley addressed the Council Assessment Panel from 7:03pm until 7:08pm

Mr Hock addressed the Council Assessment Panel from 7:09pm until 7:12pm

Mr Morris from ETA Traffic Advisory addressed the Council Assessment Panel from 7:12pm until 7:15pm

Ms Hock answered questions from the Council Assessment Panel from 7:16 until 7:33pm

Moved by Mr Adcock

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 23034692, by Ben Hock is granted Planning Consent subject to the following reasons/conditions/reserved matters:

Reserved Matter:

A plan shall be provided showing at least three (3) bicycle parking spaces provided on site, to the reasonable satisfaction of the Assessment Manager.

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- 2. after 7pm or before 7am on any other day*

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**Seconded by Mr Bateup
CARRIED**

6. **DEVELOPMENT APPLICATIONS – DEVELOPMENT ACT**

7. **REVIEW OF ASSESSMENT MANAGER DECISIONS**

8. **ERD COURT APPEALS**

9. **OTHER BUSINESS**

Ms Newman discussed whether the Panel needs to start turning their mind to whether each proposal is “seriously at variance”, in consideration of the recent Geber decision. Council staff advised of the conflicting legal advice on this issue at present, and why there has been no discussion made in the staff reports. Ms Newman recommended that Council staff consider an initial motion in their Panel reports that considers whether the proposal is seriously at variance or not, with a simple ‘yes’ or ‘no’ answer. Council staff advised that they would take this on board and internally discuss to find a solution.

10. **CONFIDENTIAL REPORTS**

11. **CLOSURE**

The Presiding Member declared the meeting closed at 7:55pm

Terry Mosel
PRESIDING MEMBER

Kieran Fairbrother
ACTING MANAGER, DEVELOPMENT ASSESSMENT