

CITY OF WEST TORRENS



Notice of Panel Meeting

Notice is Hereby Given that a Meeting of the
COUNCIL ASSESSMENT PANEL

will be held in the George Robertson Room, Civic Centre
165 Sir Donald Bradman Drive, Hilton

on

TUESDAY, 10 MAY 2022
at 5.00pm

Public access to the meeting will also be available via livestream at:
www.westtorrens.sa.gov.au/livestream

CAP member, applicant and representor attendance via livestream only available by prior arrangement with the Assessment Manager.

Hannah Bateman
Assessment Manager

City of West Torrens Disclaimer

Council Assessment Panel

Please note that the contents of this Council Assessment Panel Agenda have yet to be considered and deliberated by the Council Assessment Panel therefore the recommendations may be adjusted or changed by the Council Assessment Panel in the process of making the formal Council Assessment Panel decision.

Note: The plans contained in this Agenda are subject to copyright and should not be copied without authorisation.

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1 MEETING OPENED

1.1 Acknowledgement of Country

1.2 Evacuation Procedures

1.3 Electronic Platform Meeting

2 PRESENT

3 APOLOGIES

Apologies

Panel Member:

Ms Jane Strange

4 CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the meeting of the Council Assessment Panel held on 12 April 2022 be confirmed as a true and correct record.

5 DISCLOSURE STATEMENTS

In accordance with section 7 of the *Assessment Panel Members – Code of Conduct* the following information should be considered by Council Assessment Panel members prior to a meeting:

A member of a Council Assessment Panel who has a direct or indirect personal or pecuniary interest in a matter before the Council Assessment Panel (other than an indirect interest that exists in common with a substantial class of persons) –

- a) must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the panel; and
- b) must not take part in any hearings conducted by the panel, or in any deliberations or decision of the panel, on the matter and must be absent from the meeting when any deliberations are taking place or decision is being made.

If an interest has been declared by any member of the panel, the Assessment Manager will record the nature of the interest in the minutes of meeting.

6 REPORTS OF THE ASSESSMENT MANAGER

6.1 TRANSITIONAL APPLICATIONS

Nil

6.2 PDI ACT APPLICATIONS

Nil

7 REVIEW OF ASSESSMENT MANAGER DECISION

7.1 18 Trennery Street, WEST RICHMOND

Application No 21025705

Appearing before the Panel will be:

Applicant: **Mr Joel Davidde** of 18 Trennery Street, West Richmond wishes to appear to answer questions of the Panel.

DEVELOPMENT APPLICATION DETAILS

APPLICANT	Joel Davidde
NATURE OF DEVELOPMENT	Create one (1) additional allotment and reciprocal right of way
ZONING INFORMATION	<p>Zones:</p> <ul style="list-style-type: none"> • General Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Aircraft Noise Exposure • Airport Building Heights (Regulated) • Affordable Housing • Building Near Airfields • Hazards (Flooding) • Hazards (Flooding - Evidence Required) • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Traffic Generating Development • Urban Tree Canopy
APPLICATION LODGEMENT DATE	9 September 2021
RELEVANT AUTHORITY	Assessment Manager
PLANNING & DESIGN CODE VERSION	2021.13
CATEGORY OF DEVELOPMENT	Code Assessed - Performance Assessed
REFERRALS STATUTORY	<ul style="list-style-type: none"> • State Planning Commission • SA Water
REFERRALS NON-STAUTORY	<ul style="list-style-type: none"> • City Assets
APPLICATION DECISION	Refused Planning Consent & Land Division Consent
DECISION DATE	16 March 2022
DECISION DELEGATE	Steven Burke
APPLICATION FOR REVIEW LODGEMENT DATE	13 April 2022

BACKGROUND

Pursuant to section 202(1)(b)(i)(A) of the *Planning, Development and Infrastructure Act 2016*, applicants have the right to apply to a Council Assessment Panel for a review of an Assessment Manager's decision relating to a Prescribed Matter.

The Panel has adopted a *City of West Torrens Council Assessment Panel Policy: Review of Decision of Assessment Manager* (CAP Review Policy) to guide consideration of such reviews.

APPLICATION FOR REVIEW

An application for the creation of one (1) additional allotment and reciprocal right of way at 18 Trennery Street, West Richmond was received by the Assessment Manager for the assessment and determination of planning consent and land division consent.

Following an assessment of the application against the Planning & Design Code version 2021.13, the delegate of the Assessment Manager determined to refuse the granting of planning consent and land division consent for the following reasons:

DO 1 - Aircraft Noise Exposure Overlay:

Development sensitive to aircraft noise is designed and located to manage noise intrusion to reduce land use conflict and protect human health.

- Development sensitive to aircraft noise is not located to reduce land use conflict and protect human health.

PO 3.1 - Aircraft Noise Exposure Overlay:

Land division does not increase the number of allotments used for sensitive receivers in areas adversely affected by aircraft noise to mitigate community exposure to potential adverse environmental and amenity impacts generated by aircraft movements.

- The proposed division increases the number of allotments used for sensitive receivers in areas adversely impacted by aircraft noise.

PO 2.2 - Land Division (General Development Policies):

Land division enables the appropriate management of interface impacts between potentially conflicting land uses and/or zones.

- The proposed division does not enable the appropriate management of interface impacts between potentially conflicting land uses.

PO 2.3 - Land Division (General Development Policies):

Land division maximises the number of allotments that face public open space and public streets.

- The proposed division does not maximise the number of allotments that face a public road.

PO 2.5 - Land Division (General Development Policies):

Development and infrastructure is provided and staged in a manner that supports an orderly and economic provision of land, infrastructure and services.

- Development is not provided in a manner that is orderly and economic.

The applicant has subsequently made an application to the Council Assessment Panel for a review of the decision of the Assessment Manager pursuant to section 203 of the *Planning, Development and Infrastructure Act 2016* (PDI Act). The application for review was received within one (1) month of the applicant receiving notification of the decision.

The applicant seeks a review of the decision to refuse planning and land division consent, which is a Prescribed Matter in accordance with section 201 of the PDI Act.

In summary, the applicant has cited the following reasons for the review:

- Failure to satisfy a single DPF (DPF 1.1 - Aircraft Noise Exposure Overlay) and on balance, all applicable policies are satisfied.
- An acoustic report can demonstrate appropriate residential amenity for potential future occupants of a dwelling.
- The policies of the Aircraft Noise Exposure Overlay have been incorrectly interpreted as advice provided from the Attorney General's Department contains a different interpretation.
- It is believed that there have been numerous applications for land division approved in the locality in which the same policies of the Code were applicable.
- Some of the reasons for refusal are not applicable or relevant for this application.

A copy of the application for review on the prescribed form is enclosed in **Attachment 1**.

MATERIALS FOR REVIEW

In accordance with the CAP Review Policy, the Assessment Manager is required to present the following information to the Panel for its consideration.

Information	Attachment
Plans and other associated information that formed part of the application	Attachment 2
Internal and external referral responses	Attachment 3
Delegated assessment report and decision notification form	Attachment 4
Relevant Planning and Design Code policy extract	Attachment 5

REVIEW HEARING

The applicant has indicated on the application for review form that they wish to be heard by the Panel to answer any questions that may arise in support of the application.

Pursuant to section 203(2)(a) of the PDI Act, the Panel has adopted its own procedures on this matter and the CAP Review Policy states:

7.4. *The Panel will not receive submissions or addresses from any party.*

7.5. *The Presiding Member may permit Panel Members to ask questions or seek clarification from the applicant and/or the Assessment Manager, in his or her discretion.*

REVIEW OF DECISION

In accordance with clause 7.2 and 7.3 of the CAP Review Policy, the Panel is required to consider the *Prescribed Matter* afresh and only consider information, materials and submissions available at the time of the Assessment Manager's (or delegate's) decision.

The review application form was accompanied by additional information, which had previously been provided as part of the application during the assessment process and considered in the delegate's assessment. Therefore, this is not considered new information, which would be contrary to clause 7.3 of the CAP Review Policy.

The CAP Review Policy states that the CAP may either affirm, vary, or set aside and substitute its own decision.

The draft resolutions presented in this report for the Panel's consideration reflect the range of options the Panel may consider in its deliberations.

SUMMARY

This application for a review of the Assessment Manager's decision is presented to the Panel for its consideration in accordance with the *City of West Torrens Council Assessment Panel Policy: Review of Decision of Assessment Manager*.

DRAFT RESOLUTIONS

The Council Assessment Panel resolves to **affirm** the decision of the Assessment Manager:

- that the application is not seriously at variance with the Planning and Design Code (disregarding minor variations), but that DA No 21025705 does not warrant planning consent and land division consent for the following reasons:
 - Aircraft Noise Exposure Overlay DO 1
Reason: Development sensitive to aircraft noise is not located to reduce land use conflict and protect human health.
 - Aircraft Noise Exposure Overlay PO 3.1
Reason: The proposed division increases the number of allotments used for sensitive receivers in areas adversely impacted by aircraft noise.
 - Land Division (General Development Policies) PO 2.2
Reason: The proposed division does not enable the appropriate management of interface impacts between potentially conflicting land uses.
 - Land Division (General Development Policies) PO 2.3
Reason: The proposed division does not maximise the number of allotments that face a public road.
 - Land Division (General Development Policies) PO 2.5
Reason: Development is not provided in a manner that is orderly and economic.

OR

The Council Assessment Panel resolves to **vary** the decision of the Assessment Manager:

- that the application is not seriously at variance with the Planning and Design Code (disregarding minor variations), but that DA No 21025705 does not warrant planning consent and land division consent for the following reasons:

[Reasons to be added by CAP]

OR

The Council Assessment Panel resolves to **set aside** the decision of the Assessment Manager to refuse planning consent and land division consent to DA No 21025705 and substitute the following decision:

- DA No 21025705 is not seriously at variance with the Planning and Design Code (disregarding minor variations) and that planning consent and land division consent are granted to the application subject to the following conditions:

[Conditions to be added by CAP]

ATTACHMENTS

1. **Application Form for Review to Council Assessment Panel**
2. **Application Plans, details and other correspondence**
3. **Internal and external referral responses**
4. **Assessment report and decision notification form**
5. **Extract of relevant Planning and Design Code policies**

APPLICATION TO ASSESSMENT PANEL¹

Decision Review Request

Prescribed form pursuant to section 203(1) for review of a decision of an Assessment Manager under section 202(1)(b)(i)A) of the *Planning, Development and Infrastructure Act 2016* (Act)

Applicant details:	Name: Joel Davidde Postal address: 18 Trennery Street West Richmond, SA 5033
Development Application Number:	ID:21025705, Application Number: 211/D439/21
Subject Land:	18, Trennery Street, West Richmond SA, 5033 130, D4117, CT 5330, 165 <i>[street number, street name, suburb, postcode]</i> <i>[lot number, plan number, certificate of title number, volume and folio]</i>
Date of decision of the Assessment Manager:	16/03/2022
Decision (prescribed matter²) for review by Assessment Panel:	Decision to refuse the authorisation
Reason for review:	<p>We are applying to appeal the decision of refusal made by the West Torrens City Council (WTCC) based on the following facts, relevant information and opinions of Planners, Relevant Consultants, and the Attorney General's Department to be considered:</p> <ul style="list-style-type: none"> - Code Interpretation: The refusal has been based upon a single interpretation of the new Planning & Design Code 2021 DTS/DPF 1.1 of the Aircraft Noise Exposure Overlay. The overlay is not a mandatory provision and remains a guideline. On balance, all key policies are satisfied within the application. A performance assessment (report of a qualified independent acoustic consultant) can demonstrate appropriate living quality as per the requirement of the overarching Desired Outcome (DO). This DO is intended to protect amenity, not stifle or sterilise development in the area. If the DO can be satisfied via a performance assessment, the interpretation of a singular, non-mandatory clause should not prevent approval of this compliant application. - This interpretation and refusal does not consider the application as a whole noting that all other key, relevant criteria such as site area,

¹ This application must be made through the relevant facility on the SA planning portal. To the extent that the SA planning portal does not have the necessary facilities to lodge this form, the application may be lodged—

(i) by email, using the main email address of the relevant assessment panel; or
(ii) by delivering the application to the principal office or address of the relevant assessment panel.

² **Prescribed matter**, in relation to an application for a development authorisation, means—

- (a) any assessment, request, decision, direction or act of the Assessment Manager under the Act that is relevant to any aspect of the determination of the application; or
- (b) a decision to refuse to grant the authorisation; or
- (c) the imposition of conditions in relation to the authorisation; or
- (d) subject to any exclusion prescribed by the regulations, any other assessment, request, decision, direction or act of the assessment manager under the Act in relation to the authorisation.


This form constitutes the form of an application to an assessment panel under section 202(1)(b)(i)A) of the *Planning, Development and Infrastructure Act 2016*, determined by the Minister for Planning and Local Government, pursuant to regulation 116 of the *Planning, Development and Infrastructure (General) Regulations 2017*. Last amended: 31 July 2020



Government of South Australia
Attorney-General's Department

frontage, carparking, etc. are satisfied and suit the intended development (land division). We believe the assessment should be undertaken in accordance with Part 1 of the Planning & Design Code 2021 – Rules of Interpretation which provides that DPFs “will generally meet the corresponding performance outcome” and they do “...not need to necessarily be satisfied to meet the performance outcome” this can be demonstrated via a performance approach as noted below.

- **Performance Assessment:** The attached letter dated 14.01.2022 outlines multiple reasons to interpret DTS/DPF 1.1 of the Aircraft Noise Exposure Overlay in a more appropriate manner. The opinion of Planner Damian Dawson of SA Planning Chambers, Senior Acoustic Engineer Jenna MacDonald of Resonate Consultants and Team Leader Jason Bailey of Planning & Land Use Services - Attorney-General's Department all conclude that a performance outcome such as an acoustic report in accordance with MBS010 (Ministerial Building Standard MBS 010 -Construction requirements for the control of external sound) by an independent acoustic engineer is a more accurate, and appropriate method of satisfying the Performance Outcome 1.1 and more specifically the overarching Desired Outcome 1, which describes the intent of the Overlay as “development sensitive to aircraft noise is designed and located to manage noise intrusion to reduce land use conflict and protect human health’. The policy speaks of designing development so as to manage noise intrusion. The important aspects being that noise intrusion only need be managed, not entirely prevented and that this can be achieved through design (building construction) via. MBS010 (and can included as a condition of approval to the application).
- **Precedence:** As noted within the attached letter, multiple properties within the same or higher ANEF zone, within the same area have been recently approved for land division and have successfully built dwellings (in accordance with MBS010) which are being lived-in and safely occupied, maintaining amenity. Some of these developments are still under construction such as 29-31 Passmore St West Richmond where a land division is creating an additional 5 allotments and 8 new dwellings in a battle-axe formation, within ANEF30 and located 2 streets away from this application, noting that this application proposes only one (1) additional allotment and in no way represents a major increase in residential density. Also, there has been a Land Division approved by WTCC under the new Planning & Design Code 2021, within the same ANEF 30 rating pertaining to the Aircraft Noise Overlay which is 75 Craig Street Richmond, where WTCC had requested an acoustic report in accordance with MBS010 (as a performance assessment – and as per our request). This application has been subsequently approved, with no issue, and demonstrates that a performance assessment via acoustic consultant report can satisfy the requirements of the overlay. We are requesting a logical and pragmatic approach towards our application and believe that including a condition of approval to undertake an acoustic assessment and report in accordance with MBS010 prior to any dwelling construction is sensible and relevant to satisfy the requirements of the Code.
- This development retains the current property, maintaining streetscape and character, minimising any impact. This is beneficial and maximises the number of allotments facing a public road whilst maintaining the current property, in a ‘battle-axe’ arrangement which is compliant according to the Planning & Design Code 2021. The WTCC listed PO2.3 does not appear relevant in this case and form of land division. WTCC have advised the applicant that other refusal PO’s stated within the Decision Notification Form are in relation to the aircraft noise overlay requirements directly or indirectly being PO2.2, PO2.5. These were not raised at any point within the months of communication and discussion with WTCC, and do not appear to be relevant or relate to this application directly in any form.

	<ul style="list-style-type: none"> - Having considered all the relevant provisions of the Planning and Design Code 2021, we believe the proposal is considered to be not seriously at variance with the requirement within, in particular the Aircraft Noise Exposure Overlay Policy, which can be effectively demonstrated as satisfied through a qualified acoustic engineer's assessment and report in accordance with MBS010. - Attachment1 – Response Letter Dated 14.01.22 - Thankyou, Joel Davidde. <p><i>[Briefly state the facts, circumstances and other relevant matters upon which this application is based. Attach additional pages as necessary]</i></p>
<p>Do you wish to be heard by the Assessment Panel?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Date:</p>	<p>12/04/2022</p>
<p>Signature:</p>	<p style="text-align: center;"></p> <p><input checked="" type="checkbox"/> <i>If being lodged electronically please tick to indicate agreement to this declaration.</i></p>

Response Letter (14.01.2022)

18 Trennery Street, West Richmond 5033**Application ID: 21025705 Application Number: 211/D439/21**

Good afternoon Steven,

Firstly, we would like to thank you and your team for taking the time to respond to our application and allowing us enough time get our ducks in a row regarding our response to the points raised.

We have structured this document in order to address the points raised within Council's response and each matter has been individually titled to be able to easily follow and clearly address each point of the response, as well as adding further information we have gathered to date.

Application for Land Division under the Planning and Design Code

We would like to begin by addressing the note within Council's response stating that the application is the first of its kind since the implementation of the Planning and Design Code. We would like to point out that there were many similar applications over the past year within the same zone and ANEF Contour, which demonstrated the use of the area (General Neighbourhood) and the suitability of sensitive receivers (residential) being developed within ANEF30+ contour zones, albeit under the previous regulations (noting that the ANEF zones and land use have remained the same), as per the following application approvals:

- 10 Wilson Street, COWANDILLA SA 5033 (Land Division) – Approved 22 March 2021.
- 29 Leicester Street, WEST RICHMOND (Land Division) – Approved 12 February 2021.
- 29-31A Passmore Street, WEST RICHMOND (Land Division to create 5 additional allotments) – Lodged 09 September 2020, Approval date unknown – Land division and construction of 8 new dwellings (sensitive receivers) complete.
- 2 Devon Street West Richmond (Land Division) – Approved 9 June 2020.
- Among numerous other residential land divisions over the past 3 years including properties directly facing our application's property at 17 Trennery Street West Richmond.

We would also like to note that there has been an approved land division after the implementation of the Planning and Design Code, within the same ANEF 30 contour zone as 18 Trennery Street West Richmond. This property is located at 75 Craig St RICHMOND SA 5033 (See attachment No.1) and was a one into two lot development as per 18 Trennery Street, however, this development does not retain an existing dwelling as per our application. The 75 Craig St Application included the demolition of the existing dwelling to make way for the construction of 2 new dwellings classified as sensitive receivers.

The Application for the land division was submitted on 18 May 2021 and Approved with no objection on 21 June 2021.

When the 75 Craig Street application was discussed with Council, Council noted that there had been teething issues in assessing the new Code at the time. However, it is understood that the requirements of the Clause within the Planning and Design Code were known to Council at the time, as Council had reviewed the draft Code and subsequently requested that the applicant undertake an acoustic assessment and provide a report in order to satisfy the Aircraft Noise Exposure Overlay requirements within the Code.

Council had requested the Applicant to undertake an acoustic assessment of the property and provide a report outlining the properties suitability to undertake the division as well as the ability to construct a house on the newly formed allotments. We understand that this request is not a requirement of a land division application, and that the application did not include a submission to build any dwellings, as it only included an application to undertake a land division as per our application for 18 Trennery St West Richmond.

The above noted request for the acoustic engineer's assessment and report was undertaken and provided by the applicant and Council had taken this in consideration when approving the application for land division under the newly implemented Planning and Design Code.

We have reviewed the above application and assessment and agree with the Council's decision to request an acoustic report for the Land Division, review the land division holistically taking into account all requirements and individually assess the application whilst taking into consideration the specific environment and various factors and other key requirements which influence the application.

Our application for land division at 18 Trennery Street West Richmond is located within same ANEF zone as the 75 Craig St approved application, however unlike the 75 Craig St Application, our application retains the original house and subsequently the streetscape which has existed since the 1950's and is still being lived in today without issue. As per our discussions with Council, As discussed we are confident that we can satisfy all other remaining matters relating to the proposed division including details of the carport, drainage, paving and turn around, with details to be provided. We are also confident that we can satisfy the relevant requirements of the building code and Ministerial Building Standard in relation to noise ingress within any future dwelling upon the proposed allotment.

We are requesting that our application for Land Division is treated with the same approach towards the assessment of the policies of the 75 Craig St Application, which included a logical and holistic assessment of the Aircraft Noise Exposure Overlay requirements. We are certainly prepared to engage the services of a certified Acoustic Engineer to undertake an assessment of our application for land division, its suitability in the area and zone as well as its ability to accommodate development of a future dwelling constructed on the newly formed allotment which is compliant to all relevant Australian Standards and requirements including the requirements of the ANEF 30 overlay.

As per the 75 Craig St application, the acoustic report and assessment against the MBS010 requirements will be able to determine if the Land division application suitable for the property location of the application, as the report takes into consideration the requirements of ANEF 30 as per the Australian Standards as well as a far more accurate assessment of the individual property, its surroundings at the specific site etc. to an extent which we understand is far more accurate than a blanket rule for all applications within a zone which extends within a vast area from Glenelg North to Thebarton. We request approval to engage an Acoustic to undertake an assessment and provide a report to be taken into consideration regarding the assessment of the Land Division Application for 18 Trennery St West Richmond.

We have contacted Acoustic Engineers Resonate Consultants who have undertaken a preliminary review of the application and property in question and have provided a response noting the assessment criteria to meet the required Australian Standards within the ANEF 30 overlay. Resonate Consultants have submitted their preliminary assessment (see attachment No.2) to undertake the

report following approval by Council to do so as per the above, and have upon their preliminary review noted that they believe it is possible to achieve an Australian Standard and MBS010 compliant residential dwelling construction on the property and have noted that they have achieved a compliant outcome under the same overlay on previously assessed dwellings, noting that the outcome will be subject to the detailed assessment and final report being provided.

MBS010 Requirements and the Desired Outcome of the Aircraft Noise Exposure Overlay

MBS010 Requirements

We understand that MBS010 requirements are applied as part of the building rules assessment component of an application. We believe MBS010 is relevant regarding our application, as it addresses the issue of sensitive receivers being located within the ANEF 30 zone, and how to address this through construction methodology, which in turn addresses the Desired Outcome (DO) of the Aircraft Noise Exposure Overlay policy.

The property is located within the General Neighbourhood Zone, this zone as described by the Code and the City of West Torrens to principally encourage residential development. As noted within the City of West Torrens' General Neighbourhood Zone information Sheet (See attachment No.3), the General Neighbourhood zone "Encourages a range of housing types, with the intent of increasing housing diversity and supply, including the introduction of additional dwelling typologies including residential flat buildings and hammerhead type subdivisions". In review of this, it is evident that our application for residential land division directly reflects the intent of this zone, and achieves the desired outcome of the Code requirements.

As the desired development within this zone is residential housing, and the only applicable development at on the newly formed allotment at 18 Trennery Street would be housing, it can be understood that a dwelling would be the only applicable development on the allotment In question. As MBS010 addresses residential development within the ANEF 30 zone, we believe that MBS010 requirements are relevant to the application within the zone and the applicable ANEF rating.

The MBS010 standards were specifically written and implemented to address the acoustic environment and requirements for safe and habitable residential developments within the relevant ANEF zones. The MBS010 also requires the relevant Australian Standards to be met regarding the acoustic environment and performance of buildings.

Desired Outcome

We believe the above ties in with the overarching requirement of the clause in question, more specifically the Aircraft Noise Exposure Overlay - Desired Outcome (DO) "Development sensitive to aircraft noise is designed and located to manage noise intrusion to reduce land use conflict and protect human health."

We understand that as per the hierarchy of the Code, the 'Desired Outcome' is the key requirement to be met, and this can be demonstrated by the applicant including through deemed to satisfy criteria or a performance outcome, as long as it meets or comes very close to meeting the requirements of the clause.

We believe that our application for land division at 18 Trennery Street can meet the requirements of the above Desired Outcome in relation to the Aircraft Noise Exposure Overlay. The Desired Outcome notes that 'Development' (e.g. a residential dwelling) is 'designed and located' to 'manage noise intrusion to reduce land use conflict and protect human health'. With this in mind we believe the

future use of the land i.e., the 'Development' noted is to be taken into consideration when assessing this policy. We believe the requirements of MBS010 which take into consideration the design and location of the development to 'reduce land use conflict' and 'protect human health' are relevant and should be taken into consideration when assessing this application in regards achieving the Desired Outcome of the clause for the future dwelling.

If we are able to demonstrate through a qualified Acoustic Engineers assessment and report, as well as MBS010 that a sensitive receiver (residential dwelling) can be suitably located on the newly formed allotment which is surrounded by many of other dwelling which are currently occupied, some which were approved for use and constructed under a year ago, as well as the current property being retained, we believe this would meet the overarching requirements of the Desired Outcome.

Noting that the Desired Outcome is evidently linked with the 'Development' intended for the property e.g. sensitive receivers/housing, we are certainly prepared to include as part of this application an application for building approval (as a dual application) as this is the intended use of the land division, noting that this was not initially included as part of the application. Please advise if this is desired by Council to assist in the assessment of the application and demonstrate the suitability and compliance with the Desired Outcome, noting also the specific Acoustic assessment and report and requirements of MBS010 which would be assessed.

National Airports Safeguarding Framework (NASF)

The Commonwealth Government's 2009 Aviation Policy White Paper: Flight Path to the Future proposed the development of a national land use planning framework to improve community amenity and improve safety outcomes associated with aviation in Australia.

The National Airports Safeguarding Advisory Group (NASAG) was responsible for the development of the National Airports Safeguarding Framework (NASF) in coordination with State Governments and Councils surrounding the major airports in Australia. This was part of the agreement by Commonwealth, State and Territory ministers at the Standing Council on Transport and Infrastructure meeting on 18 May 2012.

The NASF is a national land use planning framework that aims to:

- Improve community amenity by minimising aircraft noise-sensitive developments near airports including through the use of additional noise metrics and improved noise-disclosure mechanisms; and
- Improve safety outcomes by ensuring aviation safety requirements are recognised in land use planning decisions through guidelines being adopted by jurisdictions on various safety-related issues.

The NASF Guidelines provide guidance on planning requirements for new development that could impact aviation operations, such as building activity around airports that could penetrate operational airspace, impact on operating hours (due to noise), and/or affect navigational procedures for aircraft. The Guidelines cover the topics of managing impacts of aircraft noise among other topics.

NASF Guideline A – Measures for Managing Impacts of Aircraft Noise

The purpose of this Guideline is to guide decision makers to manage the impacts of noise around airports, including the suitability of developments.

Guideline A provides advice on the use of a complementary suite of noise metrics, including the Australian Noise Exposure Forecast (ANEF) system and frequency-based noise metrics, to inform strategic planning and provide communities with comprehensive and understandable information about aircraft noise.

The Guideline seeks to utilise the endorsed ANEF and ANEC (ultimate capacity) for an airport to ensure greater alignment, incorporating into strategic planning documents guidance on managing noise impacts when rezoning land and assessing new applications within noise sensitive areas. Specific noise measurements are provided in order to assess whether proposed rezoning or new development is appropriate in a particular location; particularly in relation to more sensitive land uses.

Assessment of new developments applications for noise sensitive uses within existing residential areas

This Section specifically applies to our application at 18 Trennery Street West Richmond and provides the following relevant guidance:

26. This section applies to urban land that is already designated for noise sensitive uses, primarily residential areas where development pre-dates the significant growth of airport traffic experienced following the introduction of jet aircraft in the late 1950s (as per the 18 Trennery Street West Richmond).

27. Whilst it would not be appropriate to allow for development that would impact on the operational safety of an airport, increasing densities or new developments in existing areas exposed to aircraft noise may be acceptable where the site provides other desirable outcomes such as providing housing near transport or meeting urban consolidation targets. In some circumstances, redevelopment of sites already exposed to aircraft noise can result in a better outcome through better design and construction responses.

28. Such development should be undertaken in a manner that physically reduces noise impacts (e.g. through appropriate construction techniques and adherence to AS2021) but also through a disclosure process that ensures future residents are aware of these impacts prior to purchase.

We believe the above reiterates the relevance of MBS010 as well as the undertaking of an Acoustic assessment and report in relation to the assessment of the suitability of our land division application.

Approach to the Assessment of Individual Policies, including the Desired Outcome

We believe that each application should be assessed on its merits holistically, which has been the approach taken by Council in the past regarding approvals to land divisions and/ or building approval. For example, if a requirement is not met within a certain limit or at all such as frontage, land size, setbacks etc. however the majority of the other key requirements of the development are met or even exceeded, the Council has approved application in the past on that basis, which is common practice and in accordance with Part 1 of the Code – Rules of Interpretation which provides that DPFs “will generally meet the corresponding performance outcome” and they do “...not need to necessarily be satisfied to meet the performance outcome”.

We understand that a weighting can be applied to each policy/PO requirement on a basis of varying factors. We believe that the fact that all other key policies are being achieved within this application,

this should be taken into consideration when assessing the weighting of the aircraft overlay policies, especially is, as requested above, an in-depth qualified acoustic engineer provides an independent assessment and report for the land division and its suitability to the areas use and future development to address the issue and satisfy the Desired Outcome of the Policy.

As discussed previously, we are confident that we can satisfy all other remaining matters relating to the proposed division including details of the carport, drainage, paving and turn around. We are also confident that we can satisfy the relevant requirements of the building code and Ministerial Building Standard in relation to noise ingress within any future dwelling upon the proposed allotment. To us, the specific requirements of the Ministerial Standard and acoustic report will provide adequate protection for future residences from external noise.

We believe that a logical and holistic approach towards assessing the requirements of the Aircraft Noise Exposure Overlay is needed, especially as the policy has only been introduced for a very short period of time and had never previously been implemented as part of the previous planning regulations in this form. If the wording of the policy is to be assessed only on its DTS requirements, with a 100% weighting over all other policies and without a holistic approach towards assessing applicable developments, this would result in vast detrimental implications regarding development and potential property values for a large area within the City of West Torrens affected by the Policy, and in many cases would not reflect the intent of the policy as outlined by the Attorney General’s Department below. As previously noted, below is the rough calculation of the extent of the overlay at and above ANEF 30 that would be subject to an assessment against PO 3.1 of the Overlay. As discussed, it is over 1km² in area and extends into Thebarton past the intersection of Henley Beach and South Roads. This would take in a large portion of the Urban Corridor Zone along Henley Beach Road, which as you are aware allows for high density, multi storey living, this area also extends to the Southwest of the airport including areas within Glenelg North.

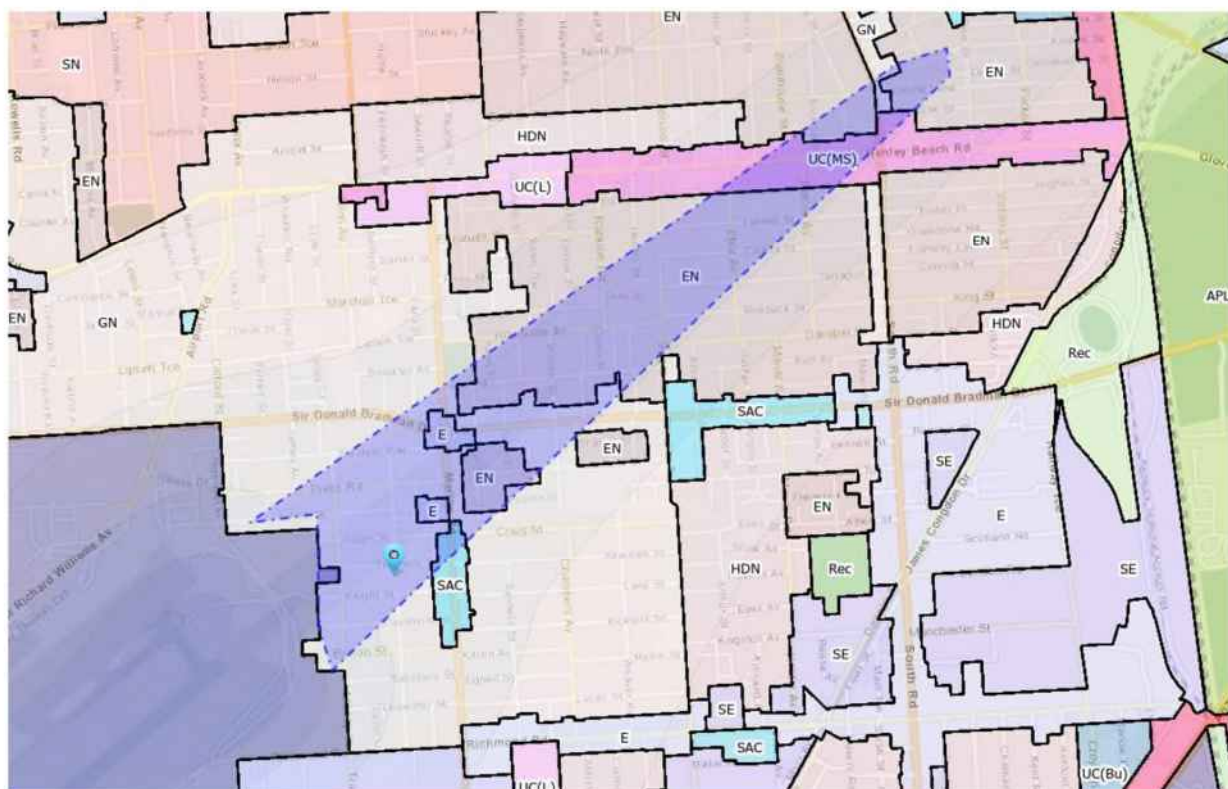


Figure 1 – Aircraft Noise Exposure Overlay (ANEF30+ Contours)

The requirements of the Aircraft Noise Exposure Overlay Policy which would affect this vast area including development of existing properties as well as land division in this case PO3.1, which would sterilise the entire area for any potential future residential developments if weighted 100% and note assessed against other key merits of future developments. Other policies include PO1.1 which states, "Buildings accommodating sensitive receivers (residential dwellings) are not located within an area having an ANEF value of 30 or more". Also, PO 2.1 which states that "Dwelling additions involving the addition or extension of habitable rooms (b) do not occur in areas having an ANEF value of 30 or more.". although these policies may be relevant in particular scenarios, however we believe the intent of the clause is within the overarching Desired Outcome as previously discussed. If assessing these without a weighting and consideration of the development holistically, this may result in hundreds of residential home-owners unable to build a home on a vacant block of land, or add a single bedroom extension to an existing property even in the case of all other requirements have been achieved, in the general neighbourhood zone. This would have significant implications on existing properties including values and would likely undermine the intended development and land use within the zone.

Official response from the Attorney-General's Department regarding the creation and intent of the policy within the Code and the approach towards assessment of policies within the Code

We have approached Planning & Land Use Services within the Attorney-General's Department requesting the intent of the Aircraft Noise Exposure Overlay and what the Department had in mind when this overlay was brought in to the Code and if they had envisaged such a strong reading of the policy so as to prevent the creation of any new residential allotments. Jason Bailey, Team Leader – Metro and Regional Development Assessment has provided a response and approval to include his response within this document (see attachment No.4). The department's response is as follows:

"...Coming back to you with a view on this matter.

DTS/DPF 1.1 of the Aircraft Noise Exposure Overlay performs the following two roles:

- it acts as the DTS requirement for certain sensitive receiver development types outside the ANEF30 contour (a detached dwelling for instance in the General Neighbourhood Zone)
- it provides very clear guidance (as a DPF) for performance assessed sensitive receiver development outside the ANEF30+ contours

Our view is that DTS/DPF 1.1 of the Overlay is not signalling that there is no scope for development of sensitive receivers within the ANEF30+ contours. This is in accordance with Part 1 of the Code – Rules of Interpretation which provides that DPFs "will generally meet the corresponding performance outcome" and they do "...not need to necessarily be satisfied to meet the performance outcome".

The above being said, we see there to be a logic in built-form (that satisfies MBS010) preceding land division in ANEF30+ areas. In our view this is the pathway to demonstrate how a proposal to establish an additional dwelling will satisfy PO 1.1 of the Overlay."

The Attorney- General's Department with their representatives of the Code team have also advised that they are happy to discuss this further with the team at the City of West Torrens if any clarification is required.

We believe the above response aligns with our request to have an acoustic assessment and report undertaken (including the requirements of MBS010) as per the approved development at 75 Craig Street, Richmond, in order to satisfy the Desired Outcomes of the Aircraft Noise Exposure Overlay and to be taken into consideration when assessing the application in its entirety.

Final Comments

Having considered all the relevant provisions of the Planning and Design Code, we believe the proposal is considered to be not seriously at variance with the Planning and Design Code 2021, in particular the Aircraft Noise Exposure Overlay Policy, which can be effectively demonstrated through a qualified acoustic engineer's assessment and report.

As per our discussions with Council, As discussed we are confident that we can satisfy all other remaining matters relating to the proposed division including details of the carport, drainage, paving and turn around, with details to be provided.

Based on the above explanation, including the following key points:

- Multiple land division applications approvals within the last year within the same zone and equal or greater ANEF rating;
- Approval of 75 Craig Street, Richmond application under the Planning and Design Code 2021 through an acoustic assessment and report;
- Demonstrated ability to achieve the Desired Outcome of the policy through an acoustic report and MBS010 requirements;
- National Airports Safeguarding Framework (NASF) guidelines which note the acceptability and benefits of increased density and new developments in areas exposed to aircraft noise as well as the adoption of appropriate construction techniques and adherence to Australian Standards (MBS010) in such scenarios.
- The Attorney General Department's assessment that DTS/DPF 1.1 of the Overlay is not signalling that there is no scope for development of sensitive receivers within the ANEF30+ contours in accordance with Part 1 of the Code, and that built-form (that satisfies MBS010) preceding land division in ANEF30+ areas In their view this is the pathway to demonstrate how a proposal to establish an additional dwelling will satisfy PO 1.1 of the Overlay.

We request that Council agree for us to provide an acoustic report for the property and that the outcome of which can demonstrate that the provisions of the Planning and Design Code 2021 Aircraft Noise Exposure Overlay Policy are reasonably satisfied and therefore the application warrants granting of planning consent, following the submission of all other requested additional information.

Kind Regards,

Joel Davidde
18 Trennery Street,
West Richmond SA 5033

Planner (Contact)
Damian Dawson
Planning Chambers Pty Ltd
219 Sturt Street, Adelaide SA 5000



DECISION NOTIFICATION FORM

Section 126(1) of the Planning, Development and Infrastructure Act 2016

TO THE APPLICANT(S):

Name: Brett Potter
Email: info@plsurvey.com.au

IN REGARD TO:

Development application no.: 21005203	Lodged on: 18 May 2021
Nature of proposed development: Land division - create one (1) additional allotment	

LOCATION OF PROPOSED DEVELOPMENT:

Location reference: 75 CRAIG ST RICHMOND SA 5033		
Title ref.: CT 5707/439	Plan Parcel: D2633 AL65	Council: CITY OF WEST TORRENS

DECISION:

Decision type	Decision (granted/refused)	Decision date	No. of conditions	No. of reserved matters	Entity responsible for decision (relevant authority)
Planning Consent	Granted	21 Jun 2021	1	0	Assessment Manager at City of West Torrens
Land Division Consent	Granted	21 Jun 2021	3	0	Assessment Manager at City of West Torrens
Development Approval - Planning Consent; Land Division Consent	Granted	21 Jun 2021	4	0	City of West Torrens

FROM THE RELEVANT AUTHORITY: City of West Torrens
Date: 21 Jun 2021

CONDITIONS

Planning Consent

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

Land Division Consent

Conditions imposed by South Australian Water Corporation under Section 122 of the Act

Condition 1

SA Water's water and sewer network is available for connection in this area. An investigation will need to be undertaken to determine infrastructure needs, appropriate fees and charges.

Conditions imposed by SPC Planning Services under Section 122 of the Act

Condition 2

Payment of \$7761.00 into the Planning and Development Fund (1 allotment/s @ \$7761.00 /allotment). Payment may be made via credit card (Visa or MasterCard) online at plan.sa.gov.au, over the phone on 7109 7018, or cheques may be made payable to the State Planning Commission, marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001.

Condition 3

A final plan complying with the requirements for plans set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the State Planning Commission for Land Division Certificate purposes.

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).

Planning Consent

None

Land Division Consent

None

CONTACT DETAILS OF CONSENT AUTHORITIES

Name: City of West Torrens	Type of consent: Planning and Land Division
Telephone: 08 8416 6333	Email: development@wtcc.sa.gov.au
Postal address: 165 Sir Donald Bradman Drive, Hilton SA 5033	

Response Letter Attachment 2

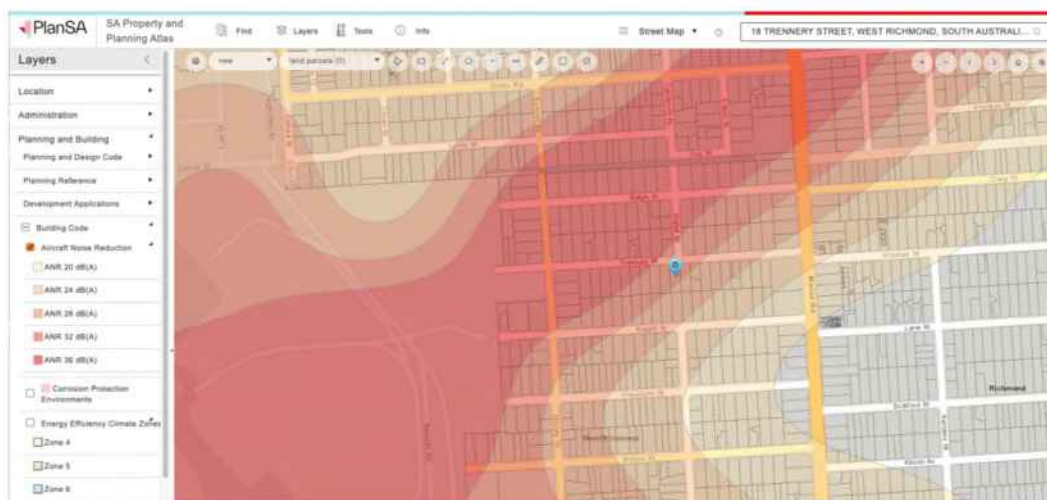
Katelin Davidde

From: Jenna MacDonald <jenna.macdonald@resonate-consultants.com>
 Sent: Friday, 14 January 2022 4:30 PM
 To: Joel Davidde
 Subject: Re: 18 Trennery Street West Richmond - Acoustic Report Opinion

Hi Joel,

I have had a look at your proposed property with reference to the Ministerial Building Standard MBS010.

As mentioned, the property is located within ANR contour 32 (with some of the rear of the property in ANR 28) as shown in this screen shot from the PlanSA website.



A proposed dwelling located within this property is still able to follow deemed to satisfy building guidelines specified in the MBS010. Even with assuming worst case, i.e. the entire of the property is located within ANR 32.

This essentially means that it will be possible to construct a dwelling which achieves compliance with internal noise level guidelines (i.e. internal noise levels of 50dB(A) and 55dB(A) in bedrooms and living areas) without implanting excessively onerous constructions.

We have completed a number of these assessments for dwellings within ANR 32, and have not found any issues.

It is typical for dwellings in this location to be constructed with masonry walls (or an equivalently dense construction), and provided the window areas in each room is less than 60% of the rooms floor area, compliance can still be achieved with single glazing (12.5mm Vlam Hush Glass). Where windows are proposed to be slightly larger than this (up to 80% of floor area) double glazing would be required in the order of 6.38mm / 100mm air gap / 10.38mm laminated glazing.

Ultimately this will all depend on the proposed dwelling design, and the dwelling will need to undergo an aircraft noise intrusion assessment against MBS010.

Kind Regards,

Jenna MacDonald
Senior Acoustic Engineer



Acoustics • EMF • Structural Dynamics • Vibration

p 08 8155 5888 m 0403 651 231 Level 1, 23 Peel Street Adelaide SA 5000 Australia

Response Letter Attachment 3

General Neighbourhood Zone

Draft Planning and Design Code

Suburbs to which the new General Neighbourhood Zone will apply:

- **Brooklyn Park** - part also being rezoned to Established Neighbourhood Zone
- **Camden Park** - part also being rezoned to Housing Diversity Neighbourhood Zone
- **Cowandilla** - part also being rezoned to Established Neighbourhood Zone
- **Fulham** - part also being rezoned to Suburban Neighbourhood Zone
- **Glennelg North** - part also being rezoned to Suburban Neighbourhood Zone
- **Hilton** - part also being rezoned to Established Neighbourhood Zone and Housing Diversity Neighbourhood Zone
- **Lockleys** - part also being rezoned to Suburban Neighbourhood Zone
- **Mile End** - part also being rezoned to Established Neighbourhood Zone and Housing Diversity Neighbourhood Zone
- **Netley**
- **Novar Gardens** - part also being rezoned to Suburban Neighbourhood Zone and Established Neighbourhood Zone
- **Plympton** - part also being rezoned to Housing Diversity Neighbourhood Zone
- **Richmond** - part also being rezoned to Housing Diversity Zone
- **Thebarton** - part also being rezoned to Established Neighbourhood Zone
- **Torrensville** - part also being rezoned to Suburban Neighbourhood Zone and Housing Diversity Neighbourhood Zone and Established Neighbourhood Zone
- **West Richmond** - part also being rezoned to Suburban Neighbourhood Zone
- **West Beach** - part also being rezoned to Established Neighbourhood Zone and General Neighbourhood Zone

The State Government is currently changing planning laws in South Australia. As a result, there will no longer be individual council Development Plans, but a state-wide Planning and Design Code. This will impact the way development occurs in your suburb.

Our Council has drafted fact sheets to help our community understand some of these changes, including zoning applicable to your property. The new zones proposed under the Planning and Design Code do not always include entire suburbs. If you are unsure about the current zoning of your property, you can search your property data at westtorrens.sa.gov.au/westmaps or <https://train.sappa.plan.sa.gov.au>

The General Neighbourhood Zone is a new zone replacing a portion of West Torrens' Residential Zone, specifically Low Density Policy Areas 20 and 21, when sited within 400m of a centre zone. A map can be found on the rear of this document.

The General Neighbourhood Zone encourages a range of housing types, with the intent of increasing housing diversity and supply, including the introduction of additional dwelling typologies including residential flat buildings and hammerhead type subdivisions. The zone also facilitates a wide range of compatible non-residential uses. The only discouraged type of development, referred to as 'Restricted Development', will be shops with a gross leasable area of 1000m² or more.

Public consultation of the Draft Planning and Design Code is underway. Formal submission closes on 18 December 2020 and can be submitted online. If you require assistance with your submission phone 1800 752 664 or email dit.planningreformsubmissions@sa.gov.au

A: 165 Sir Donald Bradman Drive, Hilton SA 5033
 P: 8416 6333 / E csu@wtcc.sa.gov.au
 W: westtorrens.sa.gov.au



 Current Development Plan
  New Planning and Design Code

The following information is applicable to Residential Low Density Policy Area 20 and 21

>400m = More than 400m from a Centre Zone

<400m = Less than 400m from a Centre Zone

Land division comparison

	Residential Low Density Policy Area 20 (>400m)		General Neighbourhood	
	Site area (m ²)	Frontage (m)	Site area (m ²)	Frontage (m)
Detached	340	10	300 (exc of battle axe handle) 200 when built in terrace form	9 5 battle-axe 7 ave (terrace)
Semi-detached	340	10	300	9
Group dwelling	340	10	300 (average incl common areas)	15
Residential Flat Building	Not envisaged	Not envisaged	300 (average incl common areas)	15 whole building
Rbw dwelling	Not envisaged	Not envisaged	200	7 average

	Residential Low Density Policy Area 20 (<400m)		General Neighbourhood	
	Site area (m ²)	Frontage (m)	Site area (m ²)	Frontage (m)
Detached	300	9	300 (exc of battle axe handle) 200 when built in terrace form	9 5 battle-axe 7 ave (terrace)
Semi-detached	300	9	300	9
Group dwelling	300	9	300 (average incl common areas)	15
Residential Flat Building	Not envisaged	Not envisaged	300 (average incl common areas)	15 whole building
Rbw dwelling	Not envisaged	Not envisaged	200	7 average

	Residential Low Density Policy Area 21 (<400m)		General Neighbourhood	
	Site area (m ²)	Frontage (m)	Site area (m ²)	Frontage (m)
Detached	350	9	300 (exc of battle axe handle) 200 when built in terrace form	9 5 battle-axe 7 ave (terrace)
Semi-detached	350	9	300	9
Group dwelling	350	9	300 (average incl common areas)	15
Residential Flat Building	Not envisaged	Not envisaged	300 (average incl common areas)	15 whole building
Rbw dwelling	Not envisaged	Not envisaged	200	7 average

Information can also be found on our website - westtorrens.sa.gov.au/planningreform



Building height comparison

	Residential Low Density 20		General Neighbourhood	
	Storeys	Building height (m)	Storeys	Building height (m)
All allotments	2	8.5	2	9

Setback comparison

	Residential Low Density 20 and 21	General Neighbourhood
	Metres	Metres
Front setback	Average of adjoining dwellings	the lesser of 5 or the average of any existing buildings on adjoining allotments facing the primary same street
Secondary front setback	2 (walls less than 3m in height) 3 (walls greater than 3m in height)	lesser of 0.9 or neighbouring building setback
Ground floor side	0 (for 8m in length) or 1 (up to 3m in height)	0 (for 11.5m in length) or 0.9 (up to 3.2m in height)
Upper level side	2 (up to 6m in height then + height above 6m)	0.9 + third of wall above 3m other than S boundary 1900mm plus 1/3 of the wall height above 3m for walls facing a southern side boundary
Ground floor rear	3	3
Upper level rear	8	5

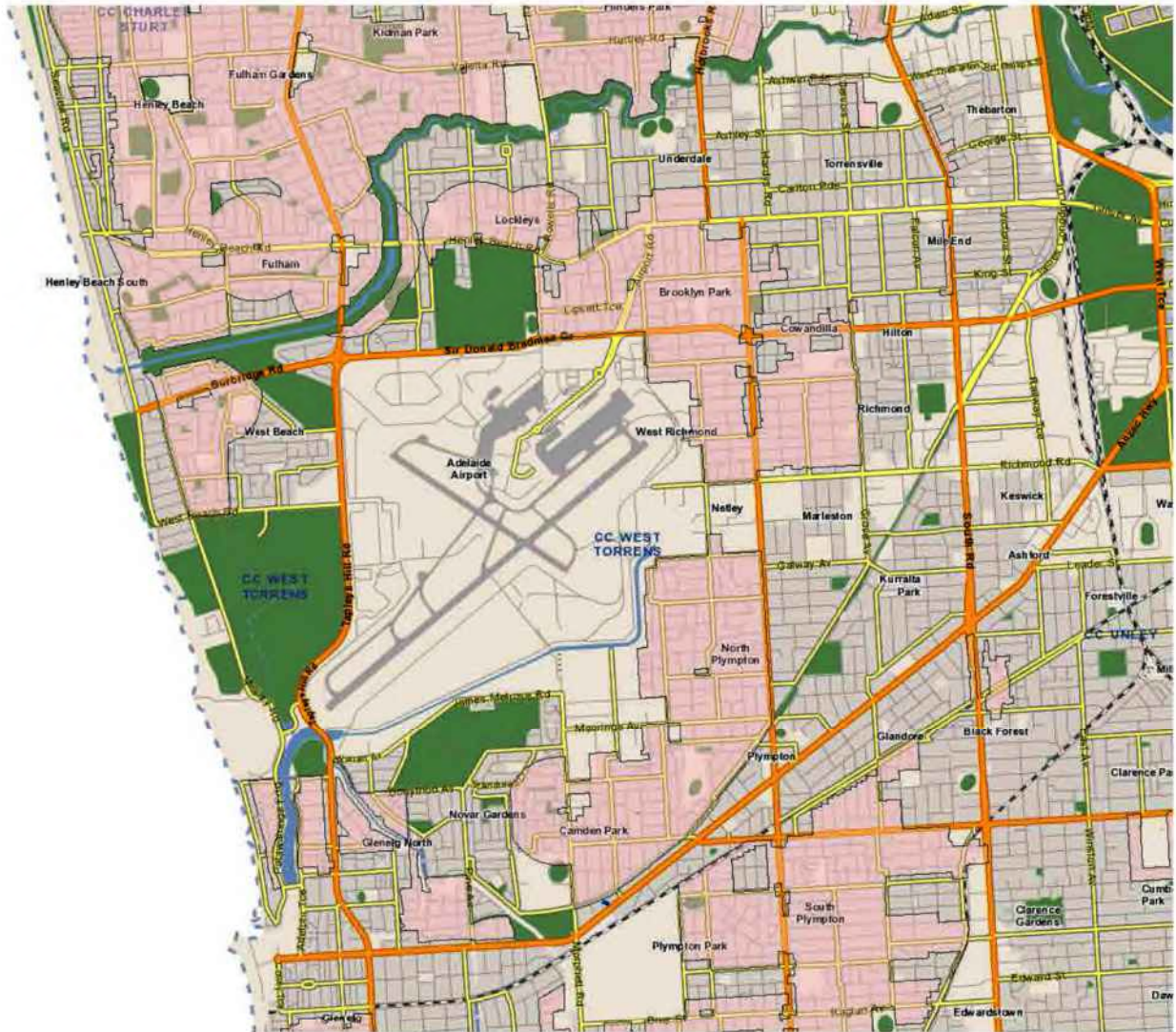
Private open space comparison

		Development Plan		Planning and Design Code	
		Min area (m ²)	Min dimension (m)	Min area (m ²)	Min dimension (m)
Allotment <300m ²		24	3	24*	2
Allotment 300-500m ²		60	4	24*	2
Allotment >500m ²		80	4	24*	2
Dwellings above ground level	no separate bedroom	no min		4	1.8
	1 bedroom	8	2	8	2.1
	2 bedrooms	11	2	11	2.4
	3 bedrooms	15	2	15	2.6

* denotes that there is an additional landscaped area that may be required in addition to the minimum private open space provision. The soft landscaping requirements is dependent on the allotment size.

Information can also be found on our website - westtorrens.sa.gov.au/planningreform

General Neighbourhood Zone



 General Neighbourhood Zone

Information can also be found on our website - westtorrens.sa.gov.au/planningreform

A: 165 Sr Donald Bradman Drive, Hilton SA 5033
P: 8416 6333 / E csu@wtcc.sa.gov.au
W: westtorrens.sa.gov.au

City of West Torrens
Between the City and the Sea



Response Letter Attachment 4

From: Bailey, Jason (AGD) <Jason.Bailey@sa.gov.au>
Sent: Wednesday, 3 November 2021 10:28 AM
To: Damian Dawson <damian@planningchambers.com.au>
Subject: RE: 21025705 - 18 Trennery Street, West Richmond - Land division not supported

OFFICIAL

Morning Damian

Coming back to you with a view on this matter.

DTS/DPF 1.1 of the Aircraft Noise Exposure Overlay performs the following two roles:

- it acts as the DTS requirement for certain sensitive receiver development types *outside* the ANEF30 contour (a detached dwelling for instance in the General Neighbourhood Zone)
- it provides very clear guidance (as a DPF) for performance assessed sensitive receiver development *outside* the ANEF30+ contours

Our view is that DTS/DPF 1.1 of the Overlay is not signalling that there is no scope for development of sensitive receivers within the ANEF30+ contours. This is in accordance with Part 1 of the Code – Rules of Interpretation which provides that DPFs “will generally meet the corresponding performance outcome” and they do “...not need to necessarily be satisfied to meet the performance outcome”.

The above being said, we see there to be a logic in built-form (that satisfies MBS010) preceding land division in ANEF30+ areas. In our view this is the pathway to demonstrate how a proposal to establish an additional dwelling will satisfy PO 1.1 of the Overlay.

I hope this assists.

Thanks, Jason

Jason Bailey | Team Leader – Metro and Regional Development Assessment
Reporting to Jason Cattonar, Manager Development Assessment
Planning & Land Use Services | Attorney-General's Department
E Jason.Bailey@sa.gov.au | www.agd.sa.gov.au
P 08 7109 7161 | Level 5, 50 Flinders Street, Adelaide SA

From: Bailey, Jason (AGD)
Sent: Monday, 1 November 2021 2:38 PM
To: Damian Dawson <damian@planningchambers.com.au>
Subject: RE: 21025705 - 18 Trennery Street, West Richmond - Land division not supported

OFFICIAL

Acknowledged Damian.

I'll come back to you shortly noting the timeframes mentioned below. Expect a response from me by close of business tmrw.

From: Damian Dawson [<mailto:damian@planningchambers.com.au>]
Sent: Monday, 1 November 2021 10:47 AM
To: Bailey, Jason (AGD) <jason.bailey@sa.gov.au>
Subject: FW: 21025705 - 18 Trennery Street, West Richmond - Land division not supported

Hey Jason, thanks for the chat last week.

Below is the email from CWT re the noise overlay matter I was talking about. You can see in my email below the extent to which the Urban Corridor Zone on HB Road will be impacted.

Would be interested in what the Department had in mind when this overlay was brought in to the Code and if you had envisaged such a strong reading of the policy so as to prevent the creation of any new residential allotments?

Cheers, Damian

Damian Dawson | Director



Planning Chambers Pty Ltd

A: 219 Sturt Street, Adelaide SA 5000
P: (08) 8211 9776 | **M:** 0408 227 493
E: damian@planningchambers.com.au

 Please consider the environment before printing this email

**Certificate of Title, plans and planning report submitted
with application**



Government of South Australia
Department of Planning,
Transport and Infrastructure

Product	Register Search (CT 5330/165)
Date/Time	29/06/2018 02:19PM
Customer Reference	330-0318-LD
Order ID	20180629008270
Cost	\$28.25



The Registrar-General certifies that this Title Register Search displays the records maintained in the Register Book and other notations at the time of searching.



Certificate of Title - Volume 5330 Folio 165

Parent Title(s)	CT 1883/149		
Creating Dealing(s)	CONVERTED TITLE		
Title Issued	18/03/1996	Edition	4
		Edition Issued	09/01/2017

Estate Type

FEE SIMPLE

Registered Proprietor

JOEL PIERRE DAVIDDE
KATELIN MAY DELHANTY
OF 18 TRENNERY STREET WEST RICHMOND SA 5033
AS JOINT TENANTS

Description of Land

ALLOTMENT 130 DEPOSITED PLAN 4117
IN THE AREA NAMED WEST RICHMOND
HUNDRED OF ADELAIDE

Easements

NIL

Schedule of Dealings

Dealing Number	Description
12654329	MORTGAGE TO NATIONAL AUSTRALIA BANK LTD. (ACN: 004 044 937)

Notations

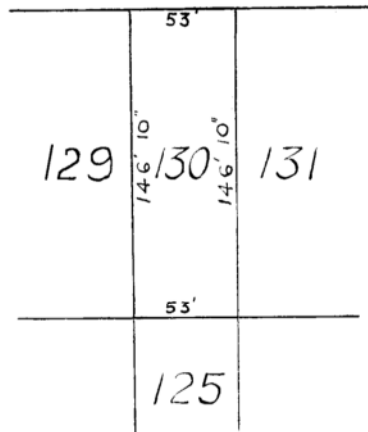
Dealings Affecting Title	NIL
Priority Notices	NIL
Notations on Plan	NIL
Registrar-General's Notes	NIL
Administrative Interests	NIL



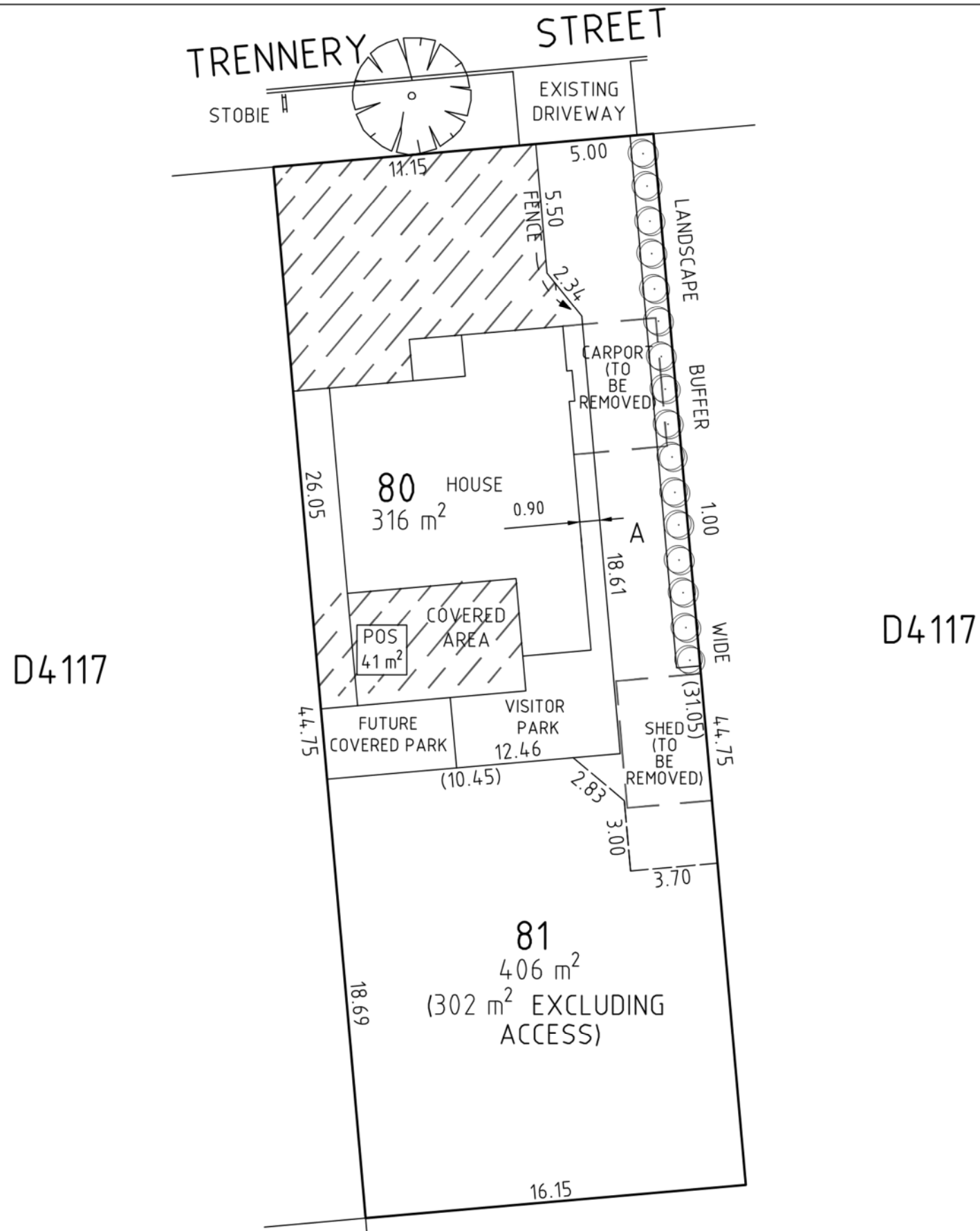
Product Register Search (CT 5330/165)
Date/Time 29/06/2018 02:19PM
Customer Reference 330-0318-LD
Order ID 20180629008270
Cost \$28.25



TRENNERY ST



DISTANCES ARE IN FEET AND INCHES
FOR METRIC CONVERSION
1 FOOT = 0.3048 metres
1 INCH = 0.0254 metres



Notes

Data subject to survey

Existing structures to be removed as shown

Portion of 81 marked A is to be subject to rights of way appurtenant to 80

Existing house to be retained

Planning Chambers Pty Ltd
 219, Sturt Street, Adelaide, SA 5000
 Office: (08) 8211 9776
 admin@planningchambers.com.au

SOURCE: JEFFERY FUDGE AND ASSOCIATES SURVEYORS



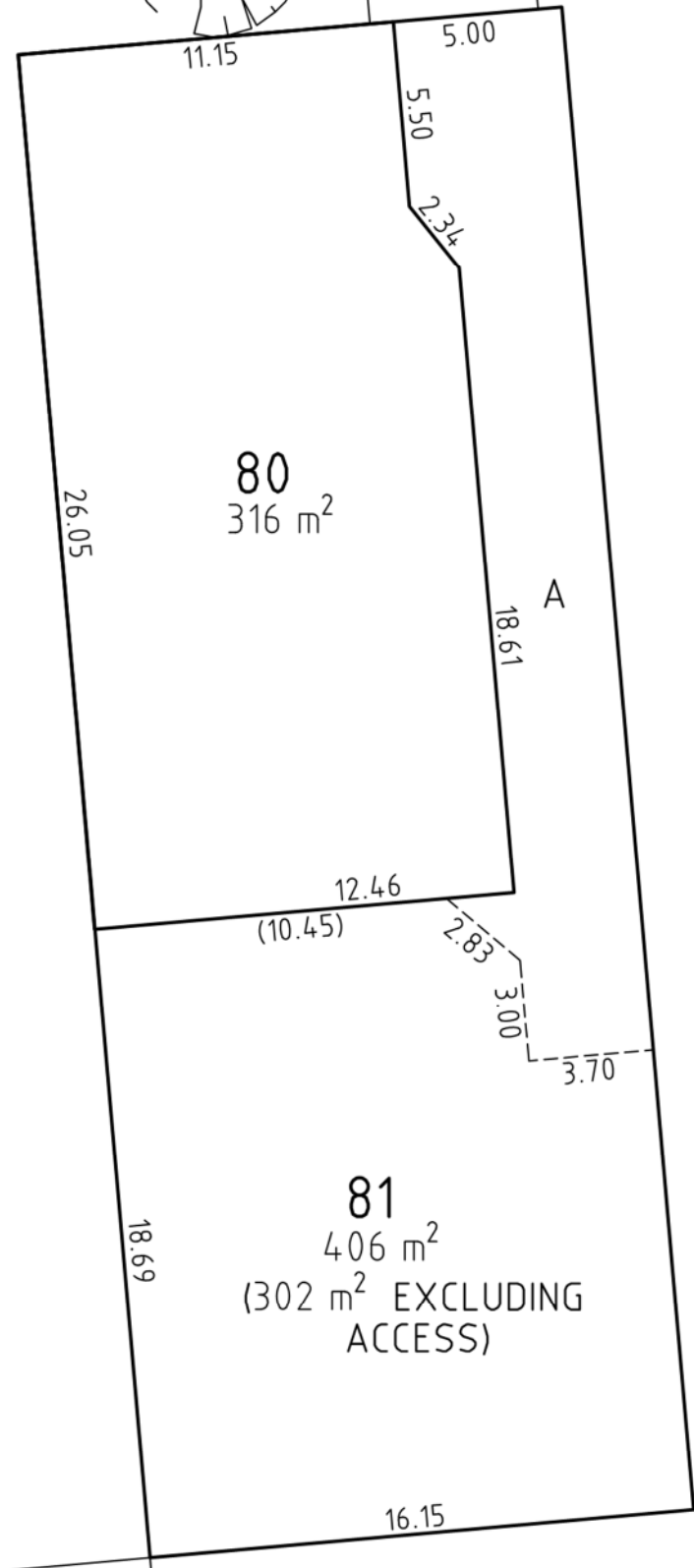
ALLOTMENT 130 IN DEPOSITED PLAN 4117
 CT 5330/165

LAND DIVISION PLAN
 JOEL DAVIDDE
 18 TRENNERY STREET, WEST RICHMOND SA 5033
 21-006
 REVISION: REVISED ON: DRAWN ON: 07.07.2021

TRENNERY STREET

STOBIE

EXISTING DRIVEWAY



Notes
 Portion of 81 marked A is to be subject to rights of way appurtenant to 80

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 Office: (08) 8211 9776
 admin@planningchambers.com.au

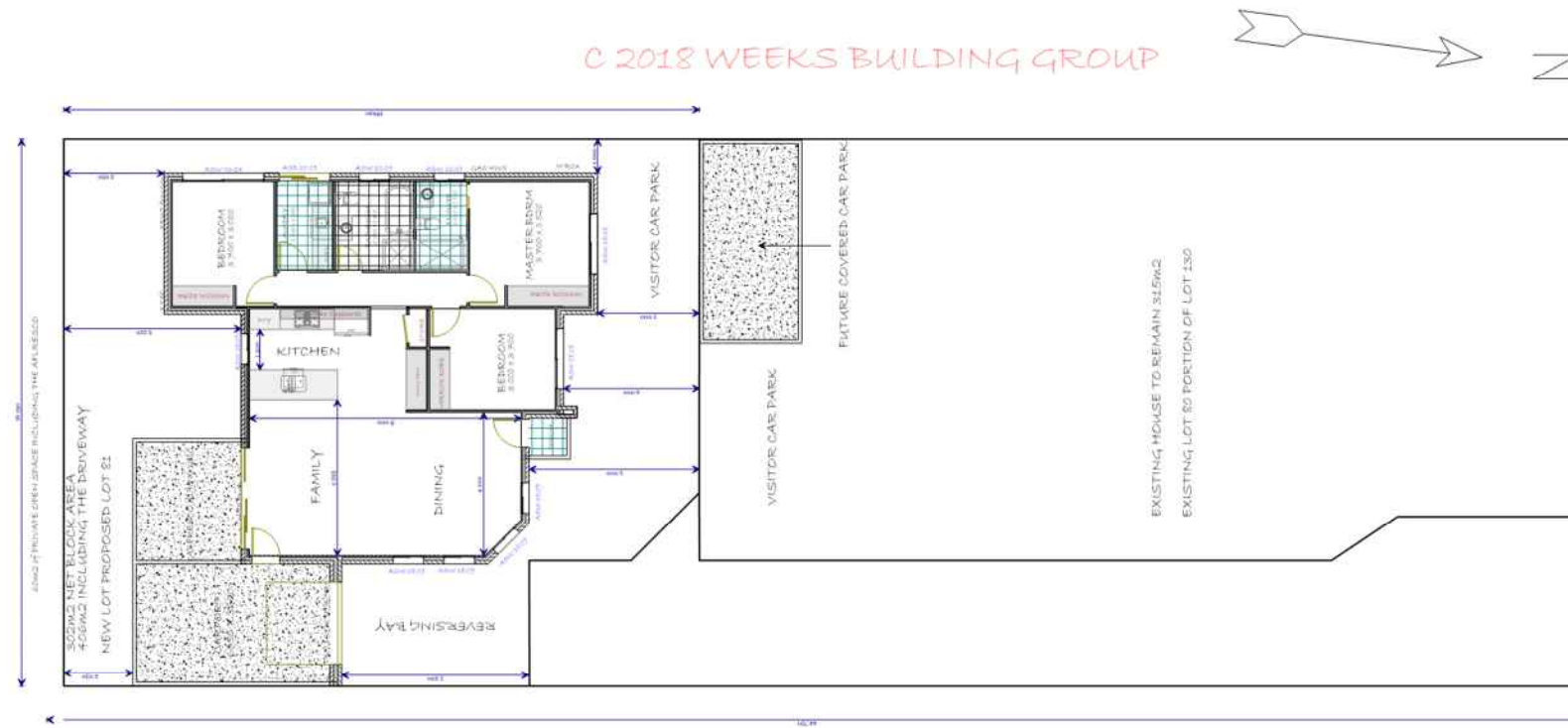
SOURCE: JEFFERY FUDGE AND ASSOCIATES SURVEYORS



ALLOTMENT 130 IN DEPOSITED PLAN 4117
 CT 5330/165

ALLOTMENT PLAN
 JOEL DAVIDDE
 18 TRENNERY STREET, WEST RICHMOND SA 5033
 21-006

REVISION: REVISION ON: DRAWN ON: 17.08.2021



WEEKS BUILDING GROUP <small>Jonathan Borrelli - Building & Design Consultant 193 - 195 Port Road HINDMARSH SA 5007 Mobile 0431 118 444 Email jonathan.borrelli@weeks.com.au</small>	PROPOSED DWELLING FOR CLIENT: MR JOEL DAVIDDE & MRS KATLIN DELHANTY ADDRESS: 18 TRENNERY STREET WEST RICHMOND SA CONTACT DETAILS: 0431 321 720	DESIGNED BY JONATHAN BORRELLI - JBJB PTY LTD 2018 These plans remain the property of JBJB PTY LTD and cannot be copied or amended unless consent has been given in writing
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

LAND DIVISION
18 TRENNERY STREET
WEST RICHMOND

25 August 2021



CONTACT LIST

PROJECT TEAM:

Client: Joel Davidde
C/- Planning Chambers Pty Ltd



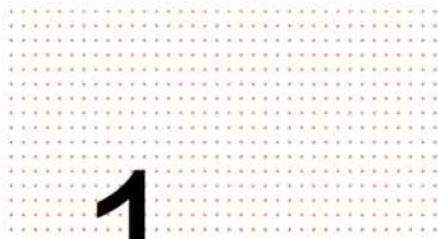
Project Planner: Damian Dawson

Planning Chambers Pty Ltd
219 Sturt Street
ADELAIDE SA 5000

T 08 8211 9776
E damian@planningchambers.com.au

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1

SUBJECT LAND & LOCALITY

1.1 SUBJECT LAND

The subject land is described in Certificate of Title Volume 5330 Folio 165 as being Allotment 130 in Deposited Plan 4117.

The subject land has a frontage to Trennery Street of 16.50 metres along the length of the northern boundary and a depth of 44.75 metres. The approximate area of the land is 740m².

The site is developed with a single storey detached dwelling and ancillary outbuildings including a carport and shed. Vehicle access is provided from Trennery Street via a crossover located at the eastern end of the frontage.

The subject land is relatively flat and does not contain any regulated or significant trees.



Figure 1: Subject land

1.2 LOCALITY

In forming an opinion as to the extent of the locality, I have considered the extent to which the proposed development upon the subject land is likely to be evident to surrounding occupiers and landowners.

Given the nature of the proposed division, which seeks to create an allotment at the rear of the subject land, the visibility and external impacts of the proposal will be limited to only those properties immediately adjacent to the land.

The locality is predominantly characterised by single storey detached dwellings located on moderately sized allotments around 700m² in area. As shown within Figure 2 below, several allotments within the locality and along Trennery Street have been divided into battle-axe allotments (highlighted in red) including:

- 4 & 6A Trennery Street
- 12 & 14 Trennery Street
- 23A & 25 Trennery Street
- 31 & 31A Trennery Street
- 20 & 20A Ralph Street
- 32 & 32A Knight Street
- 45 Knight Street (adjacent the airport)

The immediate locality consists of single storey detached dwellings to the east, west and south of the subject land and Trennery Street to the north.



Figure 2: Subject land shown in yellow with adjacent and nearby hammerhead allotments shown in red.



2 PROPOSAL

2.1 OVERVIEW

The application seeks to divide the subject land into two allotments as detailed within the proposed plan of division.

The northern (front) allotment (proposed allotment 80) will have a frontage to Trennery Street of 11.15 metres and a depth of 26.05 metres. The allotment will have an approximate area of 316m². The existing dwelling upon the subject land will be retained upon this allotment. The existing carport and shed will be demolished with a new carport/parking area to be accommodated at the rear of the dwelling.

The southern (rear) allotment (proposed allotment 81) will have a frontage to Trennery Street of 5 metres with a handle width of 3.7 metres, inclusive of a metre wide landscape strip along the eastern boundary. The allotment will have an overall area of approximately 406m² with an area of approximately 302m² excluding the access from Trennery Street.

Vehicle access for both allotments will be gained from Trennery Street via the proposed handle, with allotment 80 having rights of way over the access and turn around area at the rear. The existing carport and shed will be demolished as outlined upon the plan of division. Development Approval for the complete demolition of these structures is not required and therefore this element has not been included within the application, other than to show the existing location of the structures upon the plans.

No changes are proposed to the existing crossover/access to the subject land.

Further details of the proposal have been expanded upon within the assessment section below.



3 DEVELOPMENT ASSESSMENT

3.1 ASSESSMENT

I have undertaken an assessment of the proposal against the relevant provisions of the Planning and Design Code (the Code), consolidated 15 July 2021 – Version 2021.9.

The subject land is located within the General Neighbourhood Zone. Land division is listed as Performance Assessed Development as per Table 3 of the Assessment Pathways Table of the zone.



Figure 3: Zone map – subject land shown in blue

The assessment below considers the merits of the proposal against the relevant policies of the zone, applicable overlays and general policies within the Code.

3.1.1 Quantitative Policies

Table 1 below provides an assessment of the proposal against the quantitative policies within the General Neighbourhood Zone and the General Development Policies.

Guideline	Proposed	Satisfied
General Neighbourhood Zone		
Site Dimensions and Land Division		
<p>DPF 2.1</p> <p>Allotments/sites for residential purposes accord with the following:</p> <p>Detached Dwelling (not in a terrace arrangement)</p> <p><u>Minimum site/allotment area per dwelling</u></p> <p>300m² (exclusive of any battle-axe allotment 'handle')</p> <p><u>Minimum site/allotment frontage</u></p> <p>9m - not a battle-axe site</p> <p>5m - battle-axe site</p>	<p><u>Site area:</u></p> <p>Lot 80 – 316m²</p> <p>Lot 81 – 302m²</p> <p><u>Frontage:</u></p> <p>Lot 80 – 11.15m</p> <p>Lot 81 – 5m</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>
<p>DPF 2.2</p> <p>(b) if there is an existing dwelling on the allotment that will remain on the allotment after completion of the development, it will not contravene:</p> <p>(i) Private open space requirements specified in Design in Urban Areas Table 1 - Dwelling (at ground level)</p> <p><i>Total private open space area:</i></p> <p>(a) <i>Site area <301m²: 24m² located behind the building line</i></p> <p>(b) <i>Site area >301m²: 62m² located behind the building line</i></p> <p>(ii) Off-street vehicular parking exists in accordance with the rate(s) specified in Transport, Access and Parking Table 1</p> <p><i>Dwelling with 2 or more bedrooms (including rooms capable of being used as a bedroom) - 2 spaces per dwelling, 1 of which is to be covered.</i></p>	<p><u>Private open space:</u></p> <p>The existing dwelling will have 41m² of private open space located at the rear of the dwelling. This is below the 60m² guideline outlined within <i>Table 1 - Private Open Space</i>.</p> <p><u>Car parking:</u></p> <p>Two (2) car parking spaces are provided at the rear of the existing dwelling, one (1) of which is capable of being covered by a carport if desired.</p>	<p>See commentary below</p> <p>✓</p>

GENERAL DEVELOPMENT POLICIES		
Land Division		
Battle-Axe Development DPF 8.2 The handle of a battle-axe development: has a minimum width of 4m	The proposed handle has a minimum width of 3.7 metres.	See commentary below
DPF 8.4 Battle-axe or common driveways satisfy (a) and (b): (a) are constructed of a minimum of 50% permeable or porous material (b) where the driveway is located directly adjacent the side or rear boundary of the site, soft landscaping with a minimum dimension of 1m is provided between the driveway and site boundary (excluding along the perimeter of a passing point).	The driveway is capable of being constructed with a minimum 50% permeable or porous material. A 1-metre-wide soft landscaping strip is proposed along the eastern fence line.	✓ ✓

As noted within the table above the proposed allotments satisfy the policy guidelines in relation to:

- site area;
- frontage;
- car parking; and
- soft landscaping

As outlined below the failure to meet the desired requirements in relation to private open space and handle width are minor in this instance and inconsequential to the merits of the proposal.

Private Open Space

The existing dwelling will retain a private open space area of 41m² at the rear. This is below the 60m² guideline outlined within Table 1 - Private Open Space for allotments great than 301m². It is noted however that the desired area of private open space within Table 1 is on a sliding scale with allotments under 300m² requiring an area of only 24m². Whilst it is acknowledged that the proposed allotment area of 316m² is greater than 301m² and therefore requires the larger area of 60m², the proposed allotment is only 15m² larger than the threshold of 301m². The proposed private open space area of 41m² exceeds the 24m² for allotments under 301m² and is an appropriate area for an allotment of the size proposed. The private open space area will provide a high level of amenity for residents of the dwelling by being:

- a regular shape;
- accessible directly from the dwelling;
- screened from view; and
- partially covered and protected from the weather for year-round use.

The front yard, although not screened from view, does provide an area of additional landscape open space/garden for the enjoyment of residents of the dwelling.

The private open space provided is sufficient for the corresponding allotment size and will provide a useable area for future residents to meet the intent of Zone Performance Outcome (PO) 2.2 and General Policies Design PO 17.1.

Handle width

Whilst the proposal satisfies the required frontage width of 5 metres for a hammerhead allotment the majority of the handle width proposed (3.7 metres) is 300mm below the 4 metre guideline as outlined within General Policies Land Division Desired Performance Feature (DPF) 8.2. The failure to provide the full 4 metre wide handle width is considered to be minor and of no consequence to the function and use of the driveway for the following reasons.

The proposed width of the handle, including the frontage width and passing area proposed adjacent to the road frontage, will provide sufficient and safe access to both allotments as sought by PO 8.2.

The handle is relatively short and serves only two (2) dwellings. The handle incorporates a 1 metre wide soft landscaping bed along the eastern fence line to improve the appearance of the driveway when viewed from the road in accordance with PO 8.3.

The crossover and first portion of the driveway already exist and currently provide adequate access to the existing dwelling. As such the appearance of the subject land and the Trennery Street streetscape will remain the same, with only the existing carport to be demolished and the area of paving adjacent the road increased slightly.

A driveway width of 3.7 metres is sufficient to provide adequate access, as currently is the case for the existing dwelling upon the land. It is also equal to, or in most cases greater than, the handle width of hammerhead developments within Trennery Street and the locality as shown in Figure 2 above. Most existing hammerhead developments have a minimum handle width of 3 metres or less with no landscaping provided.

The proposed handle is considered to meet the intent of the General Land division policies and allows for the safe and convenient movement of vehicles and pedestrians to and from the proposed allotments.

3.1.2 Qualitative policies

Regarding the relevant qualitative policies or test within the Code the proposal provides for an increase in residential density in an appropriate location, serviced by existing infrastructure, services and community facilities. The subject land is close to public transport networks, commercial development and centres. West Richmond is an established residential area that continues to undergo a modest level of infill and replacement of old building stock. The proposal seeks to retain the existing functional dwelling whilst providing an opportunity for a minor increase in density which will provide a choice for future residents looking for a smaller, lower maintenance allotment.

Zone PO 2.2 seeks development that creates new allotments/sites in conjunction with the retention of an existing dwelling to ensure the site of the existing dwelling remains fit for purpose. In this instance the existing dwelling is to be retained with a sufficient area of private open space at the rear, a generous front yard and rear access with parking. The proposal retains the existing level of passive surveillance over the street with the streetscape appearance of the subject land relatively unchanged with the single crossover/access to be retained. Any future dwelling at the rear is unlikely to be noticeable from the street with landscaping proposed along the eastern boundary to soften the view of the driveway.

The proposed allotment is of a sufficient size and arrangement to allow for numerous development options for future dwellings. It is anticipated that the allotment will be able to be easily developed with

a dwelling in accordance with the requirements of the Code. An indicative dwelling plan has been provided which demonstrates just one potential option to development the proposed allotment. The indicative dwelling provides for a sufficient level of car parking and private open space, the forward exit of vehicles and appropriate side and rear boundary setbacks.

3.1.3 ANEF – Aircraft Noise Intrusion


DPF 3.1 of the Aircraft Noise Exposure Overlay states that a land division can occur *within an area having an ANEF value of less than 30 or within an area having an ANEF value of 30 or more which does not result in any additional allotments or accommodate a sensitive receiver.*

The subject land is located within the ANEF 30 noise contour. It is noted that there have been numerous land divisions, including battle-axe divisions, undertaken within the ANEF 30 and ANEF 35 contours, many of which have been approved within the last 10 years. It is understood that land within Walter Street to the north of the subject land within the higher ANEF 35 contour has been divided and two dwellings constructed within the previous two years.

Whilst the policy seeks to limit the creation of additional allotments within the ANEF 30 contour and above, it should be acknowledged that the subject land is located on the threshold of this requirement and will be less impacted than the properties to the north and west within the ANEF 35 contour. The application proposes only one (1) additional allotment and in no way represents a major increase in residential density.

Any future dwelling proposed upon the rear allotment will be required to satisfy the *Ministerial Building Standard MBS 010 - Construction requirements for the control of external sound* as part of the Building Rules assessment. The Ministerial Standard prescribes minimum construction requirements including glazing and insulation to reduce the potential impacts of aircraft noise and adequately protect future residences from external noise.

As such it is my view that the location of the subject land within the ANEF 30 contour should not sterilise or prevent the land from accommodating a minor degree of infill development, particularly given the safeguard that any future dwelling will need to satisfy the specific requirements of the Ministerial Building Standard.



4 CONCLUSION

4.1 SUMMARY

The application proposes a one (1) into (2) battle-axe land division. The proposed land division satisfies the majority of the quantitative policies within the General Neighbourhood Zone and the General Development Policies including

- site area;
- frontage;
- car parking; and
- soft landscaping.

The proposal is consistent with other land divisions within the locality and along Trennery Street with four hammerhead divisions already existing within this section of Trennery Street. It will utilise the existing access and driveway whilst retaining the existing dwelling to have minimal impact on the appearance of the land and the existing streetscape. The proposed allotment is of an adequate size and appropriate shape/dimension to accommodate a range of future dwelling layouts, including the indicative dwelling plan provided, whilst retaining a sufficient level of amenity and access for the existing dwelling.

The development is considered to demonstrate a sufficient degree of consistency with the requirements of the Planning and Design Code to warrant the grant of consent from Council.

Should you require any further details or clarification please feel free to contact me on (08) 8211 9776.

Yours sincerely,



Damian Dawson
Director

**Email chain between the Council and the applicant's
planning consultant (11 October 2021 - 29 November
2021)**

From: Damian Dawson <damian@planningchambers.com.au>
Sent: Monday, 29 November 2021 9:50 PM
To: Rachel Knuckey; Steven Burke
Cc: jdavidde@gmail.com
Subject: RE: 21025705 - 18 Trennery Street, West Richmond - Land division not supported

Hello Rachel and Steven,

I refer to the emails below in relation to our request for the assessment of this matter being placed on hold to allow a considered response to the matters raised by Council.

By way of an update the applicant has engaged an acoustic engineer to provide advice in relation to the proposal and the relevant noise criteria applicable to the subject land. As you would appreciate the development industry in general is very business at the moment but in particular we are finding engineers and consultants to be very difficult to source advice from.

We have been advised by the acoustic engineer that we will have the relevant information back from them in early to mid-December. We would like to consider that advice and formulate a full response to Council by mid-January next year.

I trust that Council will be agreeable to leaving the assessment on hold over the Christmas/New Year break with the anticipation that a response will be provided by mid-January.

Happy to discuss if you have any concerns in relation to the above.

Regards,

Damian

Damian Dawson | Director



Planning Chambers Pty Ltd

A: 219 Sturt Street, Adelaide SA 5000
P: (08) 8211 9776 | **M:** 0408 227 493
E: damian@planningchambers.com.au



Please consider the environment before printing this email

From: Rachel Knuckey
Sent: Monday, 1 November 2021 4:31 PM
To: Damian Dawson <damian@planningchambers.com.au>; Steven Burke
Cc: jdavidde@gmail.com
Subject: RE: 21025705 - 18 Trennery Street, West Richmond - Land division not supported

Ok thanks for that Damian

We accept the application being placed on hold on the basis of the timeframe specified for your response.

Kind regards

Rachel Knuckey
Team Leader Planning
City of West Torrens
165 Sir Donald Bradman Drive
Hilton SA 5033

Please be Green. Read from the screen!

From: Damian Dawson <damian@planningchambers.com.au>
Sent: Monday, 1 November 2021 4:30 PM
To: Rachel Knuckey; Steven Burke **Cc:** jdavidde@gmail.com
Subject: RE: 21025705 - 18 Trennery Street, West Richmond - Land division not supported

Thanks Rachel,

I anticipate that we would have a response prepared within 3 to 4 weeks.

Regards,

Damian

Damian Dawson | Director



Planning Chambers Pty Ltd

A: 219 Sturt Street, Adelaide SA 5000
P: (08) 8211 9776 | **M:** 0408 227 493
E: damian@planningchambers.com.au



Please consider the environment before printing this email

From: Rachel Knuckey
Sent: Monday, 1 November 2021 3:57 PM
To: Damian Dawson <damian@planningchambers.com.au>; Steven Burke
Cc: jdavidde@gmail.com
Subject: RE: 21025705 - 18 Trennery Street, West Richmond - Land division not supported

Hi Damian

I am responding in Stevens absence. If you can please give us a bit more of a timeframe as to when you think it is likely you will have a response to us?

I have no issue placing the DA on hold once we have an indication of timeframes.

Thanks in advance.

Rachel Knuckey
Team Leader Planning
City of West Torrens
165 Sir Donald Bradman Drive
Hilton SA 5033

From: Damian Dawson <damian@planningchambers.com.au>
Sent: Monday, 1 November 2021 3:54 PM
To: Steven Burke
Cc: Rachel Knuckey; jdaviddle@gmail.com
Subject: RE: 21025705 - 18 Trennery Street, West Richmond - Land division not supported

Hello Steven,

I would just like to provide Council with a quick update. We are currently seeking further advice in relation to the matters raised below and expect to have something back to Council shortly.

I note in your email below a deadline of 4 November 2021, after which Council would look to refuse the application. I ask that you place the DA on hold at this stage to afford us a reasonable opportunity to respond.

Please let me know that you are happy with this course of action.

Regards,

Damian

Damian Dawson | Director



Planning Chambers Pty Ltd

A: 219 Sturt Street, Adelaide SA 5000
P: (08) 8211 9776 | **M:** 0408 227 493
E: damian@planningchambers.com.au



Please consider the environment before printing this email

From: Steven Burke
Sent: Thursday, 21 October 2021 10:31 AM
To: Damian Dawson <damian@planningchambers.com.au>
Cc: Rachel Knuckey; jdaviddle@gmail.com
Subject: RE: 21025705 - 18 Trennery Street, West Richmond - Land division not supported [Filed 21 Oct 2021 13:55]

Hi Damian

Thank you for allowing me some time to discuss this matter with Rachel and the team. As I mentioned on the phone, this application is the first of its kind since the implementation of the Planning and Design Code in which the Council must assess a land division against the provisions of the Aircraft Noise Exposure Overlay. The policies which exist in this overlay are more strongly worded than policies which previously existed in the West Torrens Development Plan and mark a shift in how applications which propose sensitive receivers in areas adversely impacted by aircraft noise, including the division of land for residential purposes, are assessed. These policies essentially act to ensure that sensitive receivers are designed and sited adequately, or in some cases not sited at all, in areas adversely impacted by aircraft noise. The policies also ensure the ongoing, unimpeded operations of Adelaide Airport including any potential future expansions or reconfigurations of the airport.

You mention several reasons in your planning report as to why the proposed land division should be considered appropriate in relation to the policies of the Aircraft Noise Exposure Overlay. In our opinion, it is not relevant to consider MBS010 during the planning assessment as this standard is applied as part of the building rules

assessment. The argument is putting the cart before the horse; a development may be able to achieve compliance with the building rules, but it is part of the planning assessment to determine if the development is appropriate at all in the first instance. Yes, the site is within a zone which supports residential development, but it is important to remember that the provisions of an overlay take precedence over the provisions of a zone (hierarchy of policies).

We also do not consider the proposed division to be a minor increase in density as your report suggests. The division may only result in an additional one allotment, however this is doubling the density of the site. If every site within this portion of the overlay as indicated in your map was divided into two, this would result in a doubling of the number of allotments used for sensitive receivers in an area adversely impacted by aircraft noise. This is completely contrary to the intent of the policy within this overlay, specifically PO 3.1.

With the above in mind and following legal advice, we consider it appropriate in this instance to apply a heavy weighting to the provisions within the Aircraft Noise Exposure Overlay. The proposed application for land division cannot be supported and the application will be refused on its merits should it not otherwise be withdrawn within two weeks (prior to 4 November 2021).

We recognise that the ramifications of this approach could be wide-ranging as your map indicates, however, that has no bearing on the assessment of the subject application. Ultimately policies are put in place for a particular purpose and change from time-to-time to meet changing community expectations or to address a deficiency in previous policy. An application is assessed against the Planning and Design Code in effect at the time of lodgement whether or not a particular policy is considered to be fair by the applicant. If there is a need or desire to amend or remove a particular policy in the Code, the PDI Act sets out a process for Code amendments which may be initiated by a variety of parties including private proponents. At this point in time it is not the priority of Council to amend any of the policies within the Code which deal with aircraft noise.

Please feel free to give me a ring to discuss if required.

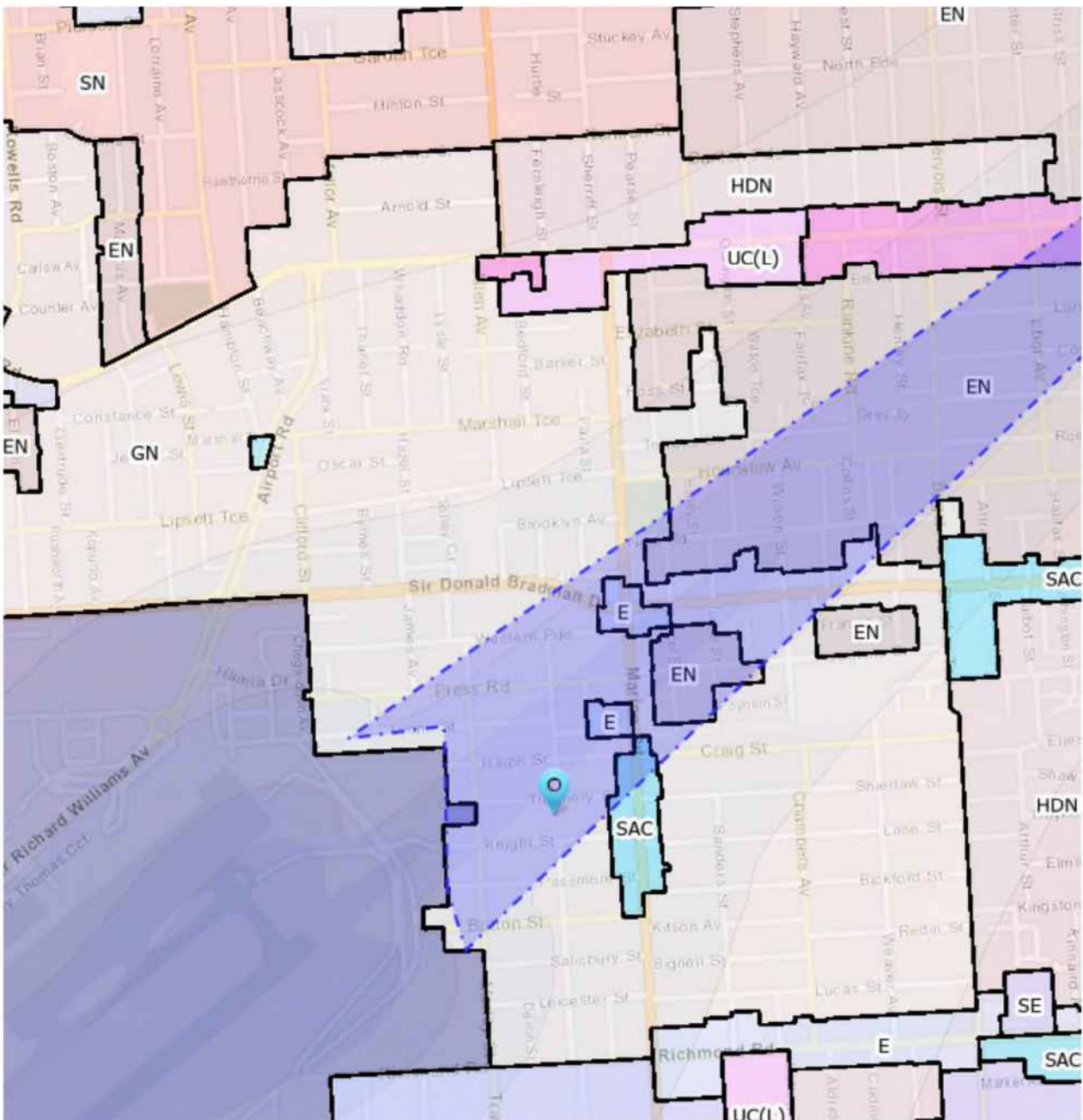
Kind Regards

Steven Burke
Development Officer - Planning
City of West Torrens
165 Sir Donald Bradman Drive
Hilton SA 5033

From: Damian Dawson <damian@planningchambers.com.au>
Sent: Monday, 11 October 2021 4:29 PM
To: Steven Burke
Cc: Rachel Knuckey; Joel Davidde <jdavidde@gmail.com> **Subject:** Application ID: 210
25705 - 18 TRENNERY ST WEST RICHMOND

Hello Steven, thank you for your time this afternoon to talk through the Aircraft Noise Overlay and it's potential impact upon the creation of new residential allotments.

Below is the rough calculation of the extent of the overlay at and above ANEF 30 that would be subject to an assessment against PO 3.1 of the Overlay. As discussed it is over 1km² in area and extends into Thebarton past the intersection of Henley Beach and South Roads. This would take in a large portion of the Urban Corridor Zone along Henley Beach Road, which as you are aware allows for high density, multi storey living.



From our discussion I understand that you are due to discuss this matter with Rachel and the rest of the team, specifically the level of weighting that is to be applied to the single policy/PO within the overlay that relates to land division, especially where all other polices are achieved.

I am confident that we can satisfy all other remaining matters relating to the proposed division including details of the carport, drainage, paving and turn around. I am also confident that we can satisfy the relevant requirements of the building code and Ministerial Building Standard in relation to noise ingress within any future dwelling upon the proposed allotment. To me the specific requirements of the Ministerial Standard will provide adequate protection for future residences from external noise.

I am happy to discuss this matter with yourself and Rachel if desired. It is a discussion that will have far reaching impacts on the future development of Richmond, Cowandilla, Mile End, Torrensville and Thebarton if it is determined that Council will not allow any division of land within this portion of the overlay.

I look forward to hearing the outcome of your deliberations.

Regards,

Damian

Damian Dawson | Director



Planning Chambers Pty Ltd

A: 219 Sturt Street, Adelaide SA 5000
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E: damian@planningchambers.com.au



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Archived: Monday, 7 February 2022 10:10:25 AM

From: [Damian Dawson](#)

Sent: Monday, 17 January 2022 10:48:01 PM

To: [Steven Burke](#)

Cc: [Joel Davidde](#)

Subject: 18 Trennery Street, West Richmond - further information

Sensitivity: Normal

Attachments:

[Attachment No.1 - DecisionNotificationForm-Application21005203-612683.pdf](#); Attachment No.4 - AGD Assessment.pdf; Attachment No.3 - 2020_Revised_Planning_and_Design_Code_-_General_Neighbourhood_Zone.pdf; Attachment No 2 - Resonate Email.pdf; 18 Trennery Street, West Richmond Application Response - 14.01.2022.pdf;

Hello Steven, hope you are well.

Thank you for providing some additional time to respond to the matters raised by Council in relation to the creation of an additional residential allotment within the Airport Noise Overlay.

Please find attached a letter from the applicant, Joel Davidde, outlining a number of matters that we wish for Council to consider. Included is an email from senior staff within the Attorney General's Department on their interpretation and application of the policy within the overlay as well as some commentary from Resonate Acoustic Engineers as to the ability for future residential development on the land to satisfy the relevant noise criteria within the Building Rules Assessment.

We ask that you consider the attached and if current Covid protocols allow, meet with myself and Joel, along with Rachel Knuckey if possible, to discuss this matter next week. I think that Council's current stance on the policy will significantly impact on development within a large portion of the Council area in a way not envisaged by the drafter's of the Code.

I look forward to your response.

Regards,

Damian

Damian Dawson | Director



Planning Chambers Pty Ltd

A: 219 Sturt Street, Adelaide SA 5000

P: (08) 8211 9776 | **M:** 0408 227 493

E: damian@planningchambers.com.au



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DECISION NOTIFICATION FORM

Section 126(1) of the Planning, Development and Infrastructure Act 2016

TO THE APPLICANT(S):

Name: Brett Potter
Email: info@plsurvey.com.au

IN REGARD TO:

Development application no.: 21005203	Lodged on: 18 May 2021
Nature of proposed development: Land division - create one (1) additional allotment	

LOCATION OF PROPOSED DEVELOPMENT:

Location reference: 75 CRAIG ST RICHMOND SA 5033		
Title ref.: CT 5707/439	Plan Parcel: D2633 AL65	Council: CITY OF WEST TORRENS

DECISION:

Decision type	Decision (granted/refused)	Decision date	No. of conditions	No. of reserved matters	Entity responsible for decision (relevant authority)
Planning Consent	Granted	21 Jun 2021	1	0	Assessment Manager at City of West Torrens
Land Division Consent	Granted	21 Jun 2021	3	0	Assessment Manager at City of West Torrens
Development Approval - Planning Consent; Land Division Consent	Granted	21 Jun 2021	4	0	City of West Torrens

FROM THE RELEVANT AUTHORITY: City of West Torrens
Date: 21 Jun 2021

CONDITIONS

Planning Consent

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

Land Division Consent

Conditions imposed by South Australian Water Corporation under Section 122 of the Act

Condition 1

SA Water's water and sewer network is available for connection in this area. An investigation will need to be undertaken to determine infrastructure needs, appropriate fees and charges.

Conditions imposed by SPC Planning Services under Section 122 of the Act

Condition 2

Payment of \$7761.00 into the Planning and Development Fund (1 allotment/s @ \$7761.00 /allotment). Payment may be made via credit card (Visa or MasterCard) online at plan.sa.gov.au, over the phone on 7109 7018, or cheques may be made payable to the State Planning Commission, marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001.

Condition 3

A final plan complying with the requirements for plans set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the State Planning Commission for Land Division Certificate purposes.

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).

Planning Consent

None

Land Division Consent

None

CONTACT DETAILS OF CONSENT AUTHORITIES

Name: City of West Torrens	Type of consent: Planning and Land Division
Telephone: 08 8416 6333	Email: development@wtcc.sa.gov.au
Postal address: 165 Sir Donald Bradman Drive, Hilton SA 5033	

From: Bailey, Jason (AGD) <Jason.Bailey@sa.gov.au>
Sent: Wednesday, 3 November 2021 10:28 AM
To: Damian Dawson <damian@planningchambers.com.au>
Subject: RE: 21025705 - 18 Trennery Street, West Richmond - Land division not supported

OFFICIAL

Morning Damian

Coming back to you with a view on this matter.

DTS/DPF 1.1 of the Aircraft Noise Exposure Overlay performs the following two roles:

- it acts as the DTS requirement for certain sensitive receiver development types *outside* the ANEF30 contour (a detached dwelling for instance in the General Neighbourhood Zone)
- it provides very clear guidance (as a DPF) for performance assessed sensitive receiver development *outside* the ANEF30+ contours

Our view is that DTS/DPF 1.1 of the Overlay is not signalling that there is no scope for development of sensitive receivers within the ANEF30+ contours. This is in accordance with Part 1 of the Code – Rules of Interpretation which provides that DPFs “will generally meet the corresponding performance outcome” and they do “...not need to necessarily be satisfied to meet the performance outcome”.

The above being said, we see there to be a logic in built-form (that satisfies MBS010) preceding land division in ANEF30+ areas. In our view this is the pathway to demonstrate how a proposal to establish an additional dwelling will satisfy PO 1.1 of the Overlay.

I hope this assists.

Thanks, Jason

Jason Bailey | Team Leader – Metro and Regional Development Assessment
Reporting to Jason Cattonar, Manager Development Assessment
Planning & Land Use Services | Attorney-General’s Department
E Jason.Bailey@sa.gov.au | www.agd.sa.gov.au
P 08 7109 7161 | Level 5, 50 Flinders Street, Adelaide SA



From: Bailey, Jason (AGD)
Sent: Monday, 1 November 2021 2:38 PM

To: Damian Dawson <damian@planningchambers.com.au>

Subject: RE: 21025705 - 18 Trennery Street, West Richmond - Land division not supported

OFFICIAL

Acknowledged Damian.

I'll come back to you shortly noting the timeframes mentioned below. Expect a response from me by close of business tmrw.

From: Damian Dawson [<mailto:damian@planningchambers.com.au>]

Sent: Monday, 1 November 2021 10:47 AM

To: Bailey, Jason (AGD) <jason.bailey@sa.gov.au>

Subject: FW: 21025705 - 18 Trennery Street, West Richmond - Land division not supported

Hey Jason, thanks for the chat last week.

Below is the email from CWT re the noise overlay matter I was talking about. You can see in my email below the extent to which the Urban Corridor Zone on HB Road will be impacted.

Would be interested in what the Department had in mind when this overlay was brought in to the Code and if you had envisaged such a strong reading of the policy so as to prevent the creation of any new residential allotments?

Cheers, Damian

Damian Dawson | Director



Planning Chambers Pty Ltd

A: 219 Sturt Street, Adelaide SA 5000

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E: damian@planningchambers.com.au



Please consider the environment before printing this email

General Neighbourhood Zone

Draft Planning and Design Code

Suburbs to which the new General Neighbourhood Zone will apply:

- **Brooklyn Park** - part also being rezoned to Established Neighbourhood Zone
- **Camden Park** - part also being rezoned to Housing Diversity Neighbourhood Zone
- **Cowandilla** - part also being rezoned to Established Neighbourhood Zone
- **Fulham** - part also being rezoned to Suburban Neighbourhood Zone
- **Glenelg North** - part also being rezoned to Suburban Neighbourhood Zone
- **Hilton** - part also being rezoned to Established Neighbourhood Zone and Housing Diversity Neighbourhood Zone
- **Lockleys** - part also being rezoned to Suburban Neighbourhood Zone
- **Mile End** - part also being rezoned to Established Neighbourhood Zone and Housing Diversity Neighbourhood Zone
- **Netley**
- **Novar Gardens** - part also being rezoned to Suburban Neighbourhood Zone and Established Neighbourhood Zone
- **Plympton** - part also being rezoned to Housing Diversity Neighbourhood Zone
- **Richmond** - part also being rezoned to Housing Diversity Zone
- **Thebarton** - part also being rezoned to Established Neighbourhood Zone
- **Torrensville** - part also being rezoned to Suburban Neighbourhood Zone and Housing Diversity Neighbourhood Zone and Established Neighbourhood Zone
- **West Richmond** - part also being rezoned to Suburban Neighbourhood Zone
- **West Beach** - part also being rezoned to Established Neighbourhood Zone and General Neighbourhood Zone

The State Government is currently changing planning laws in South Australia. As a result, there will no longer be individual council Development Plans, but a state-wide Planning and Design Code. This will impact the way development occurs in your suburb.

Our Council has drafted fact sheets to help our community understand some of these changes, including zoning applicable to your property. The new zones proposed under the Planning and Design Code do not always include entire suburbs. If you are unsure about the current zoning of your property, you can search your property data at westtorrens.sa.gov.au/westmaps or <https://train.sappa.plan.sa.gov.au>

The General Neighbourhood Zone is a new zone replacing a portion of West Torrens' Residential Zone, specifically Low Density Policy Areas 20 and 21, when sited within 400m of a centre zone. A map can be found on the rear of this document.

The General Neighbourhood Zone encourages a range of housing types, with the intent of increasing housing diversity and supply, including the introduction of additional dwelling typologies including residential flat buildings and hammerhead type subdivisions. The zone also facilitates a wide range of compatible non-residential uses. The only discouraged type of development, referred to as 'Restricted Development', will be shops with a gross leasable area of 1000m² or more.

Public consultation of the Draft Planning and Design Code is underway. Formal submission closes on 18 December 2020 and can be submitted online. If you require assistance with your submission phone 1800 752 664 or email dit.planningreformsubmissions@sa.gov.au

A: 165 Sir Donald Bradman Drive, Hilton SA 5033
 P: 8416 6333 / E: csu@wtcc.sa.gov.au
 W: westtorrens.sa.gov.au



 Current Development Plan
  New Planning and Design Code

The following information is applicable to Residential Low Density Policy Area 20 and 21

>400m = More than 400m from a Centre Zone

<400m = Less than 400m from a Centre Zone

Land division comparison

	Residential Low Density Policy Area 20 (>400m)		General Neighbourhood	
	Site area (m ²)	Frontage (m)	Site area (m ²)	Frontage (m)
Detached	340	10	300 (exc of battle axe handle) 200 when built in terrace form	9 5 battle-axe 7 ave (terrace)
Semi-detached	340	10	300	9
Group dwelling	340	10	300 (average incl common areas)	15
Residential Flat Building	Not envisaged	Not envisaged	300 (average incl common areas)	15 whole building
Row dwelling	Not envisaged	Not envisaged	200	7 average

	Residential Low Density Policy Area 20 (<400m)		General Neighbourhood	
	Site area (m ²)	Frontage (m)	Site area (m ²)	Frontage (m)
Detached	300	9	300 (exc of battle axe handle) 200 when built in terrace form	9 5 battle-axe 7 ave (terrace)
Semi-detached	300	9	300	9
Group dwelling	300	9	300 (average incl common areas)	15
Residential Flat Building	Not envisaged	Not envisaged	300 (average incl common areas)	15 whole building
Row dwelling	Not envisaged	Not envisaged	200	7 average

	Residential Low Density Policy Area 21 (<400m)		General Neighbourhood	
	Site area (m ²)	Frontage (m)	Site area (m ²)	Frontage (m)
Detached	350	9	300 (exc of battle axe handle) 200 when built in terrace form	9 5 battle-axe 7 ave (terrace)
Semi-detached	350	9	300	9
Group dwelling	350	9	300 (average incl common areas)	15
Residential Flat Building	Not envisaged	Not envisaged	300 (average incl common areas)	15 whole building
Row dwelling	Not envisaged	Not envisaged	200	7 average

Information can also be found on our website - westtorrens.sa.gov.au/planningreform



Building height comparison

	Residential Low Density 20		General Neighbourhood	
	Storeys	Building height (m)	Storeys	Building height (m)
All allotments	2	8.5	2	9

Setback comparison

	Residential Low Density 20 and 21	General Neighbourhood
	Metres	Metres
Front setback	Average of adjoining dwellings	the lesser of 5 or the average of any existing buildings on adjoining allotments facing the primary same street
Secondary front setback	2 (walls less than 3m in height) 3 (walls greater than 3m in height)	lesser of 0.9 or neighbouring building setback
Ground floor side	0 (for 8m in length) or 1 (up to 3m in height)	0 (for 11.5m in length) or 0.9 (up to 3.2m in height)
Upper level side	2 (up to 6m in height then + height above 6m)	0.9 + third of wall above 3m other than S boundary 1900mm plus 1/3 of the wall height above 3m for walls facing a southern side boundary
Ground floor rear	3	3
Upper level rear	8	5

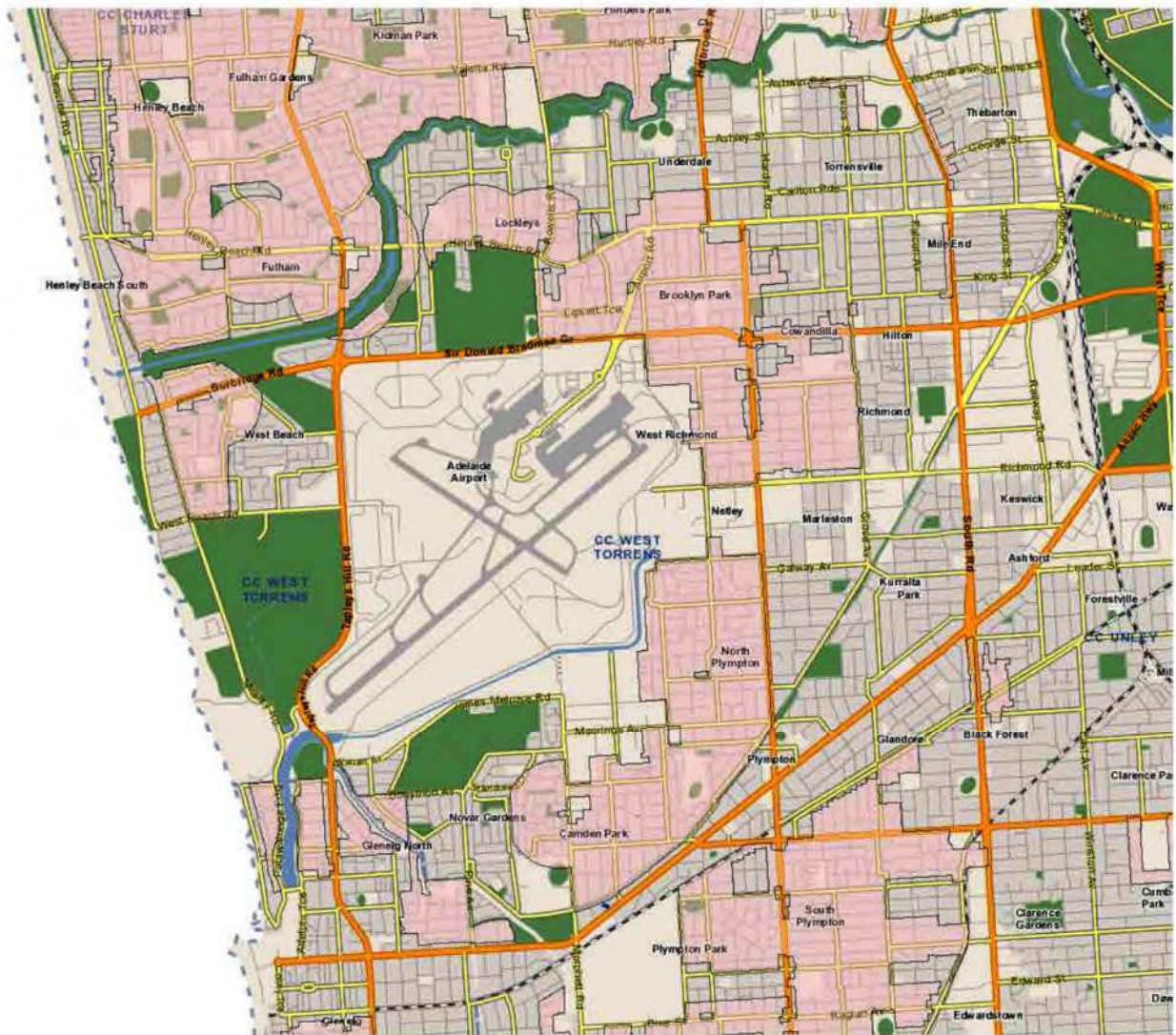
Private open space comparison

		Development Plan		Planning and Design Code	
		Min area (m ²)	Min dimension (m)	Min area (m ²)	Min dimension (m)
Allotment <300m ²		24	3	24*	2
Allotment 300-500m ²		60	4	24*	2
Allotment >500m ²		80	4	24*	2
Dwellings above ground level	no separate bedroom	no min		4	1.8
	1 bedroom	8	2	8	2.1
	2 bedrooms	11	2	11	2.4
	3 bedrooms	15	2	15	2.6

* denotes that there is an additional landscaped area that may be required in addition to the minimum private open space provision. The soft landscaping requirements is dependent on the allotment size.

Information can also be found on our website - westtorrens.sa.gov.au/planningreform

General Neighbourhood Zone



 General Neighbourhood Zone

Information can also be found on our website - westtorrens.sa.gov.au/planningreform

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City of West Torrens
Between the City and the Sea

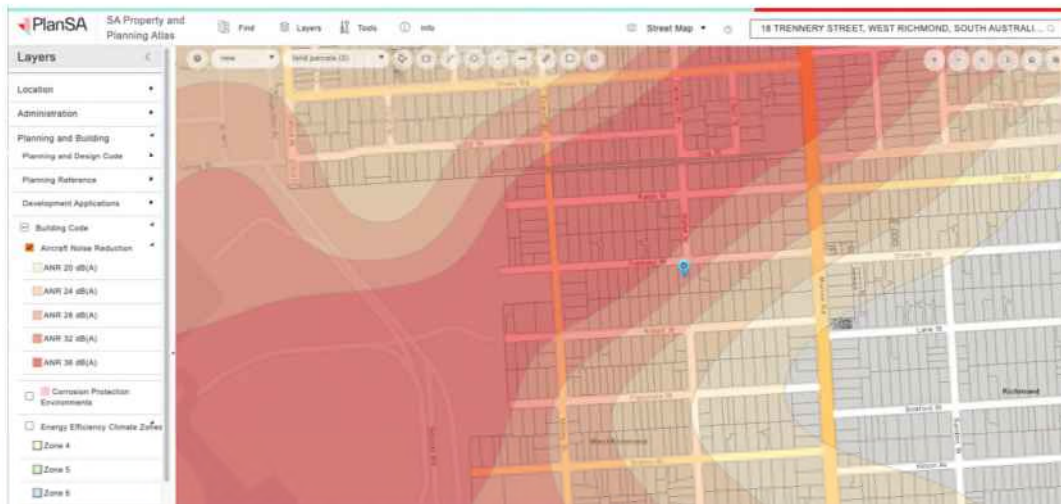


From: Jenna MacDonald <jenna.macdonald@resonate-consultants.com>
Sent: Friday, 14 January 2022 4:30 PM
To: Joel Davidde
Subject: Re: 18 Trennery Street West Richmond - Acoustic Report Opinion

Hi Joel,

I have had a look at your proposed property with reference to the Ministerial Building Standard MBS010.

As mentioned, the property is located within ANR contour 32 (with some of the rear of the property in ANR 28) as shown in this screen shot from the PlanSA website.



A proposed dwelling located within this property is still able to follow deemed to satisfy building guidelines specified in the MBS010. Even with assuming worst case, i.e. the entire of the property is located within ANR 32.

This essentially means that it will be possible to construct a dwelling which achieves compliance with internal noise level guidelines (i.e. internal noise levels of 50dB(A) and 55dB(A) in bedrooms and living areas) without implanting excessively onerous constructions.

We have completed a number of these assessments for dwellings within ANR 32, and have not found any issues. It is typical for dwellings in this location to be constructed with masonry walls (or an equivalently dense construction), and provided the window areas in each room is less than 60% of the rooms floor area, compliance can still be achieved with single glazing (12.5mm VLam Hush Glass). Where windows are proposed to be slightly larger than this (up to 80% of floor area) double glazing would be required in the order of 6.38mm / 100mm air gap / 10.38mm laminated glazing.

Ultimately this will all depend on the proposed dwelling design, and the dwelling will need to undergo an aircraft noise intrusion assessment against MBS010.

Kind Regards,

Jenna MacDonald
Senior Acoustic Engineer



Acoustics • EMF • Structural Dynamics • Vibration

p 08 8155 5888 m 0403 651 231 Level 1, 23 Peel Street Adelaide SA 5000 Australia

18 Trennery Street, West Richmond 5033**Application ID: 21025705 Application Number: 211/D439/21**

Good afternoon Stephen,

Firstly, we would like to thank you and your team for taking the time to respond to our application and allowing us enough time get our ducks in a row regarding our response to the points raised.

We have structured this document in order to address the points raised within Council's response and each matter has been individually titled to be able to easily follow and clearly address each point of the response, as well as adding further information we have gathered to date.

Application for Land Division under the Planning and Design Code

We would like to begin by addressing the note within Council's response stating that the application is the first of its kind since the implementation of the Planning and Design Code. We would like to point out that there were many similar applications over the past year within the same zone and ANEF Contour, which demonstrated the use of the area (General Neighbourhood) and the suitability of sensitive receivers (residential) being developed within ANEF30+ contour zones, albeit under the previous regulations (noting that the ANEF zones and land use have remained the same), as per the following application approvals:

- 10 Wilson Street, COWANDILLA SA 5033 (Land Division) – Approved 22 March 2021.
- 29 Leicester Street, WEST RICHMOND (Land Division) – Approved 12 February 2021.
- 29-31A Passmore Street, WEST RICHMOND (Land Division to create 5 additional allotments) – Lodged 09 September 2020, Approval date unknown – Land division and construction of 8 new dwellings (sensitive receivers) complete.
- 2 Devon Street West Richmond (Land Division) – Approved 9 June 2020.
- Among numerous other residential land divisions over the past 3 years including properties directly facing our application's property at 17 Trennery Street West Richmond.

We would also like to note that there has been an approved land division after the implementation of the Planning and Design Code, within the same ANEF 30 contour zone as 18 Trennery Street West Richmond. This property is located at 75 Craig St RICHMOND SA 5033 (See attachment No.1) and was a one into two lot development as per 18 Trennery Street, however, this development does not retain an existing dwelling as per our application. The 75 Craig St Application included the demolition of the existing dwelling to make way for the construction of 2 new dwellings classified as sensitive receivers.

The Application for the land division was submitted on 18 May 2021 and Approved with no objection on 21 June 2021.

When the 75 Craig Street application was discussed with Council, Council noted that there had been teething issues in assessing the new Code at the time. However, it is understood that the requirements of the Clause within the Planning and Design Code were known to Council at the time, as Council had reviewed the draft Code and subsequently requested that the applicant undertake an acoustic assessment and provide a report in order to satisfy the Aircraft Noise Exposure Overlay requirements within the Code.

Council had requested the Applicant to undertake an acoustic assessment of the property and provide a report outlining the properties suitability to undertake the division as well as the ability construct a house on the newly formed allotments. We understand that this request is not a requirement of a land division application, and that the application did not include an submission to build any dwellings, as it only included an application to undertake a land division as per our application for 18 Trennery St West Richmond.

The above noted request for the acoustic engineer's assessment and report was undertaken and provided by the applicant and Council had taken this in consideration when approving the application for land division under the newly implemented Planning and Design Code.

We have reviewed the above application and assessment and agree with the Council's decision to request an acoustic report for the Land Division, review the land division holistically taking into account all requirements and individually assess the application whilst taking into consideration the specific environment and various factors and other key requirements which influence the application.

Our application for land division at 18 Trennery Street West Richmond is in the located within same ANEF zone as the 75 Craig St approved application, however unlike the 75 Craig St Application, our application retains the original house and subsequently the streetscape which has existed since the 1950's and is still being lived in today without issue. As per our discussions with Council, As discussed we are confident that we can satisfy all other remaining matters relating to the proposed division including details of the carport, drainage, paving and turn around, with details to be provided. We are also confident that we can satisfy the relevant requirements of the building code and Ministerial Building Standard in relation to noise ingress within any future dwelling upon the proposed allotment.

We are requesting that our application for Land Division is treated with the same approach towards the assessment of the policies of the 75 Craig St Application, which included a logical and holistic assessment of the Aircraft Noise Exposure Overlay requirements. We are certainly prepared to engage the services of a certified Acoustic Engineer to undertake an assessment of our application for land division, it's suitability in the area and zone as well as its ability to accommodate development of a future dwelling constructed on the newly formed allotment which is compliant to all relevant Australian Standards and requirements including the requirements of the ANEF 30 overlay.

As per the 75 Craig St application, the acoustic report and assessment against the MBS010 requirements will be able to determine if the Land division application suitable for the property location of the application, as the report takes into consideration the requirements of ANEF 30 as per the Australian Standards as well as a far more accurate assessment of the individual property, it's surroundings at the specific site etc. to an extent which we understand is far more accurate than a blanket rule for all applications within a zone which extends within a vast area from Glenelg North to Thebarton. We request approval to engage an Acoustic to undertake an assessment and provide a report to be taken into consideration regarding the assessment of the Land Division Application for 18 Trennery St West Richmond.

We have contacted Acoustic Engineers Resonate Consultants who have undertaken a preliminary review of the application and property in question and have provided a response noting the assessment criteria to meet the required Australian Standards within the ANEF 30 overlay. Resonate Consultants have submitted their preliminary assessment (see attachment No.2) to undertake the

report following approval by Council to do so as per the above, and have upon their preliminary review noted that they believe it is possible to achieve an Australian Standard and MBS010 compliant residential dwelling construction on the property and have noted that they have achieved a compliant outcome under the same overlay on previously assessed dwellings, noting that the outcome will be subject to the detailed assessment and final report being provided.

MBS010 Requirements and the Desired Outcome of the Aircraft Noise Exposure Overlay

MBS010 Requirements

We understand that MBS010 requirements are applied as part of the building rules assessment component of an application. We believe MBS010 is relevant regarding our application, as it addresses the issue of sensitive receivers being located within the ANEF 30 zone, and how to address this through construction methodology, which in turn addresses the Desired Outcome (DO) of the Aircraft Noise Exposure Overlay policy.

The property is located within the General Neighbourhood Zone, this zone as described by the Code and the City of West Torrens to principally encourage residential development. As noted within the City of West Torrens's General Neighbourhood Zone information Sheet (See attachment No.3), the General Neighbourhood zone "Encourages a range of housing types, with the intent of increasing housing diversity and supply, including the introduction of additional dwelling typologies including residential flat buildings and hammerhead type subdivisions". In review of this, it is evident that our application for residential land division directly reflects the intent of this zone, and achieves the desired outcome of the Code requirements.

As the desired development within this zone is residential housing, and the only applicable development at on the newly formed allotment at 18 Trennery Street would be housing, it can be understood that a dwelling would be the only applicable development on the allotment in question. As MBS010 addresses residential development within the ANEF 30 zone, we believe that MBS010 requirements are relevant to the application within the zone and the applicable ANEF rating.

The MBS010 standards were specifically written and implemented to address the acoustic environment and requirements for safe and habitable residential developments within the relevant ANEF zones. The MBS010 also requires the relevant Australian Standards to be met regarding the acoustic environment and performance of buildings.

Desired Outcome

We believe the above ties in with the overarching requirement of the clause in question, more specifically the Aircraft Noise Exposure Overlay - Desired Outcome (DO) "Development sensitive to aircraft noise is designed and located to manage noise intrusion to reduce land use conflict and protect human health."

We understand that as per the hierarchy of the Code, the 'Desired Outcome' is the key requirement to be met, and this can be demonstrated by the applicant including through deemed to satisfy criteria or a performance outcome, as long as it meets or comes very close to meeting the requirements of the clause.

We believe that our application for land division at 18 Trennery Street can meet the requirements of the above Desired Outcome in relation to the Aircraft Noise Exposure Overlay. The Desired Outcome notes that 'Development' (e.g. a residential dwelling) is 'designed and located' to 'manage noise intrusion to reduce land use conflict and protect human health'. With this in mind we believe the

future use of the land i.e., the 'Development' noted is to be taken into consideration when assessing this policy. We believe the requirements of MBS010 which take into consideration the design and location of the development to 'reduce land use conflict' and 'protect human health' are relevant and should be taken into consideration when assessing this application in regards achieving the Desired Outcome of the clause for the future dwelling.

If we are able to demonstrate through a qualified Acoustic Engineers assessment and report, as well as MBS010 that a sensitive receiver (residential dwelling) can be suitably located on the newly formed allotment which is surrounded by many of other dwelling which are currently occupied, some which were approved for use and constructed under a year ago, as well as the current property being retained, we believe this would meet the overarching requirements of the Desired Outcome.

Noting that the Desired Outcome is evidently linked with the 'Development' intended for the property e.g. sensitive receivers/housing, we are certainly prepared to include as part of this application an application for building approval (as a dual application) as this is the intended use of the land division, noting that this was not initially included as part of the application. Please advise if this is desired by Council to assist in the assessment of the application and demonstrate the suitability and compliance with the Desired Outcome, noting also the specific Acoustic assessment and report and requirements of MBS010 which would be assessed.

National Airports Safeguarding Framework (NASF)

The Commonwealth Government's 2009 Aviation Policy White Paper: Flight Path to the Future proposed the development of a national land use planning framework to improve community amenity and improve safety outcomes associated with aviation in Australia.

The National Airports Safeguarding Advisory Group (NASAG) was responsible for the development of the National Airports Safeguarding Framework (NASF) in coordination with State Governments and Councils surrounding the major airports in Australia. This was part of the agreement by Commonwealth, State and Territory ministers at the Standing Council on Transport and Infrastructure meeting on 18 May 2012.

The NASF is a national land use planning framework that aims to:

- Improve community amenity by minimising aircraft noise-sensitive developments near airports including through the use of additional noise metrics and improved noise-disclosure mechanisms; and
- Improve safety outcomes by ensuring aviation safety requirements are recognised in land use planning decisions through guidelines being adopted by jurisdictions on various safety-related issues.

The NASF Guidelines provide guidance on planning requirements for new development that could impact aviation operations, such as building activity around airports that could penetrate operational airspace, impact on operating hours (due to noise), and/or affect navigational procedures for aircraft. The Guidelines cover the topics of managing impacts of aircraft noise among other topics.

NASF Guideline A – Measures for Managing Impacts of Aircraft Noise

The purpose of this Guideline is to guide decision makers to manage the impacts of noise around airports, including the suitability of developments.

Guideline A provides advice on the use of a complementary suite of noise metrics, including the Australian Noise Exposure Forecast (ANEF) system and frequency-based noise metrics, to inform strategic planning and provide communities with comprehensive and understandable information about aircraft noise.

The Guideline seeks to utilise the endorsed ANEF and ANEC (ultimate capacity) for an airport to ensure greater alignment, incorporating into strategic planning documents guidance on managing noise impacts when rezoning land and assessing new applications within noise sensitive areas. Specific noise measurements are provided in order to assess whether proposed rezoning or new development is appropriate in a particular location; particularly in relation to more sensitive land uses.

Assessment of new developments applications for noise sensitive uses within existing residential areas

This Section specifically applies to our application at 18 Trennery Street West Richmond and provides the following relevant guidance:

26. This section applies to urban land that is already designated for noise sensitive uses, primarily residential areas where development pre-dates the significant growth of airport traffic experienced following the introduction of jet aircraft in the late 1950s (as per the 18 Trennery Street West Richmond).

27. Whilst it would not be appropriate to allow for development that would impact on the operational safety of an airport, increasing densities or new developments in existing areas exposed to aircraft noise may be acceptable where the site provides other desirable outcomes such as providing housing near transport or meeting urban consolidation targets. In some circumstances, redevelopment of sites already exposed to aircraft noise can result in a better outcome through better design and construction responses.

28. Such development should be undertaken in a manner that physically reduces noise impacts (e.g. through appropriate construction techniques and adherence to AS2021) but also through a disclosure process that ensures future residents are aware of these impacts prior to purchase.

We believe the above reiterates the relevance of MBS010 as well as the undertaking of an Acoustic assessment and report in relation to the assessment of the suitability of our land division application.

Approach to the Assessment of Individual Policies, including the Desired Outcome

We believe that each application should be assessed on its merits holistically, which has been the approach taken by Council in the past regarding approvals to land divisions and/ or building approval. For example, if a requirement is not met within a certain limit or at all such as frontage, land size, setbacks etc. however the majority of the other key requirements of the development are met or even exceeded, the Council has approved application in the past on that basis, which is common practice and in accordance with Part 1 of the Code – Rules of Interpretation which provides that DPFs “will generally meet the corresponding performance outcome” and they do “...not need to necessarily be satisfied to meet the performance outcome”.

We understand that a weighting can be applied to each policy/PO requirement on a basis of varying factors. We believe that the fact that all other key policies are being achieved within this application,

this should be taken into consideration when assessing the weighting of the aircraft overlay policies, especially is, as requested above, an in-depth qualified acoustic engineer provides an independent assessment and report for the land division and its suitability to the areas use and future development to address the issue and satisfy the Desired Outcome of the Policy.

As discussed previously, we are confident that we can satisfy all other remaining matters relating to the proposed division including details of the carport, drainage, paving and turn around. We are also confident that we can satisfy the relevant requirements of the building code and Ministerial Building Standard in relation to noise ingress within any future dwelling upon the proposed allotment. To us, the specific requirements of the Ministerial Standard and acoustic report will provide adequate protection for future residences from external noise.

We believe that a logical and holistic approach towards assessing the requirements of the Aircraft Noise Exposure Overlay is needed, especially as the policy has only been introduced for a very short period of time and had never previously been implemented as part of the previous planning regulations in this form. If the wording of the policy is to be assessed only on its DTS requirements, with a 100% weighting over all other policies and without a holistic approach towards assessing applicable developments, this would result in vast detrimental implications regarding development and potential property values for a large area within the City of West Torrens affected by the Policy, and in many cases would not reflect the intent of the policy as outlined by the Attorney General’s Department below. As previously noted, below is the rough calculation of the extent of the overlay at and above ANEF 30 that would be subject to an assessment against PO 3.1 of the Overlay. As discussed, it is over 1km² in area and extends into Thebarton past the intersection of Henley Beach Road and South Roads. This would take in a large portion of the Urban Corridor Zone along Henley Beach Road, which as you are aware allows for high density, multi storey living, this area also extends to the Southwest of the airport including areas within Glenelg North.

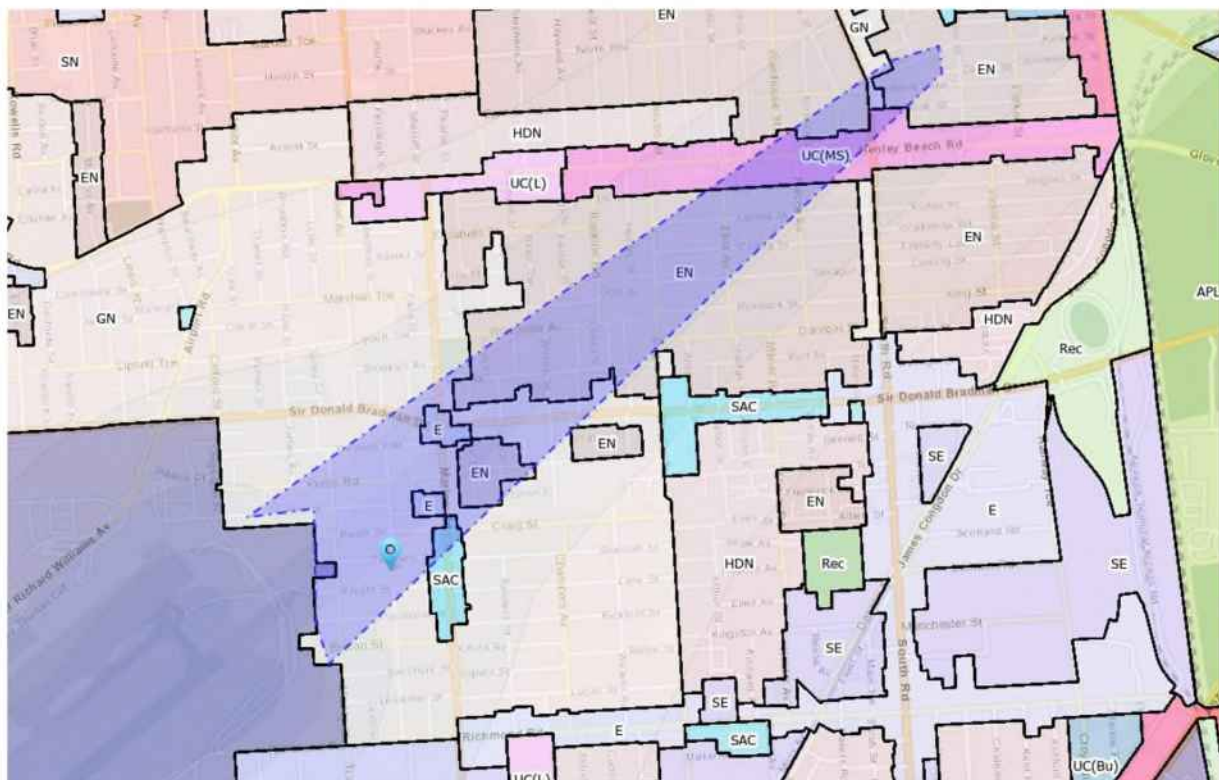


Figure 1 – Aircraft Noise Exposure Overlay (ANEF30+ Contours)

The requirements of the Aircraft Noise Exposure Overlay Policy which would affect this vast area including development of existing properties as well as land division in this case PO3.1, which would sterilise the entire area for any potential future residential developments if weighted 100% and note assessed against other key merits of future developments. Other policies include PO1.1 which states, "Buildings accommodating sensitive receivers (residential dwellings) are not located within an area having an ANEF value of 30 or more". Also, PO 2.1 which states that "Dwelling additions involving the addition or extension of habitable rooms (b) do not occur in areas having an ANEF value of 30 or more.". although these policies may be relevant in particular scenarios, however we believe the intent of the clause is within the overarching Desired Outcome as previously discussed. If assessing these without a weighting and consideration of the development holistically, this may result in hundreds of residential home-owners unable to build a home on a vacant block of land, or add a single bedroom extension to an existing property even in the case of all other requirements have been achieved, in the general neighbourhood zone. This would have significant implications on existing properties including values and would likely undermine the intended development and land use within the zone.

Official response from the Attorney-General's Department regarding the creation and intent of the policy within the Code and the approach towards assessment of policies within the Code

We have approached Planning & Land Use Services within the Attorney-General's Department requesting the intent of the Aircraft Noise Exposure Overlay and what the Department had in mind when this overlay was brought in to the Code and if they had envisaged such a strong reading of the policy so as to prevent the creation of any new residential allotments. Jason Bailey, Team Leader – Metro and Regional Development Assessment has provided a response and approval to include his response within this document (see attachment No.4). The department's response is as follows:

"...Coming back to you with a view on this matter.

DTS/DPF 1.1 of the Aircraft Noise Exposure Overlay performs the following two roles:

- it acts as the DTS requirement for certain sensitive receiver development types outside the ANEF30 contour (a detached dwelling for instance in the General Neighbourhood Zone)
- it provides very clear guidance (as a DPF) for performance assessed sensitive receiver development outside the ANEF30+ contours

Our view is that DTS/DPF 1.1 of the Overlay is not signalling that there is no scope for development of sensitive receivers within the ANEF30+ contours. This is in accordance with Part 1 of the Code – Rules of Interpretation which provides that DPFs "will generally meet the corresponding performance outcome" and they do "...not need to necessarily be satisfied to meet the performance outcome".

The above being said, we see there to be a logic in built-form (that satisfies MBS010) preceding land division in ANEF30+ areas. In our view this is the pathway to demonstrate how a proposal to establish an additional dwelling will satisfy PO 1.1 of the Overlay."

The Attorney- General's Department with their representatives of the Code team have also advised that they are happy to discuss this further with the team at the City of West Torrens if any clarification is required.

We believe the above response aligns with our request to have an acoustic assessment and report undertaken (including the requirements of MBS010) as per the approved development at 75 Craig Street, Richmond, in order to satisfy the Desired Outcomes of the Aircraft Noise Exposure Overlay and to be taken into consideration when assessing the application in its entirety.

Final Comments

Having considered all the relevant provisions of the Planning and Design Code, we believe the proposal is considered to be not seriously at variance with the Planning and Design Code 2021, in particular the Aircraft Noise Exposure Overlay Policy, which can be effectively demonstrated through a qualified acoustic engineer's assessment and report.

As per our discussions with Council, As discussed we are confident that we can satisfy all other remaining matters relating to the proposed division including details of the carport, drainage, paving and turn around, with details to be provided.

Based on the above explanation, including the following key points:

- Multiple land division applications approvals within the last year within the same zone and equal or greater ANEF rating;
- Approval of 75 Craig Street, Richmond application under the Planning and Design Code 2021 through an acoustic assessment and report;
- Demonstrated ability to achieve the Desired Outcome of the policy through an acoustic report and MBS010 requirements;
- National Airports Safeguarding Framework (NASF) guidelines which note the acceptability and benefits of increased density and new developments in areas exposed to aircraft noise as well as the adoption of appropriate construction techniques and adherence to Australian Standards (MBS010) in such scenarios.
- The Attorney General Department's assessment that DTS/DPF 1.1 of the Overlay is not signalling that there is no scope for development of sensitive receivers within the ANEF30+ contours in accordance with Part 1 of the Code, and that built-form (that satisfies MBS010) preceding land division in ANEF30+ areas In their view this is the pathway to demonstrate how a proposal to establish an additional dwelling will satisfy PO 1.1 of the Overlay.

We request that Council agree for us to provide an acoustic report for the property and that the outcome of which can demonstrate that the provisions of the Planning and Design Code 2021 Aircraft Noise Exposure Overlay Policy are reasonably satisfied and therefore the application warrants granting of planning consent, following the submission of all other requested additional information.

Kind Regards,

Joel Davidde
18 Trennery Street,
West Richmond SA 5033

Planner (Contact)
Damian Dawson
Planning Chambers Pty Ltd
219 Sturt Street, Adelaide SA 5000

**Email chain between Council and planning consultant
re: interpretation of policy and refusal
(8 February 2022 - 16 March 2022)**

Archived: Wednesday, 16 March 2022 8:56:04 AM
Sent: Wednesday, 16 March 2022 8:56:03 AM
To: [Damian Dawson](#)
Cc: [Rachel Knuckey](#); [Joel Davidde](#)
Subject: RE: 18 Trennery Street, West Richmond - Application refused
Sensitivity: Normal

Hi Damian

I mentioned in my previous email that our current position would likely not be changed should a combined application be lodged. Our position is based on legal advice the Council has obtained and I confirm that our position would not be changed should a combined application be lodged.

To vary an application also requires the permission of the relevant authority. In this instance, adding a dwelling and building consent to the application is changing the essential nature and so a new application would need to be lodged.

With this in mind I do not believe there is a purpose in meeting. The current application has gone as far as it can and as of today has been refused. If you are aggrieved by this determination then I encourage you to appeal the decision through the appropriate legal channels.

Although this outcome is not what you are after I do thank you for your patience in working through this application.

Kind Regards

Steven Burke
Development Officer - Planning
City of West Torrens
165 Sir Donald Bradman Drive
Hilton SA 5033

From: Damian Dawson [mailto:damian@planningchambers.com.au]
Sent: Thursday, 10 March 2022 4:02 PM
To: Steven Burke
Cc: Rachel Knuckey; Joel Davidde <jdavidde@gmail.com>
Subject: RE: 18 Trennery Street, West Richmond - Response to further information

Hello Steven, thank you for your thoughts and comments on this matter and taking the time to review it further.

Joel and I have discussed this at length. I have also sought further clarification from the Policy Team at AGD on their initial comments with Joel braving the hold music on the Plan SA Helpdesk line to work through the process of bringing in a BRC assessment to this live DA.

For my part the planners at AGD have clarified that they are of the view that should a dwelling be included along with the land division that this would allow Council to consider the broader development of the land and bring in an assessment against the Ministers Code as part of the BRC assessment. For me the wording of Aircraft Noise Exposure Overlay DO 1 is key. It seeks that *'development sensitive to aircraft noise is designed and located to manage noise intrusion to reduce land use conflict and protect human health'*. The policy speaks of designing and locating development so as to manage noise intrusion. The important aspects being that noise intrusion only need be managed, not entirely prevented and that this can be done through both design (i.e. building construction) and location (i.e. moving further away from the airport). Whilst we can never

achieve a spatial or locational solution we can achieve a design or construction solution to manage the noise and reduce the potential land use conflict, and in doing so satisfy the Desired Outcome for the Overlay.

As with all policies within the Code, as was the case with the previous Development Plans, they are to be applied on balance across the development as a whole. I appreciate the hierarchy of policies within the Code and the place of Overlays within the assessment. There is however a considerable degree of discretion and planning judgement that can be applying when considering the weighting and application of policy within an assessment. You note that it is your view that the policy in this instance appears to have been '*hastily written*' and '*ill considered*'. I would ask then why be beholden to a strict and absolute reading of a policy that you clearly consider to be deficient? Why would Council not chose to exercise some discretion and apply a broader planning judgement to such applications? We are not asking Council to completely ignore this policy, rather look to the Desired Outcome that seeks only to 'manage' noise intrusion and not absolutely prevent it. The noise can be managed through the dwelling design and construction achieving the relevant requirements of MBS010 which we can demonstrate through the BRC assessment.

Joel has managed to work with the helpdesk to find a way to add in a Building Consent to a live DA. As such we would like to discuss what your position is likely to be should we seek to include the built form/dwelling component into the DA to allow an assessment against MBS010. Joel is happy to talk you through the process to do this within the portal.

As such we ask for 30 minutes of your, and Rachel's, time to meet with Joel and myself to discuss this matter at Council and determine if there is any support for a combined land division and built form DA.

Joel and I can make ourselves available Tuesday morning or Thursday or Friday either first or last thing next week if that suits you and Rachel?

Regards,

Damian

Damian Dawson | Director



Planning Chambers Pty Ltd

A: 219 Sturt Street, Adelaide SA 5000

P: (08) 8211 9776 | **M:** 0408 227 493

E: damian@planningchambers.com.au



Please consider the environment before printing this email

From: Steven Burke

Sent: Tuesday, 8 February 2022 10:06 AM

To: Damian Dawson <damian@planningchambers.com.au>

Cc: Rachel Knuckey; Joel Davidde <jdavidde@gmail.com>

Subject: RE: 18 Trennery Street, West Richmond - Response to further information

Good Morning Damian (and Joel)

Thank you for allowing us some time to fully consider your response. I certainly would have liked to respond sooner but unfortunately things have not gone according to plan these past couple of weeks... I now provide you with the Council's final position on the proposed land division.

Firstly, in regards to the other land division applications you have listed, all but one (75 Craig Street) was lodged and

therefore assessed under the now repealed Development Plan. As I discussed in my email to Damian dated 21 October 2020, the policies in the Planning and Design Code which deal with aircraft noise (Aircraft Noise Exposure Overlay) are vastly different to those policies which related to the same matter within the Development Plan (Building near Airfields module in the General Section). In my mind this is enough to consider the previous applications you have listed as irrelevant. As also previously discussed, the policies of an Overlay take precedence over the policies of a Zone, which puts the policies of the Aircraft Noise Exposure Overlay above the policies of the General Neighbourhood Zone, a shift from the previous Development Plan in which the policies of the Residential Zone were above all policies of the General Section. The previous applications were subject to a completely different set of policies with a completely different objective, you only have to compare Objective 1 of the Building near Airfields module with DO 1 of the Aircraft Noise Exposure Overlay to get a sense of the focus of the policy sets. You have acknowledged this too on page 6 of your letter where you observe the 'policy has only been introduced for a very short time and has never been previously implemented'. One set of policies is focussed on protecting the operations of airfields and the other is focussed on protecting human health:

Building near Airfields, General Section, Objective 1: Development that ensures the long-term operational, safety, commercial and military aviation requirements of airfields (airports, airstrips and helicopter landing sites) continue to be met.

Aircraft Noise Exposure Overlay, DO 1: Development sensitive to aircraft noise is designed and located to manage noise intrusion to reduce land use conflict and protect human health.

As for 75 Craig Street, I assessed that land division application also and so am best placed to clarify the circumstances around its approval. At the time of its lodgement, AGD had mistakenly not linked the Aircraft Noise Exposure Overlay with developments involving land divisions. Essentially what this meant was that land division got a 'free pass' as technically I was not able to consider any aircraft noise policies. This did not sit well with me as I was aware this oversight was more than likely unintended by AGD. The applicant agreed to provide an acoustic report to address aircraft noise concerns but I stress the applicant did not need to do this. Upon making AGD aware of this issue, a Code amendment was very quickly gazetted which is why your land division application is now subject to the Aircraft Noise Exposure Overlay whereas 75 Craig Street was not. I agree there could be wide-ranging impacts to many properties given the extent of ANEF30+ but that is not for me to ponder and the Council has no appetite at this stage to propose any Code amendments. If you or AGD are that concerned with the implications of the policy then you may propose a Code amendment to AGD or bring the matter to the attention of your local Councillor for further discussion amongst the Elected Members of West Torrens.

I am still of the opinion that MBS010 is still not relevant to consider in this case as the application is for a land division only, there is no building to assess. Your contact at AGD also seems to think it may be possible to consider MBS010 if there was actually a dwelling proposed. It is entirely up to you if you wish to propose the a combined application for land division and the construction of a dwelling. I will bring it to your attention now that I think you will have difficulty doing this on the portal and will need to lodge a new application. The advice we have received from PlanSA in the past is that a consent cannot be added once an application is verified. We would have to assess the application once lodged and make a determination at that stage as to whether our position is changed if there is a dwelling proposed. Based on our current legal advice our position would not be changed for this particular site given it is already used for residential purposes.

I now leave it to you to make a decision to either progress the application to refusal or to withdraw the application. A reminder you may have appeal rights should the application be refused.

I acknowledge the above does not put you in a desirable position and this is partially, in my opinion, due to policy which has been hastily written, ill-considered and thrown into a Code which has had issues from the beginning. The outcome being a lack of clarity and therefore confusion on both sides.

Please feel free to contact me should you require clarification.

Kind Regards

Steven Burke
Development Officer - Planning

City of West Torrens
165 Sir Donald Bradman Drive
Hilton SA 5033

From: Damian Dawson <damian@planningchambers.com.au>
Sent: Monday, 17 January 2022 10:47 PM
To: Steven Burke
Cc: Joel Davidde <jdavidde@gmail.com>
Subject: 18 Trennery Street, West Richmond - further information

Hello Steven, hope you are well.

Thank you for providing some additional time to respond to the matters raised by Council in relation to the creation of an additional residential allotment within the Airport Noise Overlay.

Please find attached a letter from the applicant, Joel Davidde, outlining a number of matters that we wish for Council to consider. Included is an email from senior staff within the Attorney General's Department on their interpretation and application of the policy within the overlay as well as some commentary from Resonate Acoustic Engineers as to the ability for future residential development on the land to satisfy the relevant noise criteria within the Building Rules Assessment.

We ask that you consider the attached and if current Covid protocols allow, meet with myself and Joel, along with Rachel Knuckey if possible, to discuss this matter next week. I think that Council's current stance on the policy will significantly impact on development within a large portion of the Council area in a way not envisaged by the drafter's of the Code.

I look forward to your response.

Regards,

Damian

Damian Dawson | Director



Planning Chambers Pty Ltd

A: 219 Sturt Street, Adelaide SA 5000

P: (08) 8211 9776 | **M:** 0408 227 493

E: damian@planningchambers.com.au

 Please consider the environment before printing this email



**Applicant's email response to refusal with additional
information attached
(25 March 2022)**

Archived: Tuesday, 29 March 2022 10:46:00 AM

From: [Joel Davidde](#)

Sent: Friday, 25 March 2022 10:21:31 PM

To: [Steven Burke](#)

Cc: [Damian Dawson](#); [Rachel Knuckey](#)

Subject: Re: 18 Trennery Street, West Richmond - Application refused

Sensitivity: Normal

Attachments:

[Attachment No.1 - DecisionNotificationForm-Application21005203-612683.pdf](#); Attachment No.4 - AGD Assessment.pdf; Attachment No.3 - 2020_Revised_Planning_and_Design_Code_-_General_Neighbourhood_Zone.pdf; Attachment No 2 - Resonate Email.pdf; Email - RE_ 18 Trennery Street, West Richmond - Response to further information.pdf; Email - 18 Trennery Street, West Richmond - further information.pdf; Email - RE_ 18 Trennery Street, West Richmond - Application refused.pdf; 18 Trennery Street, West Richmond Application Response - 14.01.2022 (2).pdf;

Good afternoon Steven,

As discussed over the phone, the below email comes as a complete shock to us, as we had not been made aware that there was a decision to be made without prior warning or any indication that the application was to be taken off "hold" as it had been on the portal and as we had not submitted our final responses, nor were our previous correspondences and information provided uploaded to the portal.

The last correspondence sent through to Council was from Planning Chambers, dated 10 March 22, which addressed the points raised and included a request to organise a "time to meet with Joel and myself to discuss this matter at Council and determine if there is any support for a combined land division and built form DA."

The correspondence returned from yourself on 10 March 22, comprised of the following:

"Hi Damian

Rachel is on personal leave currently. We will be in touch next week.

Kind Regards"

At this point, Damian and I had discussed the issue in question further at length and were forming points and further information to discuss in person as requested.

We then received the below email on 16 March 22, noting that adding a dwelling to the DA would not be supported, even though this was found to be possible through Plan SA and indicated to Council with a Plan SA representative providing a reference number and contact details to complete by Council. Which is why we were baffled when you then indicated that you had decided not to include the dwelling within the application. Including a building assessment within the DA was first raised by Council as per the correspondence below dated 8 February 22, see underlined wording specifically:

"I am still of the opinion that MBS010 is still not relevant to consider in this case as the application is for a land division only, there is no building to assess. Your contact at AGD also seems to think it may be possible to consider MBS010 if there was actually a dwelling proposed. It is entirely up to you if you wish to propose the a combined application for land division and the construction of a dwelling. I will bring it to your attention now that I think you will have difficulty doing this on the portal and will need to lodge a new application. The advice we have received from PlanSA in the past is that a consent cannot be added once an application is verified. We would have to assess the application once lodged and make a determination at that stage as to whether our position is changed if there is a dwelling proposed. Based on our current legal advice our position would not be changed for this particular site given it is already used for residential purposes."

It was clear that a reason for Council to not consider MBS010 in addressing the concern regarding the acoustic implications of the Aircraft Noise Overlay (which directly addresses this concern through the regulations pertaining to building methods as outlined within the email from our Acoustic Consultant within the letter sent on 17 January 2022 attached) was the lack of a dwelling within the application, and it seemed clear that the difficulty in adding the dwelling to a DA lied with the Portal itself, and previous advice from PlanSA. This is why we had pursued this further with PlanSA and found a solution to do this on the portal as Planning Chambers noted within their email to Council. This is why it came to a surprise to us when the idea of adding the BRC to the application, now known to be possible, was rejected without any further discussion with us on this matter.

However above all this, there had been no further correspondence from council following the email request for a meeting and your response to get back to us once Rachel was back from leave. There was no opportunity given to us to respond with our final statements, additional information and evidence gathered.

As far as we were made aware, the application was formerly placed on hold, we had been mid-way organising a face-to-face meeting to present our information and had also not completed issuing a response on the other minor queries requested by Council, which was raised with Council as being gathered in the background (see letter submitted by Planning Chambers on 17 January 2022, specifically "As discussed we are confident that we can satisfy all other remaining matters relating to the proposed division... with details to be provided."

Honestly, we have been blindsided by this unexpected decision and believe the due and fair process has not been followed. I have personally spent a lot of money and a considerable amount of time on this application and addressing concerns raised by Council and have not had the opportunity to present them all. This is extremely disappointing and unexpected to treat a long time local resident and ratepayer in this manner. Within previous discussions, we had noted dates to respond by and "cut-off" times before a decision was to be made, which were extended in writing as further information was being exchanged. This fair process was not followed and a decision was made with no indication or prior warning given, which I cannot understand and do not believe is fair to the applicant nor an acceptable way to handle applications.

Within your last correspondence dated 8 February you noted the following:

"I now leave it to you to make a decision to either progress the application to refusal or to withdraw the application. A reminder you may have appeal rights should the application be refused."

It is clearly noted that you have left the decision with us to decide to progress with the application or withdraw. A decision had not been made and a meeting was requested to discuss this, and yet it was refused without warning which contradicts earlier information provided.

We also note that you had stated within the same email:

"I acknowledge the above does not put you in a desirable position and this is partially, in my opinion, due to policy which has been hastily written, ill-considered and thrown into a Code which has had issues from the beginning. The outcome being a lack of clarity and therefore confusion on both sides."

This clearly indicates that Council holds the opinion that the policy in question was "hastily written", "ill-considered" and had "issues from the beginning" causing a "lack of clarity and therefore confusion on both sides" yet Council was adamant that the Clause in question being the aircraft overlay policy should overrule all other complying factors of the development and not be considered as a whole and weighted appropriately as other policies would be, such as allotment widths, vegetation requirements, measurements to boundaries etc. We are not sure why this is, and do not believe it is the correct or reasonable method of assessing the policy as noted by the Attorney General's Department within our letter dated 17 January 2022, who disagree and believe a performance assessment is to be followed as requested, and offered by our acoustic consultant.

Also the above statement makes notes that there is a lack of clarity with the policy which results in confusion. We agree with this as believe it is why this application and the correspondence has been ongoing for the past few months, we have been trying to work through it and come to a solution through the confusion and lack of clarity, so to be told it has been rejected without prior indication of a decision being made and without submitting our final responses etc. this is extremely disappointing and unexpected.

With all the above taken into consideration, we request that Council review and reverse this decision and allow us to provide the information and responses we were planning to, including the ability to add the dwelling to the application, which was found to be possible and would be very relevant to this application. Also, we still hope to organise the meeting we had requested to work through the solutions in a collaborative manner with Council.

Please note that for me to submit another application would cost me a further considerable amount of money and time for the same review process, which is possible to be undertaken through this current application and would be the reasonable and efficient way of dealing with the issue.

In the meantime, as agreed with you over the phone, please find attached the correspondence and information which was provided within the assessment period including the relevant attachments, and were not uploaded at the time into the planning portal, to be uploaded. This also includes this email within the correspondence to be uploaded into the portal as it forms part of our response.

I sincerely hope you see how this unexpected decision has affected and placed real stress on my wife and I, as well as causing an unfortunate loss of confidence in our local government and the fair processes which should be followed. If you would like to discuss this further, please feel free to respond to this email or call me at any time.

Kind regards,

Joel Davidde.
0431 321 720

On Wed, Mar 16, 2022 at 8:57 AM Steven Burke wrote:

Hi Damian

I mentioned in my previous email that our current position would likely not be changed should a combined application be lodged. Our position is based on legal advice the Council has obtained and I confirm that our position would not be changed should a combined application be lodged.

To vary an application also requires the permission of the relevant authority. In this instance, adding a dwelling and building consent to the application is changing the essential nature and so a new application would need to be lodged.

With this in mind I do not believe there is a purpose in meeting. The current application has gone as far as it can and as of today has been refused. If you are aggrieved by this determination then I encourage you to appeal the decision through the appropriate legal channels.

Although this outcome is not what you are after I do thank you for your patience in working through this application.

Kind Regards

Steven Burke

Development Officer - Planning

City of West Torrens

165 Sir Donald Bradman Drive

Hilton SA 5033

From: Damian Dawson [mailto:damian@planningchambers.com.au]
Sent: Thursday, 10 March 2022 4:02 PM
To: Steven Burke
Cc: Rachel Knuckey ; Joel Davidde <jdavidde@gmail.com>
Subject: RE: 18 Trennery Street, West Richmond - Response to further information

Hello Steven, thank you for your thoughts and comments on this matter and taking the time to review it further.

Joel and I have discussed this at length. I have also sought further clarification from the Policy Team at AGD on their initial comments with Joel braving the hold music on the Plan SA Helpdesk line to work through the process of bringing in a BRC assessment to this live DA.

For my part the planners at AGD have clarified that they are of the view that should a dwelling be included along with the land division that this would allow Council to consider the broader development of the land and bring in an assessment against the Ministers Code as part of the BRC assessment. For me the wording of Aircraft Noise Exposure Overlay DO 1 is key. It seeks that *development sensitive to aircraft noise is designed and located to manage noise intrusion to reduce land use conflict and protect human health*. The policy speaks of designing and locating development so as to manage noise intrusion. The important aspects being that noise intrusion only need be managed, not entirely prevented and that this can be done through both design (i.e. building construction) and location (i.e. moving further away from the airport). Whilst we can never achieve a spatial or locational solution we can achieve a design or construction solution to manage the noise and reduce the potential land use conflict, and in doing so satisfy the Desired Outcome for the Overlay.

As with all policies within the Code, as was the case with the previous Development Plans, they are to be applied on balance across the development as a whole. I appreciate the hierarchy of policies within the Code and the place of Overlays within the assessment. There is however a considerable degree of discretion and planning judgement that can be applying when considering the weighting and application of policy within an assessment. You note that it is your view that the policy in this instance appears to have been *hastily written* and *ill considered*. I would ask then why be beholden to a strict and absolute reading of a policy that you clearly consider to be deficient? Why would Council not chose to exercise some discretion and apply a broader planning judgement to such applications? We are not asking Council to completely ignore this policy, rather look to the Desired Outcome that seeks only to *manage* noise intrusion and not absolutely prevent it. The noise can be managed through the dwelling design and construction achieving the relevant requirements of MBS010 which we can demonstrate through the BRC assessment.

Joel has managed to work with the helpdesk to find a way to add in a Building Consent to a live DA. As such we would like to discuss what your position is likely to be should we seek to include the built form/dwelling component into the DA to allow an assessment against MBS010. Joel is happy to talk you through the process to do this within the portal.

As such we ask for 30 minutes of your, and Rachel's, time to meet with Joel and myself to discuss this matter at Council and determine if there is any support for a combined land division and built form DA.

Joel and I can make ourselves available Tuesday morning or Thursday or Friday either first or last thing next week if that suits you and Rachel?

Regards,

Damian

Damian Dawson | Director



Planning Chambers Pty Ltd

A: 219 Sturt Street, Adelaide SA 5000
P: (08) 8211 9776 | **M:** 0408 227 493

E: damian@planningchambers.com.au



Please consider the environment before printing this email

From: Steven Burke
Sent: Tuesday, 8 February 2022 10:06 AM
To: Damian Dawson <damian@planningchambers.com.au>
Cc: Rachel Knuckey; Joel Davidde <jdavidde@gmail.com>
Subject: RE: 18 Trennery Street, West Richmond - Response to further information

Good Morning Damian (and Joel)

Thank you for allowing us some time to fully consider your response. I certainly would have liked to respond sooner but unfortunately things have not gone according to plan these past couple of weeks. I now provide you with the Council's final position on the proposed land division.

Firstly, in regards to the other land division applications you have listed, all but one (75 Craig Street) was lodged and therefore assessed under the now repealed Development Plan. As I discussed in my email to Damian dated 21 October 2020, the policies in the Planning and Design Code which deal with aircraft noise (Aircraft Noise Exposure Overlay) are vastly different to

those policies which related to the same matter within the Development Plan (Building near Airfields module in the General Section). In my mind this is enough to consider the previous applications you have listed as irrelevant. As also previously discussed, the policies of an Overlay take precedence over the policies of a Zone, which puts the policies of the Aircraft Noise Exposure Overlay above the policies of the General Neighbourhood Zone, a shift from the previous Development Plan in which the policies of the Residential Zone were above all policies of the General Section. The previous applications were subject to a completely different set of policies with a completely different objective, you only have to compare Objective 1 of the Building near Airfields module with DO 1 of the Aircraft Noise Exposure Overlay to get a sense of the focus of the policy sets. You have acknowledged this too on page 6 of your letter where you observe the 'policy has only been introduced for a very short time and has never been previously implemented'. One set of policies is focussed on protecting the operations of airfields and the other is focussed on protecting human health:

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I am still of the opinion that MBS010 is still not relevant to consider in this case as the application is for a land division only, there is no building to assess. Your contact at AGD also seems to think it may be possible to consider MBS010 if there was actually a dwelling proposed. It is entirely up to you if you wish to propose the a combined application for land division and the construction of a dwelling. I will bring it to your attention now that I think you will have difficulty doing this on the portal and will need to lodge a new application. The advice we have received from PlanSA in the past is that a consent cannot be added once an application is verified. We would have to assess the application once lodged and make a determination at that stage as to whether our position is changed if there is a dwelling proposed. Based on our current legal advice our position would not be changed for this particular site given it is already used for residential purposes.

I now leave it to you to make a decision to either progress the application to refusal or to withdraw the application. A reminder

you may have appeal rights should the application be refused.

I acknowledge the above does not put you in a desirable position and this is partially, in my opinion, due to policy which has been hastily written, ill-considered and thrown into a Code which has had issues from the beginning. The outcome being a lack of clarity and therefore confusion on both sides.

Please feel free to contact me should you require clarification.

Kind Regards

Steven Burke

Development Officer - Planning

City of West Torrens

165 Sir Donald Bradman Drive

Hilton SA 5033

From: Damian Dawson <damian@planningchambers.com.au>
Sent: Monday, 17 January 2022 10:47 PM
To: Steven Burke
Cc: Joel Davidde <jdavidde@gmail.com>
Subject: 18 Trennery Street, West Richmond - further information

Hello Steven, hope you are well.

Thank you for providing some additional time to respond to the matters raised by Council in relation to the creation of an additional residential allotment within the Airport Noise Overlay.

Please find attached a letter from the applicant, Joel Davidde, outlining a number of matters that we wish for Council to consider. Included is an email from senior staff within the Attorney General's Department on their interpretation and application of the policy within the overlay as well as some commentary from Resonate Acoustic Engineers as to the ability for future residential development on the land to satisfy the relevant noise criteria within the Building Rules Assessment.

We ask that you consider the attached and if current Covid protocols allow, meet with myself and Joel, along with Rachel Knuckey if possible, to discuss this matter next week. I think that Council's current stance on the policy will significantly impact on development within a large portion of the Council area in a way not envisaged by the drafters of the Code.

I look forward to your response.

Regards,

Damian

Damian Dawson | Director



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A: 219 Sturt Street, Adelaide SA 5000

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E: damian@planningchambers.com.au

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COVID-19
digital certificate

Visitors to staffed Council buildings must be fully vaccinated.

As from 4 March 2022, visitors to staffed Council buildings must be fully vaccinated against COVID-19 or have an approved SA Health exemption.
westtorrens.sa.gov.au/vaxproof



DECISION NOTIFICATION FORM

Section 126(1) of the Planning, Development and Infrastructure Act 2016

TO THE APPLICANT(S):

Name: Brett Potter
Email: info@plsurvey.com.au

IN REGARD TO:

Development application no.: 21005203	Lodged on: 18 May 2021
Nature of proposed development: Land division - create one (1) additional allotment	

LOCATION OF PROPOSED DEVELOPMENT:

Location reference: 75 CRAIG ST RICHMOND SA 5033		
Title ref.: CT 5707/439	Plan Parcel: D2633 AL65	Council: CITY OF WEST TORRENS

DECISION:

Decision type	Decision (granted/refused)	Decision date	No. of conditions	No. of reserved matters	Entity responsible for decision (relevant authority)
Planning Consent	Granted	21 Jun 2021	1	0	Assessment Manager at City of West Torrens
Land Division Consent	Granted	21 Jun 2021	3	0	Assessment Manager at City of West Torrens
Development Approval - Planning Consent; Land Division Consent	Granted	21 Jun 2021	4	0	City of West Torrens

FROM THE RELEVANT AUTHORITY: City of West Torrens
Date: 21 Jun 2021

CONDITIONS

Planning Consent

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

Land Division Consent

Conditions imposed by South Australian Water Corporation under Section 122 of the Act

Condition 1

SA Water's water and sewer network is available for connection in this area. An investigation will need to be undertaken to determine infrastructure needs, appropriate fees and charges.

Conditions imposed by SPC Planning Services under Section 122 of the Act

Condition 2

Payment of \$7761.00 into the Planning and Development Fund (1 allotment/s @ \$7761.00 /allotment). Payment may be made via credit card (Visa or MasterCard) online at plan.sa.gov.au, over the phone on 7109 7018, or cheques may be made payable to the State Planning Commission, marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001.

Condition 3

A final plan complying with the requirements for plans set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the State Planning Commission for Land Division Certificate purposes.

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).

Planning Consent

None

Land Division Consent

None

CONTACT DETAILS OF CONSENT AUTHORITIES

Name: City of West Torrens	Type of consent: Planning and Land Division
Telephone: 08 8416 6333	Email: development@wtcc.sa.gov.au
Postal address: 165 Sir Donald Bradman Drive, Hilton SA 5033	

From: Bailey, Jason (AGD) <Jason.Bailey@sa.gov.au>
Sent: Wednesday, 3 November 2021 10:28 AM
To: Damian Dawson <damian@planningchambers.com.au>
Subject: RE: 21025705 - 18 Trennery Street, West Richmond - Land division not supported

OFFICIAL

Morning Damian

Coming back to you with a view on this matter.

DTS/DPF 1.1 of the Aircraft Noise Exposure Overlay performs the following two roles:

- it acts as the DTS requirement for certain sensitive receiver development types *outside* the ANEF30 contour (a detached dwelling for instance in the General Neighbourhood Zone)
- it provides very clear guidance (as a DPF) for performance assessed sensitive receiver development *outside* the ANEF30+ contours

Our view is that DTS/DPF 1.1 of the Overlay is not signalling that there is no scope for development of sensitive receivers within the ANEF30+ contours. This is in accordance with Part 1 of the Code – Rules of Interpretation which provides that DPFs “will generally meet the corresponding performance outcome” and they do “...not need to necessarily be satisfied to meet the performance outcome”.

The above being said, we see there to be a logic in built-form (that satisfies MBS010) preceding land division in ANEF30+ areas. In our view this is the pathway to demonstrate how a proposal to establish an additional dwelling will satisfy PO 1.1 of the Overlay.

I hope this assists.

Thanks, Jason

Jason Bailey | Team Leader – Metro and Regional Development Assessment
Reporting to Jason Cattonar, Manager Development Assessment
Planning & Land Use Services | Attorney-General's Department
E Jason.Bailey@sa.gov.au | www.agd.sa.gov.au

P 08 7109 7161 | Level 5, 50 Flinders Street, Adelaide SA

From: Bailey, Jason (AGD)
Sent: Monday, 1 November 2021 2:38 PM
To: Damian Dawson <damian@planningchambers.com.au>
Subject: RE: 21025705 - 18 Trennery Street, West Richmond - Land division not supported

OFFICIAL

Acknowledged Damian.

I'll come back to you shortly noting the timeframes mentioned below... Expect a response from me by close of business tmrw.

From: Damian Dawson [<mailto:damian@planningchambers.com.au>]
Sent: Monday, 1 November 2021 10:47 AM
To: Bailey, Jason (AGD) <jason.bailey@sa.gov.au>
Subject: FW: 21025705 - 18 Trennery Street, West Richmond - Land division not supported

Hey Jason, thanks for the chat last week.

Below is the email from CWT re the noise overlay matter I was talking about. You can see in my email below the extent to which the Urban Corridor Zone on HB Road will be impacted.

Would be interested in what the Department had in mind when this overlay was brought in to the Code and if you had envisaged such a strong reading of the policy so as to prevent the creation of any new residential allotments?

Cheers, Damian

Damian Dawson | Director



Planning Chambers Pty Ltd

A: 219 Sturt Street, Adelaide SA 5000
P: (08) 8211 9776 | **M:** 0408 227 493
E: damian@planningchambers.com.au



Please consider the environment before printing this email

General Neighbourhood Zone

Draft Planning and Design Code

Suburbs to which the new General Neighbourhood Zone will apply:

- **Brooklyn Park** - part also being rezoned to Established Neighbourhood Zone
- **Camden Park** - part also being rezoned to Housing Diversity Neighbourhood Zone
- **Cowandilla** - part also being rezoned to Established Neighbourhood Zone
- **Fulham** - part also being rezoned to Suburban Neighbourhood Zone
- **Glenelg North** - part also being rezoned to Suburban Neighbourhood Zone
- **Hilton** - part also being rezoned to Established Neighbourhood Zone and Housing Diversity Neighbourhood Zone
- **Lockleys** - part also being rezoned to Suburban Neighbourhood Zone
- **Mile End** - part also being rezoned to Established Neighbourhood Zone and Housing Diversity Neighbourhood Zone
- **Netley**
- **Novar Gardens** - part also being rezoned to Suburban Neighbourhood Zone and Established Neighbourhood Zone
- **Plympton** - part also being rezoned to Housing Diversity Neighbourhood Zone
- **Richmond** - part also being rezoned to Housing Diversity Zone
- **Thebarton** - part also being rezoned to Established Neighbourhood Zone
- **Torrensville** - part also being rezoned to Suburban Neighbourhood Zone and Housing Diversity Neighbourhood Zone and Established Neighbourhood Zone
- **West Richmond** - part also being rezoned to Suburban Neighbourhood Zone
- **West Beach** - part also being rezoned to Established Neighbourhood Zone and General Neighbourhood Zone

The State Government is currently changing planning laws in South Australia. As a result, there will no longer be individual council Development Plans, but a state-wide Planning and Design Code. This will impact the way development occurs in your suburb.

Our Council has drafted fact sheets to help our community understand some of these changes, including zoning applicable to your property. The new zones proposed under the Planning and Design Code do not always include entire suburbs. If you are unsure about the current zoning of your property, you can search your property data at westtorrens.sa.gov.au/westmaps or <https://train.sappa.plan.sa.gov.au>

The General Neighbourhood Zone is a new zone replacing a portion of West Torrens' Residential Zone, specifically Low Density Policy Areas 20 and 21, when sited within 400m of a centre zone. A map can be found on the rear of this document.

The General Neighbourhood Zone encourages a range of housing types, with the intent of increasing housing diversity and supply, including the introduction of additional dwelling typologies including residential flat buildings and hammerhead type subdivisions. The zone also facilitates a wide range of compatible non-residential uses. The only discouraged type of development, referred to as 'Restricted Development', will be shops with a gross leasable area of 1000m² or more.

Public consultation of the Draft Planning and Design Code is underway. Formal submission closes on 18 December 2020 and can be submitted online. If you require assistance with your submission phone 1800 752 664 or email dit.planningreformsubmissions@sa.gov.au

A: 165 Sir Donald Bradman Drive, Hilton SA 5033
 P: 8416 6333 / E: csu@wtcc.sa.gov.au
 W: westtorrens.sa.gov.au



 Current Development Plan
  New Planning and Design Code

The following information is applicable to Residential Low Density Policy Area 20 and 21

>400m = More than 400m from a Centre Zone

<400m = Less than 400m from a Centre Zone

Land division comparison

	Residential Low Density Policy Area 20 (>400m)		General Neighbourhood	
	Site area (m ²)	Frontage (m)	Site area (m ²)	Frontage (m)
Detached	340	10	300 (exc of battle axe handle) 200 when built in terrace form	9 5 battle-axe 7 ave (terrace)
Semi-detached	340	10	300	9
Group dwelling	340	10	300 (average incl common areas)	15
Residential Flat Building	Not envisaged	Not envisaged	300 (average incl common areas)	15 whole building
Row dwelling	Not envisaged	Not envisaged	200	7 average

	Residential Low Density Policy Area 20 (<400m)		General Neighbourhood	
	Site area (m ²)	Frontage (m)	Site area (m ²)	Frontage (m)
Detached	300	9	300 (exc of battle axe handle) 200 when built in terrace form	9 5 battle-axe 7 ave (terrace)
Semi-detached	300	9	300	9
Group dwelling	300	9	300 (average incl common areas)	15
Residential Flat Building	Not envisaged	Not envisaged	300 (average incl common areas)	15 whole building
Row dwelling	Not envisaged	Not envisaged	200	7 average

	Residential Low Density Policy Area 21 (<400m)		General Neighbourhood	
	Site area (m ²)	Frontage (m)	Site area (m ²)	Frontage (m)
Detached	350	9	300 (exc of battle axe handle) 200 when built in terrace form	9 5 battle-axe 7 ave (terrace)
Semi-detached	350	9	300	9
Group dwelling	350	9	300 (average incl common areas)	15
Residential Flat Building	Not envisaged	Not envisaged	300 (average incl common areas)	15 whole building
Row dwelling	Not envisaged	Not envisaged	200	7 average

Information can also be found on our website - westtorrens.sa.gov.au/planningreform



Building height comparison

	Residential Low Density 20		General Neighbourhood	
	Storeys	Building height (m)	Storeys	Building height (m)
All allotments	2	8.5	2	9

Setback comparison

	Residential Low Density 20 and 21	General Neighbourhood
	Metres	Metres
Front setback	Average of adjoining dwellings	the lesser of 5 or the average of any existing buildings on adjoining allotments facing the primary same street
Secondary front setback	2 (walls less than 3m in height) 3 (walls greater than 3m in height)	lesser of 0.9 or neighbouring building setback
Ground floor side	0 (for 8m in length) or 1 (up to 3m in height)	0 (for 11.5m in length) or 0.9 (up to 3.2m in height)
Upper level side	2 (up to 6m in height then + height above 6m)	0.9 + third of wall above 3m other than S boundary 1900mm plus 1/3 of the wall height above 3m for walls facing a southern side boundary
Ground floor rear	3	3
Upper level rear	8	5

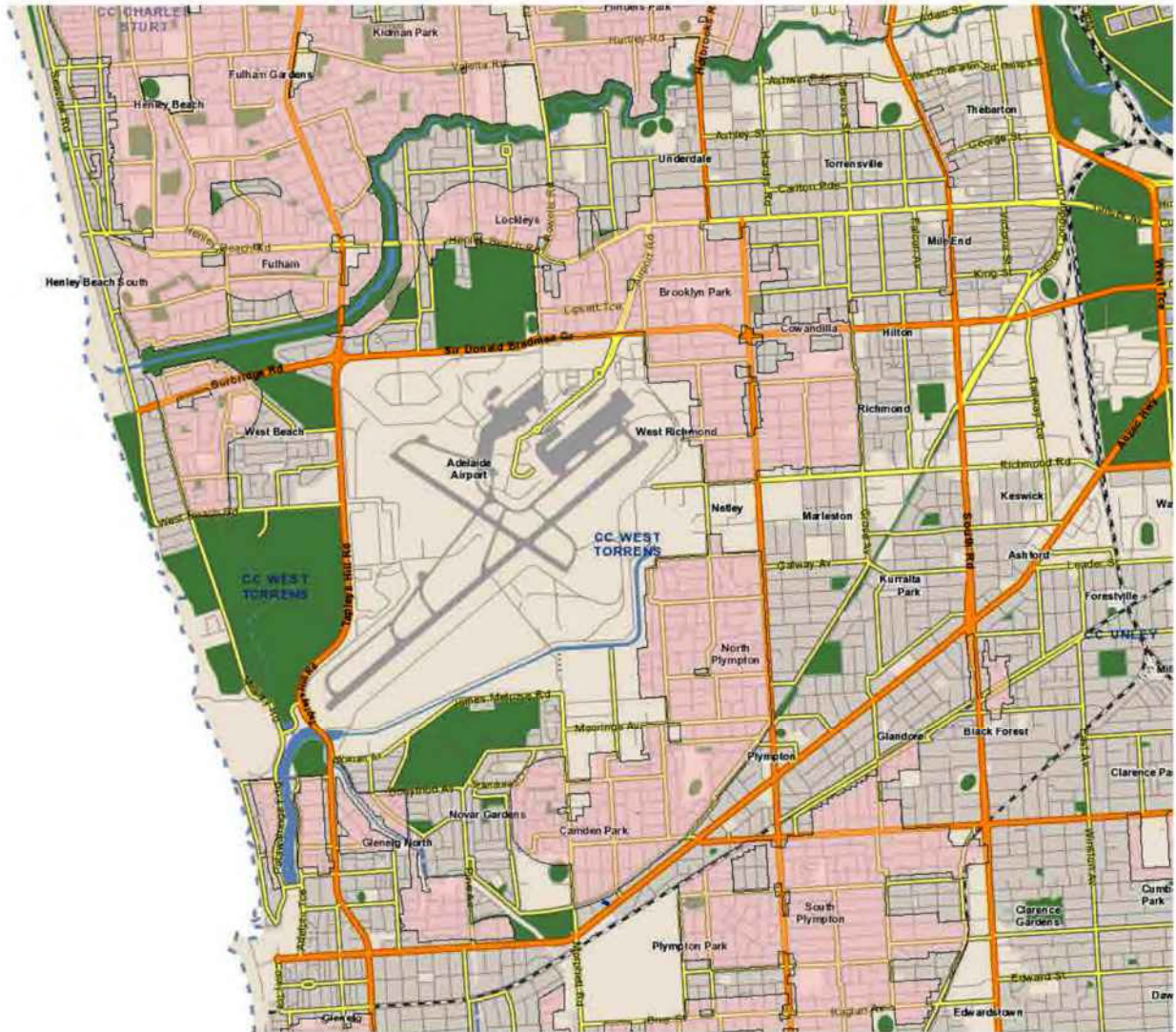
Private open space comparison

		Development Plan		Planning and Design Code	
		Min area (m ²)	Min dimension (m)	Min area (m ²)	Min dimension (m)
Allotment <300m ²		24	3	24*	2
Allotment 300-500m ²		60	4	24*	2
Allotment >500m ²		80	4	24*	2
Dwellings above ground level	no separate bedroom	no min		4	1.8
	1 bedroom	8	2	8	2.1
	2 bedrooms	11	2	11	2.4
	3 bedrooms	15	2	15	2.6

* denotes that there is an additional landscaped area that may be required in addition to the minimum private open space provision. The soft landscaping requirements is dependent on the allotment size.

Information can also be found on our website - westtorrens.sa.gov.au/planningreform

General Neighbourhood Zone




 General Neighbourhood Zone

Information can also be found on our website - westtorrens.sa.gov.au/planningreform

A: 165 Sir Donald Bradman Drive, Hilton SA 5033
P: 8416 6333 / E: csu@wtcc.sa.gov.au
W: westtorrens.sa.gov.au

City of West Torrens
Between the City and the Sea

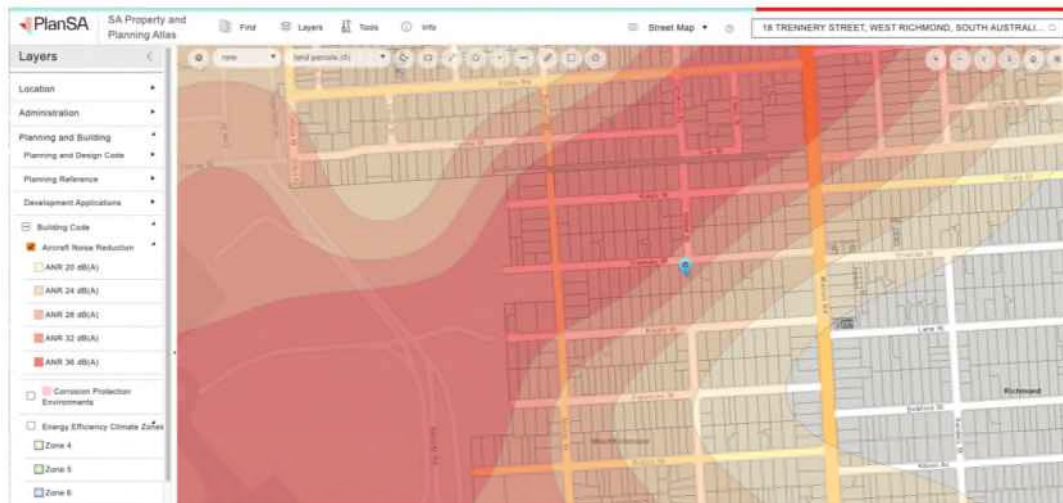


From: Jenna MacDonald <jenna.macdonald@resonate-consultants.com>
Sent: Friday, 14 January 2022 4:30 PM
To: Joel Davidde
Subject: Re: 18 Trennery Street West Richmond - Acoustic Report Opinion

Hi Joel,

I have had a look at your proposed property with reference to the Ministerial Building Standard MBS010.

As mentioned, the property is located within ANR contour 32 (with some of the rear of the property in ANR 28) as shown in this screen shot from the PlanSA website.



A proposed dwelling located within this property is still able to follow deemed to satisfy building guidelines specified in the MBS010. Even with assuming worst case, i.e. the entire of the property is located within ANR 32.

This essentially means that it will be possible to construct a dwelling which achieves compliance with internal noise level guidelines (i.e. internal noise levels of 50dB(A) and 55dB(A) in bedrooms and living areas) without implanting excessively onerous constructions.

We have completed a number of these assessments for dwellings within ANR 32, and have not found any issues. It is typical for dwellings in this location to be constructed with masonry walls (or an equivalently dense construction), and provided the window areas in each room is less than 60% of the rooms floor area, compliance can still be achieved with single glazing (12.5mm VLam Hush Glass). Where windows are proposed to be slightly larger than this (up to 80% of floor area) double glazing would be required in the order of 6.38mm / 100mm air gap / 10.38mm laminated glazing.

Ultimately this will all depend on the proposed dwelling design, and the dwelling will need to undergo an aircraft noise intrusion assessment against MBS010.

Kind Regards,

Jenna MacDonald
Senior Acoustic Engineer



Acoustics • EMF • Structural Dynamics • Vibration

p 08 8155 5888 m 0403 651 231 Level 1, 23 Peel Street Adelaide SA 5000 Australia

25/03/2022, 21:41

Gmail - RE: 18 Trennery Street, West Richmond - Response to further information



Joel Davidde <jdavidde@gmail.com>

RE: 18 Trennery Street, West Richmond - Response to further information

1 message

Damian Dawson <damian@planningchambers.com.au>

Thu, Mar 10, 2022 at 4:02 PM

To: Steven Burke <sburke@wtcc.sa.gov.au>

Cc: Rachel Knuckey <rknuckey@wtcc.sa.gov.au>, Joel Davidde <jdavidde@gmail.com>

Hello Steven, thank you for your thoughts and comments on this matter and taking the time to review it further.

Joel and I have discussed this at length. I have also sought further clarification from the Policy Team at AGD on their initial comments with Joel braving the hold music on the Plan SA Helpdesk line to work through the process of bringing in a BRC assessment to this live DA.

For my part the planners at AGD have clarified that they are of the view that should a dwelling be included along with the land division that this would allow Council to consider the broader development of the land and bring in an assessment against the Ministers Code as part of the BRC assessment. For me the wording of Aircraft Noise Exposure Overlay DO 1 is key. It seeks that *'development sensitive to aircraft noise is designed and located to manage noise intrusion to reduce land use conflict and protect human health'*. The policy speaks of designing and locating development so as to manage noise intrusion. The important aspects being that noise intrusion only need be managed, not entirely prevented and that this can be done through both design (i.e. building construction) and location (i.e. moving further away from the airport). Whilst we can never achieve a spatial or locational solution we can achieve a design or construction solution to manage the noise and reduce the potential land use conflict, and in doing so satisfy the Desired Outcome for the Overlay.

As with all policies within the Code, as was the case with the previous Development Plans, they are to be applied on balance across the development as a whole. I appreciate the hierarchy of policies within the Code and the place of Overlays within the assessment. There is however a considerable degree of discretion and planning judgement that can be applying when considering the weighting and application of policy within an assessment. You note that it is your view that the policy in this instance appears to have been *'hastily written'* and *'ill considered'*. I would ask then why be beholden to a strict and absolute reading of a policy that you clearly consider to be deficient? Why would Council not chose to exercise some discretion and apply a broader planning judgement to such applications? We are not asking Council to completely ignore this policy, rather look to the Desired Outcome that seeks only to 'manage' noise intrusion and not absolutely prevent it. The noise can be managed through the dwelling design and construction achieving the relevant requirements of MBS010 which we can demonstrate through the BRC assessment.

Joel has managed to work with the helpdesk to find a way to add in a Building Consent to a live DA. As such we would like to discuss what your position is likely to be should we seek to include the built form/dwelling component into the DA to allow an assessment against MBS010. Joel is happy to talk you through the process to do this within the portal.

As such we ask for 30 minutes of your, and Rachel's, time to meet with Joel and myself to discuss this matter at Council and determine if there is any support for a combined land division and built form DA.

Joel and I can make ourselves available Tuesday morning or Thursday or Friday either first or last thing next week if that suits you and Rachel?

Regards,

Damian

<https://mail.google.com/mail/u/0/?ik=f0475f7f1c&view=pt&search=all&permthid=thread-f%3A1724149365892166175%7Cmsg-f%3A1726889688768178813...> 1/5

25/03/2022, 21:42

Gmail - 18 Trennery Street, West Richmond - further information



Joel Davidde <jdavidde@gmail.com>

18 Trennery Street, West Richmond - further information

1 message

Damian Dawson <damian@planningchambers.com.au>
To: Steven Burke <sburke@wtcc.sa.gov.au>
Cc: Joel Davidde <jdavidde@gmail.com>

Mon, Jan 17, 2022 at 10:47 PM

Hello Steven, hope you are well.

Thank you for providing some additional time to respond to the matters raised by Council in relation to the creation of an additional residential allotment within the Airport Noise Overlay.

Please find attached a letter from the applicant, Joel Davidde, outlining a number of matters that we wish for Council to consider. Included is an email from senior staff within the Attorney General's Department on their interpretation and application of the policy within the overlay as well as some commentary from Resonate Acoustic Engineers as to the ability for future residential development on the land to satisfy the relevant noise criteria within the Building Rules Assessment.

We ask that you consider the attached and if current Covid protocols allow, meet with myself and Joel, along with Rachel Knuckey if possible, to discuss this matter next week. I think that Council's current stance on the policy will significantly impact on development within a large portion of the Council area in a way not envisaged by the drafter's of the Code.

I look forward to your response.

Regards,

Damian

Damian Dawson | Director



Planning Chambers Pty Ltd

A: 219 Sturt Street, Adelaide SA 5000

P: (08) 8211 9776 | **M:** 0408 227 493

E: damian@planningchambers.com.au



Please consider the environment before printing this email

5 attachments**Attachment No.1 - DecisionNotificationForm-Application21005203-612683.pdf**

<https://mail.google.com/mail/u/0/?ik=f0475f7f1c&view=pt&search=all&permthid=thread-f%3A1722204140675499208%7Cmsg-f%3A1722204140675499208...> 1/2

25/03/2022, 22:10

Gmail - RE: 18 Trennery Street, West Richmond - Application refused



Joel Davidde <jdavidde@gmail.com>

RE: 18 Trennery Street, West Richmond - Application refused

Joel Davidde <jdavidde@gmail.com>

Fri, Mar 25, 2022 at 10:09 PM

Draft To: Steven Burke <sburke@wtcc.sa.gov.au>

Cc: Damian Dawson <damian@planningchambers.com.au>, Rachel Knuckey <rknuckey@wtcc.sa.gov.au>

Hi Steven,

As discussed over the phone, the below email comes as a complete shock to us, as we had not been made aware that there was a decision to be made without prior warning or any indication that the application was to be taken off "hold" as it had been on the portal and as we had not submitted our final responses, nor were our previous correspondences and information provided uploaded to the portal.

The last correspondence sent through to Council was from Planning Chambers, dated 10 March 22, which addressed the points raised and included a request to organise a "time to meet with Joel and myself to discuss this matter at Council and determine if there is any support for a combined land division and built form DA."

The correspondence returned from yourself on 10 March 22, comprised of the following:

"Hi Damian

Rachel is on personal leave currently. We will be in touch next week.

Kind Regards"

At this point, Damian and I had discussed the issue in question further at length and were forming points and further information to discuss in person as requested.

We then received the below email on 16 March 22, noting that adding a dwelling to the DA would not be supported, even though this was found to be possible through Plan SA and indicated to Council with a Plan SA representative providing a reference number and contact details to complete by Council. Which is why we were baffled when you then indicated that you had decided not to include the dwelling within the application. Including a building assessment within the DA was first raised by Council as per the correspondence below dated 8 February 22, see underlined wording specifically:

"I am still of the opinion that MBS010 is still not relevant to consider in this case as the application is for a land division only, there is no building to assess. Your contact at AGD also seems to think it may be possible to consider MBS010 if there was actually a dwelling proposed. It is entirely up to you if you wish to propose the a combined application for land division and the construction of a dwelling. I will bring it to your attention now that I think you will have difficulty doing this on the portal and will need to lodge a new application. The advice we have received from PlanSA in the past is that a consent cannot be added once an application is verified. We would have to assess the application once lodged and make a determination at that stage as to whether our position is changed if there is a dwelling proposed. Based on our current legal advice our position would not be changed for this particular site given it is already used for residential purposes."

It was clear that a reason for Council to not consider MBS010 in addressing the concern regarding the acoustic implications of the Aircraft Noise Overlay (which directly addresses this concern through the regulations pertaining to building methods as outlined within the email from our Acoustic Consultant within the letter sent on 17 January 2022 attached) was the lack of a dwelling within the application, and it seemed clear that the difficulty in adding the dwelling to a DA lied with the Portal itself, and previous advice from PlanSA. This is why we had pursued this further with PlanSA and found a solution to do this on the portal as Planning Chambers noted within their email to Council. This is why it came to a surprise to us when the idea of adding the BRC to the application, now known to be possible, was rejected without any further discussion with us on this matter.

<https://mail.google.com/mail/u/0/?ik=f0475f7f1c&view=pt&search=drafts&permmsgid=msg-a%3Ar3501900854272997552&dsqt=1&simpl=%23msg-f%3A17...> 1/9

25/03/2022, 22:10

Gmail - RE: 18 Trennery Street, West Richmond - Application refused

However above all this, there had been no further correspondence from council following the email request for a meeting and your response to get back to us once Rachel was back from leave. There was no opportunity given to us to respond with our final statements, additional information and evidence gathered.

As far as we were made aware, the application was formerly placed on hold, we had been mid-way organising a face-to-face meeting to present our information and had also not completed issuing a response on the other minor queries requested by Council, which was raised with Council as being gathered in the background (see letter submitted by Planning Chambers on 17 January 2022, specifically "As discussed we are confident that we can satisfy all other remaining matters relating to the proposed division... with details to be provided."

Honestly, we have been blindsided by this unexpected decision and believe the due and fair process has not been followed. I have personally spent a lot of money and a considerable amount of time on this application and addressing concerns raised by Council and have not had the opportunity to present them all. This is extremely disappointing and unexpected to treat a long time local resident and ratepayer in this manner. Within previous discussions, we had noted dates to respond by and "cut-off" times before a decision was to be made, which were extended in writing as further information was being exchanged. This fair process was not followed and a decision was made with no indication or prior warning given, which I cannot understand and do not believe is fair to the applicant nor an acceptable way to handle applications.

Within your last correspondence dated 8 February you noted the following:

"I now leave it to you to make a decision to either progress the application to refusal or to withdraw the application. A reminder you may have appeal rights should the application be refused."

It is clearly noted that you have left the decision with us to decide to progress with the application or withdraw. A decision had not been made and a meeting was requested to discuss this, and yet it was refused without warning which contradicts earlier information provided.

We also note that you had stated within the same email:

"I acknowledge the above does not put you in a desirable position and this is partially, in my opinion, due to policy which has been hastily written, ill-considered and thrown into a Code which has had issues from the beginning. The outcome being a lack of clarity and therefore confusion on both sides."

This clearly indicates that Council holds the opinion that the policy in question was "hastily written", "ill-considered" and had "issues from the beginning" causing a "lack of clarity and therefore confusion on both sides" yet Council was adamant that the Clause in question being the aircraft overlay policy should overrule all other complying factors of the development and not be considered as a whole and weighted appropriately as other policies would be, such as allotment widths, vegetation requirements, measurements to boundaries etc. We are not sure why this is, and do not believe it is the correct or reasonable method of assessing the policy as noted by the Attorney General's Department within our letter dated 17 January 2022, who disagree and believe a performance assessment is to be followed as requested, and offered by our acoustic consultant.

Also the above statement makes notes that there is a lack of clarity with the policy which results in confusion. We agree with this as believe it is why this application and the correspondence has been ongoing for the past few months, we have been trying to work through it and come to a solution through the confusion and lack of clarity, so to be told it has been rejected without prior indication of a decision being made and without submitting our final responses etc. this is extremely disappointing and unexpected.

With all the above taken into consideration, we request that Council review this decision and allow us to provide the information and responses we were planning to, including the ability to add the dwelling to the application which was found to be possible and would be very relevant to this application. Also, we still hope to organise the meeting we had requested to work through the solutions in a collaborative manner with Council.

For me to submit another application would cost me a further considerable amount of money and time for the same review process, which is possible to be undertaken through this current application and would be the reasonable and efficient way of dealing with the issue.

In the meantime, as agreed with you over the phone, please find attached the correspondence and information which was provided within the assessment period including the relevant attachments, and were not uploaded at the time into the planning portal, to be uploaded. Please also include this email within the correspondence to be uploaded into the portal as it forms part of our response.

<https://mail.google.com/mail/u/0/?ik=f0475f7f1c&view=pt&search=drafts&permmsgid=msg-a%3Ar3501900854272997552&dsqt=1&simpl=%23msg-f%3A17...> 2/9

18 Trennery Street, West Richmond 5033**Application ID: 21025705 Application Number: 211/D439/21**

Good afternoon Steven,

Firstly, we would like to thank you and your team for taking the time to respond to our application and allowing us enough time get our ducks in a row regarding our response to the points raised.

We have structured this document in order to address the points raised within Council's response and each matter has been individually titled to be able to easily follow and clearly address each point of the response, as well as adding further information we have gathered to date.

Application for Land Division under the Planning and Design Code

We would like to begin by addressing the note within Council's response stating that the application is the first of its kind since the implementation of the Planning and Design Code. We would like to point out that there were many similar applications over the past year within the same zone and ANEF Contour, which demonstrated the use of the area (General Neighbourhood) and the suitability of sensitive receivers (residential) being developed within ANEF30+ contour zones, albeit under the previous regulations (noting that the ANEF zones and land use have remained the same), as per the following application approvals:

- 10 Wilson Street, COWANDILLA SA 5033 (Land Division) – Approved 22 March 2021.
- 29 Leicester Street, WEST RICHMOND (Land Division) – Approved 12 February 2021.
- 29-31A Passmore Street, WEST RICHMOND (Land Division to create 5 additional allotments) – Lodged 09 September 2020, Approval date unknown – Land division and construction of 8 new dwellings (sensitive receivers) complete.
- 2 Devon Street West Richmond (Land Division) – Approved 9 June 2020.
- Among numerous other residential land divisions over the past 3 years including properties directly facing our application's property at 17 Trennery Street West Richmond.

We would also like to note that there has been an approved land division after the implementation of the Planning and Design Code, within the same ANEF 30 contour zone as 18 Trennery Street West Richmond. This property is located at 75 Craig St RICHMOND SA 5033 (See attachment No.1) and was a one into two lot development as per 18 Trennery Street, however, this development does not retain an existing dwelling as per our application. The 75 Craig St Application included the demolition of the existing dwelling to make way for the construction of 2 new dwellings classified as sensitive receivers.

The Application for the land division was submitted on 18 May 2021 and Approved with no objection on 21 June 2021.

When the 75 Craig Street application was discussed with Council, Council noted that there had been teething issues in assessing the new Code at the time. However, it is understood that the requirements of the Clause within the Planning and Design Code were known to Council at the time, as Council had reviewed the draft Code and subsequently requested that the applicant undertake an acoustic assessment and provide a report in order to satisfy the Aircraft Noise Exposure Overlay requirements within the Code.

Council had requested the Applicant to undertake an acoustic assessment of the property and provide a report outlining the properties suitability to undertake the division as well as the ability to construct a house on the newly formed allotments. We understand that this request is not a requirement of a land division application, and that the application did not include a submission to build any dwellings, as it only included an application to undertake a land division as per our application for 18 Trennery St West Richmond.

The above noted request for the acoustic engineer's assessment and report was undertaken and provided by the applicant and Council had taken this in consideration when approving the application for land division under the newly implemented Planning and Design Code.

We have reviewed the above application and assessment and agree with the Council's decision to request an acoustic report for the Land Division, review the land division holistically taking into account all requirements and individually assess the application whilst taking into consideration the specific environment and various factors and other key requirements which influence the application.

Our application for land division at 18 Trennery Street West Richmond is located within the same ANEF zone as the 75 Craig St approved application, however unlike the 75 Craig St Application, our application retains the original house and subsequently the streetscape which has existed since the 1950's and is still being lived in today without issue. As per our discussions with Council, as discussed we are confident that we can satisfy all other remaining matters relating to the proposed division including details of the carport, drainage, paving and turn around, with details to be provided. We are also confident that we can satisfy the relevant requirements of the building code and Ministerial Building Standard in relation to noise ingress within any future dwelling upon the proposed allotment.

We are requesting that our application for Land Division is treated with the same approach towards the assessment of the policies of the 75 Craig St Application, which included a logical and holistic assessment of the Aircraft Noise Exposure Overlay requirements. We are certainly prepared to engage the services of a certified Acoustic Engineer to undertake an assessment of our application for land division, its suitability in the area and zone as well as its ability to accommodate development of a future dwelling constructed on the newly formed allotment which is compliant to all relevant Australian Standards and requirements including the requirements of the ANEF 30 overlay.

As per the 75 Craig St application, the acoustic report and assessment against the MBS010 requirements will be able to determine if the Land division application is suitable for the property location of the application, as the report takes into consideration the requirements of ANEF 30 as per the Australian Standards as well as a far more accurate assessment of the individual property, its surroundings at the specific site etc. to an extent which we understand is far more accurate than a blanket rule for all applications within a zone which extends within a vast area from Glenelg North to Thebarton. We request approval to engage an Acoustic Engineer to undertake an assessment and provide a report to be taken into consideration regarding the assessment of the Land Division Application for 18 Trennery St West Richmond.

We have contacted Acoustic Engineers Resonate Consultants who have undertaken a preliminary review of the application and property in question and have provided a response noting the assessment criteria to meet the required Australian Standards within the ANEF 30 overlay. Resonate Consultants have submitted their preliminary assessment (see attachment No.2) to undertake the

report following approval by Council to do so as per the above, and have upon their preliminary review noted that they believe it is possible to achieve an Australian Standard and MBS010 compliant residential dwelling construction on the property and have noted that they have achieved a compliant outcome under the same overlay on previously assessed dwellings, noting that the outcome will be subject to the detailed assessment and final report being provided.

MBS010 Requirements and the Desired Outcome of the Aircraft Noise Exposure Overlay

MBS010 Requirements

We understand that MBS010 requirements are applied as part of the building rules assessment component of an application. We believe MBS010 is relevant regarding our application, as it addresses the issue of sensitive receivers being located within the ANEF 30 zone, and how to address this through construction methodology, which in turn addresses the Desired Outcome (DO) of the Aircraft Noise Exposure Overlay policy.

The property is located within the General Neighbourhood Zone, this zone as described by the Code and the City of West Torrens to principally encourage residential development. As noted within the City of West Torrens' General Neighbourhood Zone information Sheet (See attachment No.3), the General Neighbourhood zone "Encourages a range of housing types, with the intent of increasing housing diversity and supply, including the introduction of additional dwelling typologies including residential flat buildings and hammerhead type subdivisions". In review of this, it is evident that our application for residential land division directly reflects the intent of this zone, and achieves the desired outcome of the Code requirements.

As the desired development within this zone is residential housing, and the only applicable development at on the newly formed allotment at 18 Trennery Street would be housing, it can be understood that a dwelling would be the only applicable development on the allotment In question. As MBS010 addresses residential development within the ANEF 30 zone, we believe that MBS010 requirements are relevant to the application within the zone and the applicable ANEF rating.

The MBS010 standards were specifically written and implemented to address the acoustic environment and requirements for safe and habitable residential developments within the relevant ANEF zones. The MBS010 also requires the relevant Australian Standards to be met regarding the acoustic environment and performance of buildings.

Desired Outcome

We believe the above ties in with the overarching requirement of the clause in question, more specifically the Aircraft Noise Exposure Overlay - Desired Outcome (DO) "Development sensitive to aircraft noise is designed and located to manage noise intrusion to reduce land use conflict and protect human health."

We understand that as per the hierarchy of the Code, the 'Desired Outcome' is the key requirement to be met, and this can be demonstrated by the applicant including through deemed to satisfy criteria or a performance outcome, as long as it meets or comes very close to meeting the requirements of the clause.

We believe that our application for land division at 18 Trennery Street can meet the requirements of the above Desired Outcome in relation to the Aircraft Noise Exposure Overlay. The Desired Outcome notes that 'Development' (e.g. a residential dwelling) is 'designed and located' to 'manage noise intrusion to reduce land use conflict and protect human health'. With this in mind we believe the

future use of the land i.e., the 'Development' noted is to be taken into consideration when assessing this policy. We believe the requirements of MBS010 which take into consideration the design and location of the development to 'reduce land use conflict' and 'protect human health' are relevant and should be taken into consideration when assessing this application in regards achieving the Desired Outcome of the clause for the future dwelling.

If we are able to demonstrate through a qualified Acoustic Engineers assessment and report, as well as MBS010 that a sensitive receiver (residential dwelling) can be suitably located on the newly formed allotment which is surrounded by many of other dwelling which are currently occupied, some which were approved for use and constructed under a year ago, as well as the current property being retained, we believe this would meet the overarching requirements of the Desired Outcome.

Noting that the Desired Outcome is evidently linked with the 'Development' intended for the property e.g. sensitive receivers/housing, we are certainly prepared to include as part of this application an application for building approval (as a dual application) as this is the intended use of the land division, noting that this was not initially included as part of the application. Please advise if this is desired by Council to assist in the assessment of the application and demonstrate the suitability and compliance with the Desired Outcome, noting also the specific Acoustic assessment and report and requirements of MBS010 which would be assessed.

National Airports Safeguarding Framework (NASF)

The Commonwealth Government's 2009 Aviation Policy White Paper: Flight Path to the Future proposed the development of a national land use planning framework to improve community amenity and improve safety outcomes associated with aviation in Australia.

The National Airports Safeguarding Advisory Group (NASAG) was responsible for the development of the National Airports Safeguarding Framework (NASF) in coordination with State Governments and Councils surrounding the major airports in Australia. This was part of the agreement by Commonwealth, State and Territory ministers at the Standing Council on Transport and Infrastructure meeting on 18 May 2012.

The NASF is a national land use planning framework that aims to:

- Improve community amenity by minimising aircraft noise-sensitive developments near airports including through the use of additional noise metrics and improved noise-disclosure mechanisms; and
- Improve safety outcomes by ensuring aviation safety requirements are recognised in land use planning decisions through guidelines being adopted by jurisdictions on various safety-related issues.

The NASF Guidelines provide guidance on planning requirements for new development that could impact aviation operations, such as building activity around airports that could penetrate operational airspace, impact on operating hours (due to noise), and/or affect navigational procedures for aircraft. The Guidelines cover the topics of managing impacts of aircraft noise among other topics.

NASF Guideline A – Measures for Managing Impacts of Aircraft Noise

The purpose of this Guideline is to guide decision makers to manage the impacts of noise around airports, including the suitability of developments.

Guideline A provides advice on the use of a complementary suite of noise metrics, including the Australian Noise Exposure Forecast (ANEF) system and frequency-based noise metrics, to inform strategic planning and provide communities with comprehensive and understandable information about aircraft noise.

The Guideline seeks to utilise the endorsed ANEF and ANEC (ultimate capacity) for an airport to ensure greater alignment, incorporating into strategic planning documents guidance on managing noise impacts when rezoning land and assessing new applications within noise sensitive areas. Specific noise measurements are provided in order to assess whether proposed rezoning or new development is appropriate in a particular location; particularly in relation to more sensitive land uses.

Assessment of new developments applications for noise sensitive uses within existing residential areas

This Section specifically applies to our application at 18 Trennery Street West Richmond and provides the following relevant guidance:

26. This section applies to urban land that is already designated for noise sensitive uses, primarily residential areas where development pre-dates the significant growth of airport traffic experienced following the introduction of jet aircraft in the late 1950s (as per the 18 Trennery Street West Richmond).

27. Whilst it would not be appropriate to allow for development that would impact on the operational safety of an airport, increasing densities or new developments in existing areas exposed to aircraft noise may be acceptable where the site provides other desirable outcomes such as providing housing near transport or meeting urban consolidation targets. In some circumstances, redevelopment of sites already exposed to aircraft noise can result in a better outcome through better design and construction responses.

28. Such development should be undertaken in a manner that physically reduces noise impacts (e.g. through appropriate construction techniques and adherence to AS2021) but also through a disclosure process that ensures future residents are aware of these impacts prior to purchase.

We believe the above reiterates the relevance of MBS010 as well as the undertaking of an Acoustic assessment and report in relation to the assessment of the suitability of our land division application.

Approach to the Assessment of Individual Policies, including the Desired Outcome

We believe that each application should be assessed on its merits holistically, which has been the approach taken by Council in the past regarding approvals to land divisions and/ or building approval. For example, if a requirement is not met within a certain limit or at all such as frontage, land size, setbacks etc. however the majority of the other key requirements of the development are met or even exceeded, the Council has approved application in the past on that basis, which is common practice and in accordance with Part 1 of the Code – Rules of Interpretation which provides that DPFs “will generally meet the corresponding performance outcome” and they do “...not need to necessarily be satisfied to meet the performance outcome”.

We understand that a weighting can be applied to each policy/PO requirement on a basis of varying factors. We believe that the fact that all other key policies are being achieved within this application,

this should be taken into consideration when assessing the weighting of the aircraft overlay policies, especially is, as requested above, an in-depth qualified acoustic engineer provides an independent assessment and report for the land division and its suitability to the areas use and future development to address the issue and satisfy the Desired Outcome of the Policy.

As discussed previously, we are confident that we can satisfy all other remaining matters relating to the proposed division including details of the carport, drainage, paving and turn around. We are also confident that we can satisfy the relevant requirements of the building code and Ministerial Building Standard in relation to noise ingress within any future dwelling upon the proposed allotment. To us, the specific requirements of the Ministerial Standard and acoustic report will provide adequate protection for future residences from external noise.

We believe that a logical and holistic approach towards assessing the requirements of the Aircraft Noise Exposure Overlay is needed, especially as the policy has only been introduced for a very short period of time and had never previously been implemented as part of the previous planning regulations in this form. If the wording of the policy is to be assessed only on its DTS requirements, with a 100% weighting over all other policies and without a holistic approach towards assessing applicable developments, this would result in vast detrimental implications regarding development and potential property values for a large area within the City of West Torrens affected by the Policy, and in many cases would not reflect the intent of the policy as outlined by the Attorney General’s Department below. As previously noted, below is the rough calculation of the extent of the overlay at and above ANEF 30 that would be subject to an assessment against PO 3.1 of the Overlay. As discussed, it is over 1km² in area and extends into Thebarton past the intersection of Henley Beach and South Roads. This would take in a large portion of the Urban Corridor Zone along Henley Beach Road, which as you are aware allows for high density, multi storey living, this area also extends to the Southwest of the airport including areas within Glenelg North.

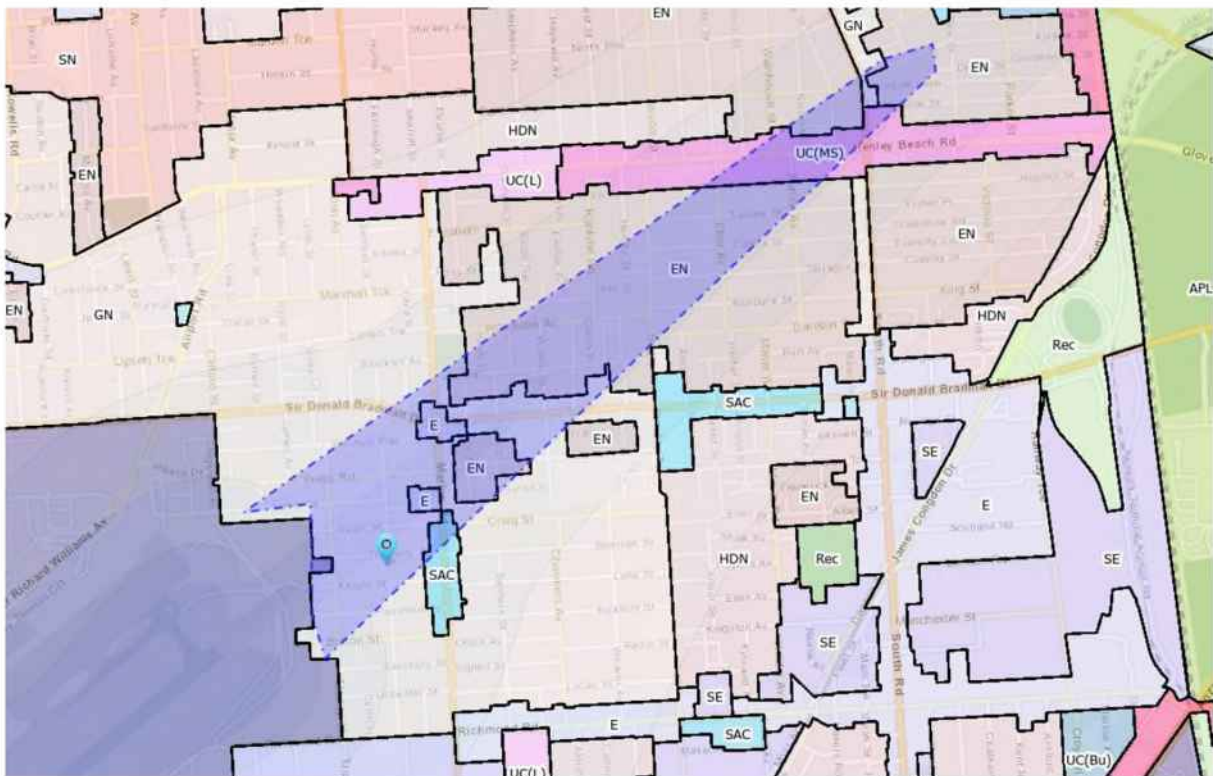


Figure 1 – Aircraft Noise Exposure Overlay (ANEF30+ Contours)

The requirements of the Aircraft Noise Exposure Overlay Policy which would affect this vast area including development of existing properties as well as land division in this case PO3.1, which would sterilise the entire area for any potential future residential developments if weighted 100% and note assessed against other key merits of future developments. Other policies include PO1.1 which states, "Buildings accommodating sensitive receivers (residential dwellings) are not located within an area having an ANEF value of 30 or more". Also, PO 2.1 which states that "Dwelling additions involving the addition or extension of habitable rooms (b) do not occur in areas having an ANEF value of 30 or more.". although these policies may be relevant in particular scenarios, however we believe the intent of the clause is within the overarching Desired Outcome as previously discussed. If assessing these without a weighting and consideration of the development holistically, this may result in hundreds of residential home-owners unable to build a home on a vacant block of land, or add a single bedroom extension to an existing property even in the case of all other requirements have been achieved, in the general neighbourhood zone. This would have significant implications on existing properties including values and would likely undermine the intended development and land use within the zone.

Official response from the Attorney-General's Department regarding the creation and intent of the policy within the Code and the approach towards assessment of policies within the Code

We have approached Planning & Land Use Services within the Attorney-General's Department requesting the intent of the Aircraft Noise Exposure Overlay and what the Department had in mind when this overlay was brought in to the Code and if they had envisaged such a strong reading of the policy so as to prevent the creation of any new residential allotments. Jason Bailey, Team Leader – Metro and Regional Development Assessment has provided a response and approval to include his response within this document (see attachment No.4). The department's response is as follows:

"...Coming back to you with a view on this matter.

DTS/DPF 1.1 of the Aircraft Noise Exposure Overlay performs the following two roles:

- it acts as the DTS requirement for certain sensitive receiver development types outside the ANEF30 contour (a detached dwelling for instance in the General Neighbourhood Zone)
- it provides very clear guidance (as a DPF) for performance assessed sensitive receiver development outside the ANEF30+ contours

Our view is that DTS/DPF 1.1 of the Overlay is not signalling that there is no scope for development of sensitive receivers within the ANEF30+ contours. This is in accordance with Part 1 of the Code – Rules of Interpretation which provides that DPFs "will generally meet the corresponding performance outcome" and they do "...not need to necessarily be satisfied to meet the performance outcome".

The above being said, we see there to be a logic in built-form (that satisfies MBS010) preceding land division in ANEF30+ areas. In our view this is the pathway to demonstrate how a proposal to establish an additional dwelling will satisfy PO 1.1 of the Overlay."

The Attorney- General's Department with their representatives of the Code team have also advised that they are happy to discuss this further with the team at the City of West Torrens if any clarification is required.

We believe the above response aligns with our request to have an acoustic assessment and report undertaken (including the requirements of MBS010) as per the approved development at 75 Craig Street, Richmond, in order to satisfy the Desired Outcomes of the Aircraft Noise Exposure Overlay and to be taken into consideration when assessing the application in its entirety.

Final Comments

Having considered all the relevant provisions of the Planning and Design Code, we believe the proposal is considered to be not seriously at variance with the Planning and Design Code 2021, in particular the Aircraft Noise Exposure Overlay Policy, which can be effectively demonstrated through a qualified acoustic engineer's assessment and report.

As per our discussions with Council, As discussed we are confident that we can satisfy all other remaining matters relating to the proposed division including details of the carport, drainage, paving and turn around, with details to be provided.

Based on the above explanation, including the following key points:

- Multiple land division applications approvals within the last year within the same zone and equal or greater ANEF rating;
- Approval of 75 Craig Street, Richmond application under the Planning and Design Code 2021 through an acoustic assessment and report;
- Demonstrated ability to achieve the Desired Outcome of the policy through an acoustic report and MBS010 requirements;
- National Airports Safeguarding Framework (NASF) guidelines which note the acceptability and benefits of increased density and new developments in areas exposed to aircraft noise as well as the adoption of appropriate construction techniques and adherence to Australian Standards (MBS010) in such scenarios.
- The Attorney General Department's assessment that DTS/DPF 1.1 of the Overlay is not signalling that there is no scope for development of sensitive receivers within the ANEF30+ contours in accordance with Part 1 of the Code, and that built-form (that satisfies MBS010) preceding land division in ANEF30+ areas In their view this is the pathway to demonstrate how a proposal to establish an additional dwelling will satisfy PO 1.1 of the Overlay.

We request that Council agree for us to provide an acoustic report for the property and that the outcome of which can demonstrate that the provisions of the Planning and Design Code 2021 Aircraft Noise Exposure Overlay Policy are reasonably satisfied and therefore the application warrants granting of planning consent, following the submission of all other requested additional information.

Kind Regards,

Joel Davidde
18 Trennery Street,
West Richmond SA 5033

Planner (Contact)
Damian Dawson
Planning Chambers Pty Ltd
219 Sturt Street, Adelaide SA 5000

Memo

From Richard Tan
Date 15/09/2021
Subject 21025705, 18 TRENNERY ST WEST RICHMOND SA 5033

Steven,

The following City Assets Department comments are provided with regards to the assessment of the above development application:

Land Division

Major Concern

The following issue is indicated to be major as they may require redesign of the proposed dwelling:

- **Insufficient common driveway width**
- **Unclear if there is sufficient space for vehicle manoeuvre**
- **Insufficient verge space for stormwater connection and services for Lot 81**

1.0 Traffic Requirements - Major Concern

1.1 The common driveway corridor servicing both allotment appears to be 2.7m in width (3.7m if including the 1m landscaping strip) which is deficient of the standard of 3.6m (3.0m pavement width+300mm offset from fence/boundary) as specified in the relevant Australian Standards (AS 2890.1:2004). Therefore, alternative access arrangements or modifications to the corridor to bring the current width up to the standard should be explored. It is advised that there is flexibility within the site to allow for the required width (in consideration with any relevant planning issues).

It is recommended that the common driveway corridor be widened to satisfy the Australian Standard requirement of 3.6m. Revised drawings showing the modifications to the common driveway should be provided to Council.

1.2 It is unclear if there is sufficient space within Lot 81 for two parking spaces (one covered) and vehicle manoeuvre (enter and exit parking spaces in a single three point turn). An indicative development plan or building envelope demonstrating the above can be achieved should be provided.

It is recommended that revised plans indicating satisfaction to the above requirements should be provided to Council.

2.0 Verge Interaction - Major Concern

- 2.1** In association with new development, driveways and stormwater connections through the road verge need to be located and shaped such that they appropriately interact with and accommodate existing verge features in front of the subject and adjacent properties. Any new driveway access shall be constructed as near as practicable to 90 degrees to the kerb alignment (unless specifically approved otherwise) and must be situated wholly within the property frontage.

New driveways and stormwater connections are typically desired to be located a minimum 1.0 metre offset from other existing or proposed driveways, stormwater connections, stobie poles, street lights, side entry pits and pram ramps, etc. (as measured at the kerb line, except for driveway separation which will be measured from property boundary). An absolute minimum offset of 0.5m from new crossovers and stormwater connections to other existing road verge elements is acceptable in cases where space is limited.

These new features are also desired to be located a minimum of 2.0 metres from existing street trees, although a lesser offset may be acceptable in some circumstances. If an offset less than the desired 2.0 metres is proposed or if it is requested for the street tree to be removed, then assessment for the suitability of such will be necessary from Council's Technical Officer (Arboriculture).

- 2.1.1** Current proposal do not allow sufficient verge space for stormwater connection and services (gas/water etc) for Lot 81.

It is recommended that revised plans indicating satisfaction to the above requirements should be provided to Council.

Existing Dwelling

3.0 Flood Consideration – Finished Floor Level (FFL) Requirement – up to 100mm Zone

- 3.1** Portions of the development are located within the 'up to 100mm' area of flood effect from Keswick and Brown Hill Creek flood plain mapping as nominated in Council's Development Plan.

Investigation indicates that the physical flood depth within the portions of the allotment proposed to be developed is approximately 10mm and making allowance for the necessary freeboard (200mm) over and above the flood level, the minimum finished floor level (FFL) for the proposed development, to protect from flood inundation, would need to be in the vicinity of 210mm above the existing natural site levels within the footprint of the development, or 350mm above adjacent highest water table, whichever the greater.

To enable an accurate determination of the required minimum FFL, detailed survey information for the site is required to be submitted by the applicant.

4.0 Traffic Requirements

- 4.1 Existing crossover has been proposed to be remained. It should be ensured that the plans submitted appropriately show the internal transition (ie: driveway edge matching existing crossover width) and recommend the planner condition or control in a manner to make this internal driveway shaping enforceable
- 4.2 Although not specified in the relevant Australian Standards (AS/NZS 2890.1:2004), traffic engineering best practice guides that the minimum internal length of an enclosed garage or enclosed carport space should be a minimum of 5.8m. In addition, the minimum internal width for a single garage system is 3.0m

It is recommended that revised plans be submitted, showing garage internal dimensions are stated above.

5.0 Waste Management

- 5.1 The public kerbside space available for bin presentation has been assessed as satisfying minimum requirement.

6.0 Stormwater Detention

- 6.1 Stormwater detention is not required for this development.
- 6.2 Roof runoff from the new garage should be directed to surface and discharge offsite via existing stormwater system.

Regards
Richard Tan
Civil Engineer

9/04/2022, 10:02

Planning and Land Division Consent for Development Application: 21025705 - Development Application Processing

Planning and Land Division Consent for Development Application: 21025705

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South Australian Water Corporation referral

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Referral details

Referred Body	South Australian Water Corporation	Distributed	10 Sep 2021
Referred by	SPC Planning Services	Due	10 Oct 2021
Response type	Regulation 76 (4)	Response	13 Sep 2021
Referral type	Advice	Status	Responded

Relevant Authority's comment

Referral Body's response

RFIs

No Requests For Information have been issued in relation to this referral.

Advice

No objection, with comments

Condition 1 (Clearance Requirement Not Met)

SA Water's water and sewer network is available for connection in this area. An investigation will need to be undertaken to determine infrastructure needs, appropriate fees and charges.

Condition 2 (Clearance Requirement Not Met)

Please note for Torrens Title developments that it is the developers responsibility to ensure that all

19/04/2022, 10:02

Planning and Land Division Consent for Development Application: 21025705 - Development Application Processing

Planning and Land Division Consent for Development Application: 21025705

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[Appeals](#)

[Related Actions](#)

[Help for this section](#)

SPC Planning Services referral

[Referrals](#)

Referral details

Referred Body	SPC Planning Services	Distributed	9 Sep 2021
Referred by	City of West Torrens	Due	7 Oct 2021
Response type	Regulation 76	Response	10 Sep 2021
Referral type	Comment	Status	Responded

Relevant Authority's comment

Referral Body's response

RFIs

No Requests For Information have been issued in relation to this referral.

Advice

No objection, with comments

Condition 1 (Clearance Requirement Not Met)

Payment of \$7908.00 into the Planning and Development Fund (1 allotment/s @ \$7908.00 /allotment). Payment may be made via credit card (Visa or MasterCard) online at plan.sa.gov.au, over the phone on 7109 7018, or cheques may be made payable to the State Planning Commission, marked "Not

Condition 2 (Clearance Requirement Not Met)

A final plan complying with the requirements for plans set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the State Planning

Documents

download: [21025705Plan-1170782.pdf](#)



DECISION NOTIFICATION FORM

Section 126(1) of the Planning, Development and Infrastructure Act 2016

TO THE APPLICANT(S):

Name: Joel Davidde
Postal address: 18 TRENNERY STREET WEST RICHMOND SA 5033
Email: jdavidde@gmail.com

IN REGARD TO:

Development application no.: 21025705	Lodged on: 9 Sep 2021
Nature of proposed development: Create one (1) additional allotment and reciprocal right of way	

LOCATION OF PROPOSED DEVELOPMENT:

Location reference: 18 TRENNERY ST WEST RICHMOND SA 5033		
Title ref.: CT 5330/165	Plan Parcel: D4117 AL130	Council: CITY OF WEST TORRENS

DECISION:

Decision type	Decision (granted/refused)	Decision date	No. of conditions	No. of reserved matters	Entity responsible for decision (relevant authority)
Planning Consent	Refused	16 Mar 2022			Assessment Manager at City of West Torrens
Land Division Consent	Refused	16 Mar 2022			Assessment Manager at City of West Torrens
Development Approval - Planning Consent; Land Division Consent					City of West Torrens

FROM THE RELEVANT AUTHORITY: Assessment Manager - Section 96 - Performance Assessed at City of West Torrens
Date: 16 Mar 2022

REFUSAL REASONS

Planning Consent

Planning consent is REFUSED for application 21025705 by Joel Davide to create one (1) additional allotment and reciprocal right of way at 18 Trennery Street, West Richmond as the proposed development is contrary to the following provisions of the Planning and Design Code (version 9 September 2021):

- Aircraft Noise Exposure Overlay DO 1

Reason: Development sensitive to aircraft noise is not located to reduce land use conflict and protect human health.

This form constitutes the form of a decision notification under section 126(1) of the Planning, Development and Infrastructure Act 2016, as determined by the Minister for Planning and Local Government for the purposes of regulation 57(1) of the Planning, Development and Infrastructure (General) Regulations 2017. Published: 16 December 2021.



Government of South Australia
Attorney-General's Department

- Aircraft Noise Exposure Overlay PO 3.1

Reason: The proposed division increases the number of allotments used for sensitive receivers in areas adversely impacted by aircraft noise.

- Land Division (General Development Policies) PO 2.2

Reason: The proposed division does not enable the appropriate management of interface impacts between potentially conflicting land uses.

- Land Division (General Development Policies) PO 2.3

Reason: The proposed division does not maximise the number of allotments that face a public road.

- Land Division (General Development Policies) PO 2.5

Reason: Development is not provided in a manner that is orderly and economic.

CONTACT DETAILS OF CONSENT AUTHORITIES

Name: City of West Torrens	Type of consent: Planning and Land Division
Telephone: 08 8416 6333	Email: development@wtcc.sa.gov.au
Postal address: 165 Sir Donald Bradman Drive, Hilton SA 5033	

ASSESSMENT REPORT

DEVELOPMENT NO.:	21025705
APPLICANT:	Joel Davidde
NATURE OF DEVELOPMENT:	Create one (1) additional allotment and reciprocal right of way
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • General Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Aircraft Noise Exposure • Airport Building Heights (Regulated) • Affordable Housing • Building Near Airfields • Hazards (Flooding) • Hazards (Flooding - Evidence Required) • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Traffic Generating Development • Urban Tree Canopy
LODGEMENT DATE:	9 Sep 2021
RELEVANT AUTHORITY:	Assessment manager at City of West Torrens
PLANNING & DESIGN CODE VERSION:	9 September 2021

LOCATION OF DEVELOPMENT:

Location reference: 18 TRENNERY ST WEST RICHMOND SA 5033

Title ref.: CT 5330/165 **Plan Parcel:** D4117 AL130 **Council:** CITY OF WEST TORRENS

CONSENT TYPE REQUIRED:

Planning and Land Division Consent

CATEGORY OF DEVELOPMENT:

2

- **PER ELEMENT:**
 - Carport or garage
 - Demolition
 - Carport: Code Assessed - Performance Assessed
 - Partial demolition of a building or structure: Exempt
 - Land division
 - Land division: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
 - Code Assessed - Performance Assessed
- **REASON**
 - P&D Code

PUBLIC NOTIFICATION

No

- **REASON**
 - Exempt as Table 5(5) of the zone is satisfied.

AGENCY REFERRALS

SA Water:

- No objections – conditions imposed.

SPC:

- No objections – conditions imposed.

INTERNAL REFERRALS

City Assets:

- Concern with width of driveway.
- Concern with vehicle manoeuvrability for Lot 81 (based on indicative building envelope).
- Insufficient verge space for stormwater and service connections.

SITE AND LOCALITY

The site is a 730sqm allotment of regular shape, with a frontage to Trennery St of 16m. Currently existing on the site is a single-storey detached dwelling along with a carport and an outbuilding. The site is lightly vegetated and is relatively flat.

The locality is residential in nature, primarily consisting of detached dwellings interspersed with group dwellings and residential flat buildings. Allotments are typically generous, in excess of 300sqm, with wide frontages and quite generous setbacks from primary road frontages. The prevailing character of the locality can therefore be described as low density. The condition of dwellings is average as most have been constructed in the mid-20th century. The amenity of the locality is low to moderate, being negatively impacted by aircraft noise which is severe, as well as a lack of tree canopy coverage and landscaping.

PLANNING ASSESSMENT

PLANNING & DESIGN CODE PROVISIONS	STANDARD	ASSESSMENT
SITE AREA GN Zone, DTS/DPF 2.1	300sqm	Lot 80: 316sqm Lot 81: 302sqm <p style="text-align: center;">Satisfies</p>
SITE FRONTAGE GN Zone, DTS/DPF 2.1	9m	Lot 80: 11.15m Lot 81: 16.15m (whole site) <p style="text-align: center;">Satisfies</p>

As demonstrated above, the size of the proposed Lot 81 achieves the minimum site area requirement of the zone. The shape is typical of a battle-axe allotment and an indicative building envelope plan has also been provided by the applicant. The dwelling indicated is three bedrooms and appears of reasonable size, with largely sufficient setbacks, private open space and car parking. Given the size and configuration, as well as the indicative dwelling, I am satisfied that the additional allotment can reasonably accommodate a dwelling. PO 1.1 and DO 1(a) of the Land Division module are considered to be satisfied.

While the size and configuration of the proposed allotment appears satisfactory to reasonably accommodate a dwelling, DPF 8.1 of the Land Division module is not satisfied as a battle-axe allotment is created. Battle-axe allotments are not highly prominent in the locality although are not discouraged in the zone provisions and are not incompatible in a low-rise and low-density, suburban locality such as the subject locality. There is no particular character worthy of preservation in the locality and so the creation of a battle-axe allotment of itself does not offend the low-density prevailing character. PO 8.1 is considered to be achieved.

The width of the proposed driveway, servicing two dwellings, is 3.7m (including a 1m landscape strip) which is short of the minimum 4m desired in Land Division DPF 8.2. I would consider a slight reduction in the landscape strip width to allow a minimum pavement width of 3m provides safe and convenient access for vehicles while not severely impacting on landscaping. PO 8.2 could therefore be achieved with some slight modifications to the application without significantly compromising the ability of PO 8.4 to also be achieved.

The proposed division will result in the retention of the existing dwelling. As above, the balance of the site satisfies General Neighbourhood Zone DPF 2.1 in terms of its site area and frontage, thus satisfying DPF 2.2(a) of the zone. Two car parking spaces are located to the rear of the dwelling which from a preliminary review appear to be large enough and allow for vehicles to enter and exit the site in a forward direction. Private open space is lacking however, with only

41sqm of space provided in lieu of the minimum 60sqm. This does not satisfy DPF 2.2(b) of the zone. Despite the somewhat compromised private open space for the existing dwelling, the existing dwelling is for the most part still functional and the proposed division is therefore not completely at odds with PO 2.2 of the zone.

Affordable Housing Overlay:

The development will result in only one additional allotment, therefore there is no affordable housing requirements and DPF 1.1 of the overlay is considered to be satisfied.

Aircraft Noise Exposure Overlay:

The site is severely impacted by aircraft noise, located within ANEF30. DPF 3.1 desires land division within ANEF30 either does not result in any additional allotments or that none of the additional allotments will accommodate a sensitive receiver. Neither of these conditions are satisfied and so DPF 3.1 is not achieved.

In considering PO 3.1, the outcome is that land division does not increase the number of allotments used for sensitive receivers in areas adversely impacted by aircraft noise. Again, this is not achieved as the proposed division will result in one additional allotment. PO 3.1 is not satisfied.

The Council has sought legal advice on this matter which backs up the position. The PO is very clear in that residential densities should not be increased where ANEF is 30 or above. Such high ANEF negatively impacts on human health and significantly impacts on residential amenity. There is no dwelling proposed and so it cannot be demonstrated in any way that there will be any noise mitigation measures, notwithstanding the creation of an additional residential allotment is not desired whether a dwelling is proposed or not.

Excerpt from Team Leader direction for land division only application in ANEF30+ following legal advice:

DO and PO are very clear - NO further division

Any departure from the Code must have unique exceptional circumstances - practical approach required - site specific examination necessary - what's unusual

Is there a good reason to depart from the Code, what's the development potential otherwise? Why when the default position is NO should there be an exception? In majority of case it will be NO

In this case, there are no unusual circumstances – there is already a dwelling on the site, it is not vacant. There is no reason why an additional allotment should be created.

Additional residential allotments in areas close to Adelaide Airport have the potential to jeopardise or curtail the operations of the lawfully existing airport, therefore having wider ranging impacts to the economy and efficiency of the airport. It is my understanding that CASA is actively trying to implement similar land use policies surrounding airports nationally in order to protect the future operations of airports. To increase residential densities surrounding Adelaide Airport would therefore be contrary not just to the Code, but also to the national approach of trying to prevent this. This is not orderly and economic development and is contrary to Land Division PO 2.5.

Therefore, DO 1 is also not considered to be satisfied as the proposed land division does not locate the additional allotment in such a way that reduces land use conflict and protects human health.

Hazards (Flooding) Overlay:

The flood hazard covers the northern half of the site only, with the southern half of the site proposed to be Lot 81 is not impacted by a flood hazard. In addition, the flood hazard to the site is not severe, with a maximum inundation level of only 100mm which is unlikely to pose any significant risk to safety or to property. The impact of flood to the site can therefore be readily managed and a land division on the site will not result in an unacceptable impact to adjacent sites. PO 1.1, 5.1, 6.1 and DO 1 are considered to be satisfied.

Traffic Generating Development Overlay:

The site is located almost 200 metres from Marion Road and so will therefore not impact on the safe or efficient operation of an Urban Transport Route. DO 1 of the overlay is considered to be achieved.

RECOMMENDATION

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.

While the size and configuration of the proposed allotment can reasonably accommodate a dwelling, the private open space of the existing dwelling is somewhat compromised. More importantly, the potential impacts to human health and residential amenity from aircraft noise are significant. The provisions of an overlay rank more highly than the provisions of a zone or general policy in the hierarchy of policies and so the weight applied to aircraft noise provisions in the Aircraft Noise Exposure Overlay is great. The proposed land division is therefore not considered appropriate in the context of land use conflict and impact to human health.

Planning consent is REFUSED for application 21025705 by Joel Davide to create one (1) additional allotment and reciprocal right of way at 18 Trennery Street, West Richmond as the proposed development is contrary to the following provisions of the Planning and Design Code (version 9 September 2021):

- Aircraft Noise Exposure Overlay DO 1

Reason: Development sensitive to aircraft noise is not located to reduce land use conflict and protect human health.

- Aircraft Noise Exposure Overlay PO 3.1

Reason: The proposed division increases the number of allotments used for sensitive receivers in areas adversely impacted by aircraft noise.

- Land Division (General Development Policies) PO 2.2

Reason: The proposed division does not enable the appropriate management of interface impacts between potentially conflicting land uses.

- Land Division (General Development Policies) PO 2.3

Reason: The proposed division does not maximise the number of allotments that face a public road.

- Land Division (General Development Policies) PO 2.5

Reason: Development is not provided in a manner that is orderly and economic.

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. This consent or approval will lapse at the expiration of 2 years from its operative date, subject to the below or subject to an extension having been granted by the relevant authority.
4. Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).
5. 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).

OFFICER MAKING RECOMMENDATION



Name: Steven Burke

Title: Development Officer - Planning

7

Date: 15/3/22.

DECISION AUTHORITY

Relevant Authority: Assessment manager at City of West Torrens

Consent: Planning consent refusal

Date: 15/3/22.

Planning Team framework for assessment of applications within Aircraft Noise Exposure Overlay



From: Rachel Knuckey
Sent: Wednesday, 9 February 2022 8:57 AM
To: ~DL: Planning; Charlie Dubois; James Rhodes
Cc: ~DL: APPS
Subject: Handing of DA's dealing with the Aircraft Noise Overlay

Hi everyone

The issue of ANEF and how we go about applying the Code requirements of the Aircraft Noise Overlay have been a topic of debate over the last 12 months. We have had a number of applications lodged that have presented some challenges and discussion around consistent application of the Code policy.

To assist all in knowing how to approach assessments I have obtained a legal position on this. Victoria Shute and myself had a lengthy discussion around various scenarios we are encountering and below is a summary of how to be approaching our assessments:

- **Existing allotment (vacant) also including demolition of existing and replacement 1 for 1**
 Can develop - we have to work with what is there - can't remain vacant forever and cannot be used for other reasonable development taking into account the locality
 Need to be requesting report from an acoustic engineer as to how they can adequately protect the habitable spaces from aircraft noise - consideration of MBS10 should be a part of this
- **Existing dwelling - extensions or alterations**
 Report from an acoustic engineer will be required if works include development of habitable spaces such as lounge/family room/bedrooms - ensure that the additions are fit for habitation - MBS10 would apply and acoustic engineer should address
- **Combined Land division/Land use - TRICKY**
 This scenario requires judgement call
 Must be unusual circumstances to even consider the proposal
 Relevant considerations would be size of land parcel, land use history, particular sites locality, potential for other land uses to be developed, fact and degree of the proposal contextually
 Acknowledge that there is always going to be a sliding scale of how we approach these all.
 Example a large parcel of land that has been vacant for a long period of time may have more merit in developing than a traditional parcel of land with an existing dwelling wanting to undertake a hammerhead type division.

It is not necessarily the case that because its combined it makes it OK. TL to provide guidance for these ones.

- **Land Division only**
DO and PO are very clear - NO further division
 Any departure from the Code must have unique exceptional circumstances - practical approach required - site specific examination necessary - what's unusual
 Is there a good reason to depart from the Code, what's the development potential otherwise? Why when the default position is NO should there be an exception? In majority of case it will be NO

At end of the day cannot have value judgement need to apply the impact investments test which is looking at site specific circumstances and other relevant considerations

In all considerations must remember that differing scenarios will have differing approaches - there is no one solution.

The policies have been written deliberately strict - CASA had strong influence and this is something that has been adopted nationwide as there has been pressure to tighten controls for development near airports due to the amenity impacts.

Moving forwards I am making the call that:

- ALL DA's for development that are for land division within 30+ANEF will come to me for signoff - I envisage that this will be short term control until such time as everyone is comfortable with the approach.
- We will discuss collectively so all can learn and be comfortable with the approach
- I will of course make appropriate file notes when allocating the DA's to officers
- For any DA's that we do decide redevelopment is acceptable there is provision in the legislation under Reg 103(e) that upon completion of building work (receiving notification) that Cncl can hold the Certificate of Occupancy until we inspect the dwellings for compliance with acoustic treatments. Reg 93(1)(c) further provides that a relevant authority can impose additional inspections to be undertaken - such an inspection in these circumstances can be related to acoustic treatments.

This is a really great way to ensure that the appropriate measures are being adopted to protect occupant amenity. I am working with Frank to work through implementing this

I think we have really good pathway forwards that gives us all certainty in approach.

Any questions as always let me know and perhaps we can have a collective discussion 😊

Cheers

Rachel Knuckey
Team Leader Planning
City of West Torrens
165 Sir Donald Bradman Drive
Hilton SA 5033

Please be Green. Read from the screen!

**Team Leader Planning concurs with decision to
refuse application**

19/04/2022, 09:59

Planning and Land Division Consent for Development Application: 21025705 - Development Application Processing

Planning and Land Division Consent for Development Application: 21025705

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[Referrals](#)
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[Conditions and Notes](#)
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[Help for this section](#)

[Development application 21025705](#)

External referrals

Referral Body	Referred By	Response Type	Referral Type	Distributed	Due	Response	Status	Consent Type	Action(s)
South Australian Water Corporation	Assessment panel/Assessment manager at SPC Planning Services	Regulation 76 (4)	Advice	10 Sep 2021	10 Oct 2021	13 Sep 2021	Responded	Land Division Consent	View details
SPC Planning Services	Assessment panel/Assessment manager at City of West Torrens	Regulation 76	Comment	9 Sep 2021	7 Oct 2021	10 Sep 2021	Responded	Land Division Consent	View details

Internal Referrals

Requested By	Referral Type	Requested Date	Respondee	Response Date	Actions
Steven Burke	Engineering	10/09/2021	Richard Tan	15/09/2021	View
Steven Burke	Other	15/03/2022	Rachel Knuckey	15/03/2022	View

Response Details

Request:

Referral to T/L Planning for concurrence with decision to refuse application. Did not send via decision tab as did not want to upload stamped plans (will do if concurrence given and formal decision issued).

Response:

Based on our discussions and my comprehensive advice to the planning team on how to approach assessments in the Aircraft Noise Overlay I concur on this occasion that the application should be refused. If the applicant is aggrieved by this then they have the avenue of appeal. Please ensure that your delegated report clearly articulates the rationale we have discussed.

[Close](#)

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18 TRENNERY ST WEST RICHMOND SA 5033

Address:

Click to view a detailed interactive [SAILIS](#) in SAILIS

To view a detailed interactive property map in SAPPA click on the map below



Property Zoning Details

Overlay

- Aircraft Noise Exposure (ANEF 30)
- Airport Building Heights (Regulated) (All structures over 12 metres)
- Affordable Housing
- Building Near Airfields
- Hazards (Flooding)
- Hazards (Flooding - Evidence Required)
- Prescribed Wells Area
- Regulated and Significant Tree
- Stormwater Management
- Traffic Generating Development
- Urban Tree Canopy

Zone

General Neighbourhood

Selected Development(s)

Land division

This development may be subject to multiple assessment pathways. Please review the document below to determine which pathway may be applicable based on the proposed development compliances to standards.
If no assessment pathway is shown this mean the proposed development will default to performance assessed. Please contact your local council in this instance. Refer to Part 1 - Rules Interpretation - Determination of Classes of Development

Property Policy Information for above selection

Land division - Code Assessed - Performance Assessed

Part 2 - Zones and Sub Zones

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General Neighbourhood Zone

Assessment Provisions (AP)

Desired Outcome	
DO 1	Low-rise, low and medium-density housing that supports a range of needs and lifestyles located within easy reach of services and facilities. Employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising residential amenity.

Performance Outcomes (PO) and Deemed to Satisfy (DTS) / Designated Performance Feature (DPF) Criteria

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature												
Land Use and Intensity													
<p>PO 1.1</p> <p>Predominantly residential development with complementary non-residential uses that support an active, convenient, and walkable neighbourhood.</p>	<p>DTS/DPF 1.1</p> <p>Development comprises one or more of the following:</p> <ul style="list-style-type: none"> (a) Ancillary accommodation (b) Community facility (c) Consulting room (d) Dwelling (e) Educational establishment (f) Office (g) Place of Worship (h) Pre-school (i) Recreation area (j) Residential flat building (k) Retirement facility (l) Shop (m) Student accommodation (n) Supported accommodation 												
Site Dimensions and Land Division													
<p>PO 2.1</p> <p>Allotments/sites created for residential purposes are of suitable size and dimension to accommodate the anticipated dwelling form and remain compatible with the pattern of development in a low-rise and predominantly low-density neighbourhood, with higher densities closer to public open space, public transport stations and activity centres.</p>	<p>DTS/DPF 2.1</p> <p>Development will not result in more than 1 dwelling on an existing allotment</p> <p>or</p> <p>Allotments/sites for residential purposes accord with the following:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Dwelling Type</th> <th style="text-align: left;">Minimum site/allotment area per dwelling</th> <th style="text-align: left;">Minimum site/allotment frontage</th> </tr> </thead> <tbody> <tr> <td>Detached dwelling (not in a terrace arrangement)</td> <td>300m² (exclusive of any battle-axe allotment 'handle')</td> <td>9m where not on a battle-axe site 5m where on a battle-axe site</td> </tr> <tr> <td>Semi-detached dwelling</td> <td>300m²</td> <td>9m</td> </tr> <tr> <td>Row dwelling (or</td> <td>250m²</td> <td>7m</td> </tr> </tbody> </table>	Dwelling Type	Minimum site/allotment area per dwelling	Minimum site/allotment frontage	Detached dwelling (not in a terrace arrangement)	300m ² (exclusive of any battle-axe allotment 'handle')	9m where not on a battle-axe site 5m where on a battle-axe site	Semi-detached dwelling	300m ²	9m	Row dwelling (or	250m ²	7m
Dwelling Type	Minimum site/allotment area per dwelling	Minimum site/allotment frontage											
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Semi-detached dwelling	300m ²	9m											
Row dwelling (or	250m ²	7m											

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	<table border="1"> <tr> <td data-bbox="828 188 1078 237">detached dwelling in a terrace arrangement)</td> <td data-bbox="1078 188 1294 237"></td> <td data-bbox="1294 188 1441 237">(averaged)</td> </tr> <tr> <td data-bbox="828 237 1078 322">Group dwelling</td> <td data-bbox="1078 237 1294 322">300m² (average, including common areas)</td> <td data-bbox="1294 237 1441 322">15m (total)</td> </tr> <tr> <td data-bbox="828 322 1078 407">Dwelling within a residential flat building</td> <td data-bbox="1078 322 1294 407">300m² (average, including common areas)</td> <td data-bbox="1294 322 1441 407">15m (total)</td> </tr> </table>	detached dwelling in a terrace arrangement)		(averaged)	Group dwelling	300m ² (average, including common areas)	15m (total)	Dwelling within a residential flat building	300m ² (average, including common areas)	15m (total)
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Group dwelling	300m ² (average, including common areas)	15m (total)								
Dwelling within a residential flat building	300m ² (average, including common areas)	15m (total)								
<p>PO 2.2 Development creating new allotments/sites in conjunction with retention of an existing dwelling ensures the site of the existing dwelling remains fit for purpose.</p>	<p>DTS/DPF 2.2 Where the site of a dwelling does not comprise an entire allotment:</p> <ul style="list-style-type: none"> (a) the balance of the allotment accords with site area and frontage requirements specified in General Neighbourhood Zone DTS/DPF 2.1 (b) if there is an existing dwelling on the allotment that will remain on the allotment after completion of the development, it will not contravene: <ul style="list-style-type: none"> (i) Private open space requirements specified in Design in Urban Areas Table 1 - Private Open Space (ii) off-street vehicular parking exists in accordance with the rate(s) specified in Transport, Access and Parking Table 1 - General Off-Street Car Parking Requirements or Table 2 - Off-Street Car Parking Requirements in Designated Areas to the nearest whole number. 									
<p>PO 2.3 Land division results in sites that are accessible and suitable for their intended purpose.</p>	<p>DTS/DPF 2.3 Division of land satisfies (a), (b) or (c):</p> <ul style="list-style-type: none"> (a) reflects the site boundaries illustrated and approved in an existing development authorisation under the Development Act 1993 or Planning, Development and Infrastructure Act 2016 where the allotments are used or are proposed to be used solely for residential purposes (b) is proposed as part of a combined land division application with deemed-to-satisfy dwellings on the proposed allotments (c) satisfies all of the following: <ul style="list-style-type: none"> (i) No more than 5 additional allotments are created (ii) Each proposed allotment has a minimum site area of 300m² and frontage of 9m (iii) Each proposed allotment has a slope less than 12.5% (1-in-8) (iv) There are no regulated trees on or within 20m of the subject land, with the distance measured from the base of the trunk of the tree (or the nearest trunk of the tree) to the subject land (v) The division does not involve creation of a public road (vi) Vehicle access from a public road can be provided to all proposed allotments which satisfies Design in Urban Areas DTS/DPF 23.3, 23.4 and 23.6, and would be located wholly on one side of the allotment, or located no more than 1m from the side boundary alignment (vii) No allotments are in a battle-axe configuration and (viii) Each proposed allotment is of a size and 									

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	dimension capable of containing a rectangle 9m in width and 15m in depth.
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Table 5 - Procedural Matters (PM) - Notification

The following table identifies, pursuant to section 107(6) of the *Planning, Development and Infrastructure Act 2016*, classes of performance assessed development that are excluded from notification. The table also identifies any exemptions to the placement of notices when notification is required.

Interpretation

A class of development listed in Column A is excluded from notification provided that it does not fall within a corresponding exclusion prescribed in Column B. In instances where development falls within multiple classes within Column A, each clause is to be read independently such that if a development is excluded from notification by any clause, it is, for the purposes of notification excluded irrespective of any other clause.

Class of Development (Column A)	Exceptions (Column B)
1. A kind of development which, in the opinion of the relevant authority, is of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development.	None specified.
2. All development undertaken by: <ul style="list-style-type: none"> (a) the South Australian Housing Trust either individually or jointly with other persons or bodies or (b) a provider registered under the Community Housing National Law participating in a program relating to the renewal of housing endorsed by the South Australian Housing Trust. 	Except development involving any of the following: <ul style="list-style-type: none"> 1. residential flat building(s) of 3 or more building levels 2. the demolition of a State or Local Heritage Place 3. the demolition of a building (except an ancillary building) in a Historic Area Overlay.
3. Any development involving any of the following (or of any combination of any of the following): <ul style="list-style-type: none"> (a) air handling unit, air conditioning system or exhaust fan (b) ancillary accommodation (c) building work on railway land (d) carport (e) deck (f) dwelling (g) dwelling addition (h) fence (i) outbuilding (j) pergola (k) private bushfire shelter (l) residential flat building (m) retaining wall (n) retirement facility (o) shade sail (p) solar photovoltaic panels (roof mounted) (q) student accommodation 	Except development that: <ul style="list-style-type: none"> 1. does not satisfy General Neighbourhood Zone DTS/DPF 4.1 or 2. involves a building wall (or structure) that is proposed to be situated on a side boundary (not being a boundary with a primary street or secondary street) and: <ul style="list-style-type: none"> (a) the length of the proposed wall (or structure) exceeds 11.5m (other than where the proposed wall abuts an existing wall or structure of greater length on the adjoining allotment) or (b) the height of the proposed wall (or post height) exceeds 3m measured from the top of footings (other than where the proposed wall (or post) abuts an existing wall or structure of greater height on the adjoining allotment).

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<ul style="list-style-type: none"> (r) supported accommodation (s) swimming pool or spa pool (t) verandah (u) water tank. 	
<p>4. Any development involving any of the following (or of any combination of any of the following):</p> <ul style="list-style-type: none"> (a) consulting room (b) office (c) shop. 	<p>Except development that:</p> <ol style="list-style-type: none"> 1. does not satisfy any of the following: <ul style="list-style-type: none"> (a) General Neighbourhood Zone DTS/DPF 1.4 (b) General Neighbourhood Zone DTS/DPF 4.1 or 2. involves a building wall (or structure) that is proposed to be situated on a side boundary (not being a boundary with a primary street or secondary street) and: <ul style="list-style-type: none"> (a) the length of the proposed wall (or structure) exceeds 11.5m (other than where the proposed wall abuts an existing wall or structure of greater length on the adjoining allotment) or (b) the height of the proposed wall (or post height) exceeds 3m measured from the top of footings (other than where the proposed wall (or post) abuts an existing wall or structure of greater height on the adjoining allotment).
<p>5. Any development involving any of the following (or of any combination of any of the following):</p> <ul style="list-style-type: none"> (a) internal building works (b) land division (c) recreation area (d) replacement building (e) temporary accommodation in an area affected by bushfire (f) tree damaging activity. 	<p>None specified.</p>
<p>6. Alteration of or addition to any development involving the following (or of any combination of any of the following):</p> <ul style="list-style-type: none"> (a) community facility (b) educational establishment (c) pre-school. 	<p>Except development that does not satisfy General Neighbourhood Zone DTS/DPF 1.5.</p>
<p>7. Demolition.</p>	<p>Except any of the following:</p> <ol style="list-style-type: none"> 1. the demolition of a State or Local Heritage Place 2. the demolition of a building (except an ancillary building) in a Historic Area Overlay.
<p>Placement of Notices - Exemptions for Performance Assessed Development</p>	
<p>None specified.</p>	

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Placement of Notices - Exemptions for Restricted Development

None specified.

Part 3 - Overlays

Affordable Housing Overlay

Assessment Provisions (AP)

Desired Outcome	
DO 1	Affordable housing is integrated with residential and mixed use development.
DO 2	Affordable housing caters for a variety of household structures.

Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Land Division	
PO 1.1 Development comprising 20 or more dwellings / allotments incorporates affordable housing.	DTS/DPF 1.1 Development results in 0-19 additional allotments / dwellings.
PO 1.2 Development comprising 20 or more dwellings or residential allotments provides housing suited to a range of incomes including households with low to moderate incomes.	DTS/DPF 1.2 Development comprising 20 or more dwellings / or residential allotments includes a minimum of 15% affordable housing except where: (a) it can be demonstrated that any shortfall in affordable housing has been provided in a previous stage of development or (b) it can be demonstrated that any shortfall in affordable housing will be accommodated in a subsequent stage or stages of development.
PO 1.3 Affordable housing is distributed throughout the development to avoid an overconcentration.	DTS/DPF 1.3 None are applicable.
Affordable Housing Incentives	
PO 3.1 To support the provision of affordable housing, minimum allotment sizes may be reduced below the minimum allotment size specified in a zone while providing allotments of a suitable size and dimension to accommodate dwellings with a high standard of occupant amenity.	DTS/DPF 3.1 The minimum site area specified for a dwelling can be reduced by up to 20%, or the maximum density per hectare increased by up to 20%, where it is to be used to accommodate affordable housing except where the development is located within the Character Area Overlay or Historic Area Overlay.

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Procedural Matters (PM) - Referrals

The following table identifies classes of development / activities that require referral in this Overlay and the applicable referral body. It sets out the purpose of the referral as well as the relevant statutory reference from Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

Class of Development / Activity	Referral Body	Purpose of Referral	Statutory Reference
Development for the purposes of the provision of affordable housing (applying the criteria determined under regulation 4 of the <i>South Australian Housing Trust Regulations 2010</i>).	Minister responsible for administering the <i>South Australian Housing Trust Act 1995</i> .	To provide direction on the conditions required to secure the provision of dwellings or allotments for affordable housing.	Development of a class to which Schedule 9 clause 3 item 20 of the Planning, Development and Infrastructure (General) Regulations 2017 applies.

Aircraft Noise Exposure Overlay**Assessment Provisions (AP)**

Desired Outcome	
DO 1	Development sensitive to aircraft noise is designed and located to manage noise intrusion to reduce land use conflict and protect human health.

Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Land Division	
PO 3.1 Land division does not increase the number of allotments used for sensitive receivers in areas adversely affected by aircraft noise to mitigate community exposure to potential adverse environmental and amenity impacts generated by aircraft movements.	DTS/DPF 3.1 Land division: (a) within an area having an ANEF value of less than 30 or (b) within an area having an ANEF value of 30 or more and: (i) does not result in any additional allotments or (ii) none of the allotments will accommodate a sensitive receiver.

Procedural Matters (PM) - Referrals

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The following table identifies classes of development / activities that require referral in this Overlay and the applicable referral body. It sets out the purpose of the referral as well as the relevant statutory reference from Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

Class of Development / Activity	Referral Body	Purpose of Referral	Statutory Reference
None	None	None	None

Hazards (Flooding) Overlay

Assessment Provisions (AP)

Desired Outcome	
DO 1	Impacts on people, property, infrastructure and the environment from high flood risk are minimised by retaining areas free from development, and minimising intensification where development has occurred.

Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Land Division	
PO 1.1 Land division is limited to areas where the consequences to buildings and safety are low and can be readily managed or overcome.	DTS/DPF 1.1 None are applicable.
Site Earthworks	
PO 5.1 The depth and extent of filling required to raise the finished floor level of a building does not cause unacceptable impact on any adjoining property by diversion of flood waters, an increase in flood velocity or flood level, or an unacceptable loss of flood storage.	DTS/DPF 5.1 None are applicable.
PO 5.2 Driveways, access tracks and parking areas are designed and constructed to minimise excavation and filling.	DTS/DPF 5.2 Filling for ancillary purposes: (a) does not exceed 300mm above existing ground level (b) is no more than 5m wide.
Access	
PO 6.1 Development does not occur on land: (a) from which evacuation to areas not vulnerable to flood risk is not possible during a 1% AEP flood event (b) which cannot be accessed by emergency services vehicles or essential utility service vehicles during a 1% AEP flood event.	DTS/DPF 6.1 None are applicable.

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<p>PO 6.2</p> <p>Access driveways and tracks to significant development (i.e. dwellings, places of work, etc.) consist of a safe, all-weather trafficable surface that is accessible during a 1% AEP flood event.</p>	<p>DTS/DPF 6.2</p> <p>None are applicable.</p>
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Procedural Matters (PM) - Referrals

The following table identifies classes of development / activities that require referral in this Overlay and the applicable referral body. It sets out the purpose of the referral as well as the relevant statutory reference from Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

Class of Development / Activity	Referral Body	Purpose of Referral	Statutory Reference
None	None	None	None

Traffic Generating Development Overlay

Assessment Provisions (AP)

Desired Outcome	
DO 1	Safe and efficient operation of Urban Transport Routes and Major Urban Transport Routes for all road users.
DO 2	Provision of safe and efficient access to and from urban transport routes and major urban transport routes.

Performance Outcomes (PO) and Deemed to Satisfy (DTS) / Designated Performance Feature (DPF) Criteria

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Traffic Generating Development	
<p>PO 1.1</p> <p>Development designed to minimise its potential impact on the safety, efficiency and functional performance of the State Maintained Road network.</p>	<p>DTS/DPF 1.1</p> <p>Access is obtained directly from a State Maintained Road where it involves any of the following types of development:</p> <ul style="list-style-type: none"> (a) land division creating 50 or more additional allotments (b) commercial development with a gross floor area of 10,000m² or more (c) retail development with a gross floor area of 2,000m² or more (d) a warehouse or transport depot with a gross leasable floor area of 8,000m² or more (e) industry with a gross floor area of 20,000m² or more (f) educational facilities with a capacity of 250 students or more.
<p>PO 1.2</p> <p>Access points sited and designed to accommodate the type and volume of traffic likely to be generated by development.</p>	<p>DTS/DPF 1.2</p> <p>Access is obtained directly from a State Maintained Road where it involves any of the following types of development:</p>

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	<ul style="list-style-type: none"> (a) land division creating 50 or more additional allotments (b) commercial development with a gross floor area of 10,000m² or more (c) retail development with a gross floor area of 2,000m² or more (d) a warehouse or transport depot with a gross leasable floor area of 8,000m² or more (e) industry with a gross floor area of 20,000m² or more (f) educational facilities with a capacity of 250 students or more.
<p>PO 1.3</p> <p>Sufficient accessible on-site queuing provided to meet the needs of the development so that queues do not impact on the State Maintained Road network.</p>	<p>DTS/DPF 1.3</p> <p>Access is obtained directly from a State Maintained Road where it involves any of the following types of development:</p> <ul style="list-style-type: none"> (a) land division creating 50 or more additional allotments (b) commercial development with a gross floor area of 10,000m² or more (c) retail development with a gross floor area of 2,000m² or more (d) a warehouse or transport depot with a gross leasable floor area of 8,000m² or more (e) industry with a gross floor area of 20,000m² or more (f) educational facilities with a capacity of 250 students or more.

Procedural Matters (PM) - Referrals

The following table identifies classes of development / activities that require referral in this Overlay and the applicable referral body. It sets out the purpose of the referral as well as the relevant statutory reference from Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

Class of Development / Activity	Referral Body	Purpose of Referral	Statutory Reference
<p>Except where all of the relevant deemed-to-satisfy criteria are met, any of the following classes of development that are proposed within 250m of a State Maintained Road:</p> <ul style="list-style-type: none"> (a) land division creating 50 or more additional allotments (b) commercial development with a gross floor area of 10,000m² or more (c) retail development with a gross floor area of 2,000m² or more (d) a warehouse or transport depot with a gross leasable floor area of 8,000m² or more (e) industry with a gross floor area of 20,000m² or more (f) educational facilities with a capacity of 250 students or more. 	Commissioner of Highways.	To provide expert technical assessment and direction to the Relevant Authority on the safe and efficient operation and management of all roads relevant to the Commissioner of Highways as described in the Planning and Design Code.	Development of a class to which Schedule 9 clause 3 item 7 of the Planning, Development and Infrastructure (General) Regulations 2017 applies.

Part 4 - General Development Policies

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Land Division**Assessment Provisions (AP)**

Desired Outcome	
DO 1	<p>Land division:</p> <ul style="list-style-type: none"> (a) creates allotments with the appropriate dimensions and shape for their intended use (b) allows efficient provision of new infrastructure and the optimum use of underutilised infrastructure (c) integrates and allocates adequate and suitable land for the preservation of site features of value, including significant vegetation, watercourses, water bodies and other environmental features (d) facilitates solar access through allotment orientation (e) creates a compact urban form that supports active travel, walkability and the use of public transport (f) avoids areas of high natural hazard risk.

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
All land division	
Allotment configuration	
PO 1.1 Land division creates allotments suitable for their intended use.	DTS/DPF 1.1 Division of land satisfies (a) or (b): <ul style="list-style-type: none"> (a) reflects the site boundaries illustrated and approved in an operative or existing development authorisation for residential development under the <i>Development Act 1993</i> or <i>Planning, Development and Infrastructure Act 2016</i> where the allotments are used or are proposed to be used solely for residential purposes (b) is proposed as part of a combined land division application with deemed-to-satisfy dwellings on the proposed allotments.
PO 1.2 Land division considers the physical characteristics of the land, preservation of environmental and cultural features of value and the prevailing context of the locality.	DTS/DPF 1.2 None are applicable.
Design and Layout	
PO 2.1 Land division results in a pattern of development that minimises the likelihood of future earthworks and retaining walls.	DTS/DPF 2.1 None are applicable.
PO 2.2 Land division enables the appropriate management of interface impacts between potentially conflicting land uses and/or zones.	DTS/DPF 2.2 None are applicable.
PO 2.3 Land division maximises the number of allotments that face public open space and public streets.	DTS/DPF 2.3 None are applicable.

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PO 2.4	DTS/DPF 2.4
Land division is integrated with site features, adjacent land uses, the existing transport network and available infrastructure.	None are applicable.
PO 2.5	DTS/DPF 2.5
Development and infrastructure is provided and staged in a manner that supports an orderly and economic provision of land, infrastructure and services.	None are applicable.
PO 2.6	DTS/DPF 2.6
Land division results in watercourses being retained within open space and development taking place on land not subject to flooding.	None are applicable.
PO 2.7	DTS/DPF 2.7
Land division results in legible street patterns connected to the surrounding street network.	None are applicable.
Roads and Access	
PO 3.1	DTS/DPF 3.1
Land division provides allotments with access to an all-weather public road.	None are applicable.
PO 3.2	DTS/DPF 3.2
Street patterns and intersections are designed to enable the safe and efficient movement of pedestrian, cycle and vehicular traffic.	None are applicable.
PO 3.3	DTS/DPF 3.3
Land division does not impede access to publicly owned open space and/or recreation facilities.	None are applicable.
PO 3.4	DTS/DPF 3.4
Road reserves provide for safe and convenient movement and parking of projected volumes of vehicles and allow for the efficient movement of service and emergency vehicles.	None are applicable.
PO 3.5	DTS/DPF 3.5
Road reserves are designed to accommodate pedestrian and cycling infrastructure, street tree planting, landscaping and street furniture.	None are applicable.
PO 3.6	DTS/DPF 3.6
Road reserves accommodate stormwater drainage and public utilities.	None are applicable.
PO 3.7	DTS/DPF 3.7
Road reserves provide unobstructed vehicular access and egress to and from individual allotments and sites.	None are applicable.
PO 3.8	DTS/DPF 3.8
Street patterns and intersections are designed to enable the safe	None are applicable.

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and efficient movement of pedestrian, cycle and vehicular traffic.	
PO 3.9 Roads, open space and thoroughfares provide safe and convenient linkages to the surrounding open space and transport network.	DTS/DPF 3.9 None are applicable.
PO 3.10 Public streets are designed to enable tree planting to provide shade and enhance the amenity of streetscapes.	DTS/DPF 3.10 None are applicable.
Infrastructure	
PO 4.1 Land division incorporates public utility services within road reserves or dedicated easements.	DTS/DPF 4.1 None are applicable.
PO 4.2 Waste water, sewage and other effluent is capable of being disposed of from each allotment without risk to public health or the environment.	DTS/DPF 4.2 Each allotment can be connected to: (a) a waste water treatment plant that has the hydraulic volume and pollutant load treatment and disposal capacity for the maximum predicted wastewater volume generated by subsequent development of the proposed allotment or (b) a form of on-site waste water treatment and disposal that meets relevant public health and environmental standards.
PO 4.3 Septic tank effluent drainage fields and other waste water disposal areas are maintained to ensure the effective operation of waste systems and minimise risks to human health and the environment.	DTS/DPF 4.3 Development is not built on, or encroaches within, an area that is or will be, required for a sewerage system or waste control system.
PO 4.4 Constructed wetland systems, including associated detention and retention basins, are sited and designed to ensure public health and safety is protected, including by minimising potential public health risks arising from the breeding of mosquitoes.	DTS/DPF 4.4 None are applicable.
PO 4.5 Constructed wetland systems, including associated detention and retention basins, are sited and designed to allow sediments to settle prior to discharge into watercourses or the marine environment.	DTS/DPF 4.5 None are applicable.
PO 4.6 Constructed wetland systems, including associated detention and retention basins, are sited and designed to function as a landscape feature.	DTS/DPF 4.6 None are applicable.
Minor Land Division (Under 20 Allotments)	
Open Space	
PO 5.1 Land division proposing an additional allotment under 1 hectare provides or supports the provision of open space.	DTS/DPF 5.1 None are applicable.

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Solar Orientation	
PO 6.1 Land division for residential purposes facilitates solar access through allotment orientation.	DTS/DPF 6.1 None are applicable.
Water Sensitive Design	
PO 7.1 Land division creating a new road or common driveway includes stormwater management systems that minimise the discharge of sediment, suspended solids, organic matter, nutrients, bacteria, litter and other contaminants to the stormwater system, watercourses or other water bodies.	DTS/DPF 7.1 None are applicable.
PO 7.2 Land division designed to mitigate peak flows and manage the rate and duration of stormwater discharges from the site to ensure that the development does not increase the peak flows in downstream systems.	DTS/DPF 7.2 None are applicable.
Battle-Axe Development	
PO 8.1 Battle-axe development appropriately responds to the existing neighbourhood context.	DTS/DPF 8.1 Allotments are not in the form of a battle-axe arrangement.
PO 8.2 Battle-axe development designed to allow safe and convenient movement.	DTS/DPF 8.2 The handle of a battle-axe development: (a) has a minimum width of 4m or (b) where more than 3 allotments are proposed, a minimum width of 5.5m.
PO 8.3 Battle-axe allotments and/or common land are of a suitable size and dimension to allow passenger vehicles to enter and exit and manoeuvre within the site in a safe and convenient manner.	DTS/DPF 8.3 Battle-axe development allows a B85 passenger vehicle to enter and exit parking spaces in no more than a three-point turn manoeuvre.
PO 8.4 Battle-axe or common driveways incorporate landscaping and permeability to improve appearance and assist in stormwater management.	DTS/DPF 8.4 Battle-axe or common driveways satisfy (a) and (b): (a) are constructed of a minimum of 50% permeable or porous material (b) where the driveway is located directly adjacent the side or rear boundary of the site, soft landscaping with a minimum dimension of 1m is provided between the driveway and site boundary (excluding along the perimeter of a passing point).
Major Land Division (20+ Allotments)	
Open Space	
PO 9.1 Land division allocates or retains evenly distributed, high quality areas of open space to improve residential amenity and provide urban heat amelioration.	DTS/DPF 9.1 None are applicable.

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PO 9.2 Land allocated for open space is suitable for its intended active and passive recreational use considering gradient and potential for inundation.	DTS/DPF 9.2 None are applicable.
PO 9.3 Land allocated for active recreation has dimensions capable of accommodating a range of active recreational activities.	DTS/DPF 9.3 None are applicable.
Water Sensitive Design	
PO 10.1 Land division creating 20 or more residential allotments includes a stormwater management system designed to mitigate peak flows and manage the rate and duration of stormwater discharges from the site to ensure that the development does not increase the peak flows in downstream systems.	DTS/DPF 10.1 None are applicable.
PO 10.2 Land division creating 20 or more non-residential allotments includes a stormwater management system designed to mitigate peak flows and manage the rate and duration of stormwater discharges from the site to ensure that the development does not increase the peak flows in downstream systems.	DTS/DPF 10.2 None are applicable.
PO 10.3 Land division creating 20 or more allotments includes stormwater management systems that minimise the discharge of sediment, suspended solids, organic matter, nutrients, bacteria, litter and other contaminants to the stormwater system, watercourses or other water bodies.	DTS/DPF 10.3 None are applicable.
Solar Orientation	
PO 11.1 Land division creating 20 or more allotments for residential purposes facilitates solar access through allotment orientation and allotment dimensions.	DTS/DPF 11.1 None are applicable.

8 CONFIDENTIAL REPORTS OF THE ASSESSMENT MANAGER

8.1 437 Henley Beach Road, BROOKLYN PARK

Application No. DA 21014960

Reason for Confidentiality

It is recommended that this Report be considered in CONFIDENCE in accordance with regulation 13(2)(a) (vii) of the *Planning, Development and Infrastructure (General) Regulations 2017*, which permits the meeting to be closed to the public for business relating to the following:

- (vii) matters that must be considered in confidence in order to ensure that the assessment panel, or any other entity, does not breach any law, or any order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;

as this matter is before the Environment Resources and Development Court and it is a requirement of the Court that matters are kept confidential until such time as a compromise is reached or the matter proceeds to a hearing.

RECOMMENDATION

It is recommended to the Council Assessment Panel that:

1. On the basis that this matter is before the Environment Resources and Development Court so any disclosure would prejudice the position of Council, the Council Assessment Panel orders pursuant to regulation 13(2) of the *Planning, Development and Infrastructure (General) Regulations 2017*, that the public, with the exception of the Chief Executive Officer, members of the Executive and Management Teams, Assessment Manager, City Development staff in attendance at the meeting, and meeting secretariat staff, and other staff so determined, be excluded from attendance at so much of the meeting as is necessary to receive, discuss and consider in confidence, information contained within the confidential reports submitted by the Assessment Manager on the basis that this matter is before the Environment Resources and Development Court and it is a requirement of the Court that matters are kept confidential until such time as a compromise is reached or the matter proceeds to a hearing.
2. At the completion of the confidential session the meeting be re-opened to the public.

9 RELEVANT AUTHORITY ACTIVITIES REPORT

9.1 Activities Summary - May 2022

Brief

This report presents information in relation to:

1. Any development appeals before the Environment, Resources and Development (ERD) Court where the Council Assessment Panel (CAP) is the relevant authority;
2. Other appeal matters before the ERD Court of which SCAP are the relevant authority;
3. Any deferred items previously considered by the CAP
4. Summary of applications that have been determined under delegated authority where CAP is the relevant authority; and
5. Any matters being determined by the State Commission Assessment Panel (SCAP).

RECOMMENDATION

The Council Assessment Panel receive and note the information.

Development Application appeals before the ERD Court

CAP is the relevant authority

DA number	Address	Description of development	Status
211/279/2021	5 Palmyra Avenue, TORRENSVILLE	Demolition of existing buildings and construction of 19 two-storey dwellings with common driveway access and associated landscaping.	Appeal lodged by applicant on 22 December 2021. Preliminary conference held on 17 February 2022. Amended plans just received and report could not be presented for May CAP meeting. Conciliation conference scheduled for 19 May 2022 to be adjourned and rescheduled to allow report to be tabled at June CAP meeting.
21014960	437 Henley Beach Road, BROOKLYN PARK	Variation to Condition 3 in DA 211/262/2016 - extension to hours of operation to include Mondays 11.00am to 11.00pm and Sundays 11.00am to 11.00pm.	Appeal lodged by applicant on 14 February 2022. Preliminary conference held on 24 March 2022. Item tabled to May CAP meeting - Conciliation Conference scheduled for 17 May 2022.

DA number	Address	Description of development	Status
21014495	233-235 Richmond Road, RICHMOND	Demolition of existing dwelling and shed and the construction of warehouse and ancillary offices and showroom with associated carparking and landscaping	Appeal lodged by applicant on 2 May 2022. Preliminary conference to be scheduled in due course.

SCAP is the relevant authority

DA number	Address	Description of development	Status
211/M022/17	79 Port Road, THEBARTON	Multi-storey mixed use development, incorporating commercial tenancy, 2 storey car park, 9-storey residential flat building, four x 3-storey residential flat buildings and car parking.	Compromise plans have been received and Council comments provided to SCAP 09 November 2020. The compromise proposal was scheduled for conciliation conference 28 January 2021. No further update available.

Deferred CAP Items

Nil

Development Applications determined under delegation (CAP is the relevant authority)

Awaiting Plan SA Portal functionality to report on relevant applications.

Development Applications pending determination by SCAP

DA Number	Reason for referral	Address	Description of development
211/M135/21 Lodged 16/03/21	Schedule 10	1 Selby Street, KURRALTA PARK	Construction of a 10-storey residential flat building with associated car parking and site works. Under Assessment.

DA Number	Reason for referral	Address	Description of development
211/M134/21 Lodged 16/03/21	Schedule 10	4-10 Railway Terrace, MILE END	<p>Construction of a mixed use residential/commercial development comprising 51m² commercial tenancy, two (2) residential flat buildings comprising 6 dwellings and 28 dwellings associated landscaping, car parking, communal spaces and public realm improvements (Stage 2). Under Assessment.</p> <p>Public notification closed on 10 November 2021. Council comments sent to SCAP 02/12/2021.</p>

Conclusion

This report is current as at 2 May 2022.

Attachments

Nil

10 OTHER BUSINESS

10.1 Planning Policy Considerations

11 MEETING CLOSE