

DEVELOPMENT NO.:	22031803
APPLICANT:	Katerina Tsimouris & Zachary Kelly
AGENDA ITEM NO:	3.1
ADDRESS:	112 O'Connell Street, North Adelaide SA 5006
NATURE OF DEVELOPMENT:	Change of use to dog day care with associated internal alterations
ZONING INFORMATION:	<p>Zone:</p> <ul style="list-style-type: none"> • City Main Street <p>Subzone:</p> <ul style="list-style-type: none"> • City High Street <p>Overlays:</p> <ul style="list-style-type: none"> • Aircraft Noise Exposure • Airport Building Heights (Regulated) • Affordable Housing • Building Near Airfields • Design • Heritage Adjacency • Hazards (Flooding – Evidence Required) • Noise and Air Emissions • Prescribed Wells Area • Regulated and Significant Tree <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Max building height 14 metres • Min building height 2 levels • Max building height 4 levels
LODGEMENT DATE:	20 September 2022
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	2022.17 – 15 September 2022
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Kosta Tsekouras, Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Acoustic Engineer

CONTENTS:

ATTACHMENT 1:	Application Documents	ATTACHMENT 5:	Representations
ATTACHMENT 2:	Site Map	ATTACHMENT 6:	Response to Representations
ATTACHMENT 3:	Zoning Map	APPENDIX 1:	Relevant P&D Code Policies
ATTACHMENT 4:	Representation & Locality Map		

All attachments and appendices are provided via Link 1 [here](#)

PERSONS SPEAKING BEFORE THE PANEL

Representor

- Julie Johnson of 13 George Street, North Adelaide

Applicant

- Katerina Tsimouris and Zachary Kelly

1. DETAILED DESCRIPTION OF PROPOSAL

1.1 This development application proposes:

- a change of use from a vacant premises (previously a shop 'bank') to a dog day care
- customers will leave their dog/s at the day care to be cared for during the day. Dogs will not be kept at the premises overnight. Bathing and drying services will also be provided
- hours of operation are proposed between 7:30am and 7:30pm seven days a week
- a maximum of 20 dogs will be kept on site at any one time and only dogs weighing up to a maximum of 10kg will be accepted
- internal fit out work includes the demolition and construction of partition walls to create an entry foyer/reception and a rear area for storage and bathroom facilities
- advertisements or external building work are not proposed.

2. BACKGROUND

2.1 The proposed dog day care use commenced in late 2022, prior to a potential planning authorisation being granted.

2.2 Once Council became aware of the commencement of the use, the applicant was instructed to cease the use until a potential development approval was granted. The applicant ceased operations pending the issue of a development approval.

3. SUBJECT LAND & LOCALITY

Subject Land

3.1 The subject site is located on the eastern side of O'Connell Street, approximately 33 metres north of Tynte Street. The site has an area of approximately 252m², a frontage of approximately 9.5 metres to O'Connell Street and a secondary frontage to of 9.5 metres to Lohrman Street at the rear.

3.2 The site contains a single storey building that has been vacant in recent years. The site also contains an uncovered car parking area at the rear of the building.

Locality

3.3 O'Connell Street is a prominent commercial area in North Adelaide, characterised by various commercial and recreational uses including shops, offices, consulting rooms and licensed premises.

3.4 O'Connell Street is a wide thoroughfare accommodating a large volume of traffic and pedestrian activity. Built form in the locality is generally low scale, characterised by single and two storey buildings. Buildings comprise mixed architectural expressions with several Local and State Heritage Places located amongst contemporary buildings.

3.5 Lohrman Street to the east is a minor street with no footpaths. A north-south portion provides rear access for several buildings having a frontage to O'Connell Street. An east-west portion provides access to buildings fronting Tynte and George Streets. As this street provides rear vehicle access, it is characterised by at grade car parking and garaging close to the street boundary.

- 3.6 The site is located at the interface between the City Main Street Zone/City High Street Subzone and City Living Zone/North Adelaide Low Intensity Subzone. Consequently, the built form and land uses in the locality are reflective of the interface between the two zones.



Figure 3.1 – subject site viewed from western side of O'Connell Street



Figure 3.2 – rear of subject site viewed from Lohrman Street



Figure 3.3 – rear of dwellings to the northeast of subject site



Figure 3.4 – rear of dwellings to the southeast of subject site



Figure 3.5 – western side of O'Connell Street opposite subject site

4. CONSENT TYPE REQUIRED

Planning Consent

5. CATEGORY OF DEVELOPMENT

● **PER ELEMENT**

Change of use: Code Assessed - Performance Assessed

Internal fitout: Accepted

● **OVERALL APPLICATION CATEGORY**

Code Assessed - Performance Assessed

● **REASON**

Proposed change of use is not specified as Restricted, Accepted or Deemed to Satisfy within City Main Street Zone. Application classified as Performance Assessed.

Proposed internal fit out work is Accepted development per City Main Street Zone Table 1.

6. PUBLIC NOTIFICATION

● **REASON**

Proposed use is not specified as being exempt from public notification under Table 5 of the City Living Zone. Change of use to dog day care is not considered to be of a minor nature due to potential impacts on surrounding properties. No other exemptions listed in Table 5 are applicable.

The proposal has undergone public notification and one representation was received during the notification process.

TABLE 6.1 – LIST OF REPRESENTATIONS

No.	Representor Address	Request to be Heard
1	Julie Johnson of 13 George Street, North Adelaide	Yes – opposed

TABLE 6.2 – SUMMARY OF REPRESENTATIONS

Summary of Representations	Applicant Response (Summary)
Noise from animals and certain properties not included in acoustic assessment	<ul style="list-style-type: none"> • Precautions taken to mitigate noise. Acoustic consultant accessed building and our premises are completely soundproof, as requested by Council and as stated in our acoustic consultant report. Neighbours directly behind were included in calculations, as they could have been affected by noise.
Smells, odours, vermin associated with business	<ul style="list-style-type: none"> • Cleanliness is of utmost importance. Our premises will be cleaned on a regular basis throughout the day. There is no risk of vermin.
Insufficient car parking on site, leading to congestion	<ul style="list-style-type: none"> • Three private parking spaces available on our premises. Plenty of parking spaces and options on O'Connell Street for customers, which all other businesses on O'Connell Street utilise. It is up to the customer how they go about parking.
Hours of operation excessive	<ul style="list-style-type: none"> • Regarding hours of operation, the adjacent bakery is open 24/7, with people sitting out the front, making noise until early hours of the morning. There is also a nightclub nearby that is open until 3am.
Business currently operating without approval	<ul style="list-style-type: none"> • Premature opening was due to thinking we had covered all bases with the Council and with our application. Operation was ceased immediately as soon as we received notification from Council to do so. We have not opened or operated since then.
Lack of secondary access in case of fire	<ul style="list-style-type: none"> • Fire alarm sprinkler system and fire extinguishers in each room.
Incompatibility with surrounding land uses	<ul style="list-style-type: none"> • There will not be any trucks or deliveries from the back of our premises. • Dogs will always be located indoors, so as not to have an impact on adjacent businesses.

	<ul style="list-style-type: none">• Our business will help the area, by providing a service to keep dogs clean, as there are always people walking along and often seen sitting outdoors at the eateries along O'Connell Street with their dogs. We will maintain a high standard of cleanliness to the street.
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7. AGENCY REFERRALS

Nil

8. INTERNAL REFERRALS

Nil

9. PLANNING ASSESSMENT

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

9.1 Summary of City Main Street Zone Assessment Provisions

Subject Code Ref	Assessment	Achieved
		Not Achieved
DO1	<ul style="list-style-type: none"> Land use aligns with mixed use character in zone. 	✓
Land Use & Intensity PO 1.1	<ul style="list-style-type: none"> Land use contributes to a vibrant mix of uses in the zone and will add to vitality of the area. 	✓
Land Use & Intensity PO 1.2	<ul style="list-style-type: none"> Business will provide a service to surrounding area. 	✓
Land Use & Intensity PO 1.6	<ul style="list-style-type: none"> Non-residential use at ground level will assist in generating pedestrian activity and vibrancy along the main street. 	✓
Land Use & Intensity PO 1.7	<ul style="list-style-type: none"> Change of use constitutes efficient reuse of an existing commercial premises. 	✓

9.2 Summary of City High Street Subzone Provisions

Subject Code Ref	Assessment	Achieved
		Not Achieved
DO1	<ul style="list-style-type: none"> Land use aligns with shopping/commercial character desired in subzone and will contribute to active economy. 	✓
Land Use & Intensity PO 1.1	<ul style="list-style-type: none"> Land use contributes to a vibrant mix of uses in the zone and will add to vitality of the area. 	✓

9.3 Summary of Applicable Overlays

The following Overlays are not considered to be relevant to the assessment of the application:

- Aircraft Noise Exposure – non-residential land use
- Airport Building Heights (Regulated) – no external changes to built form
- Affordable Housing – non-residential use of existing building
- Building Near Airfields – no external changes to built form
- Design – no external changes to built form
- Hazards (Flooding – Evidence Required) – no flooding concerns
- Heritage Adjacency – building work proposed to internal areas only and therefore the proposal will not have any direct impact upon adjacent Local Heritage Place

- Noise and Air Emissions – non-residential land use
- Prescribed Wells Area – no concerns
- Regulated and Significant Tree – no regulated or significant trees on the site or adjoining land

9.4 General Development Policies

The following General Development Policies are relevant to the assessment:

Interface Between Land Uses

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO1	<ul style="list-style-type: none"> • Adverse effects on neighbouring land uses are not expected. 	✓
General Land Use Compatibility PO 1.2	<ul style="list-style-type: none"> • Adverse impacts on adjacent sensitive receivers and the adjacent City Living Zone are not expected. 	✓
Hours of Operation PO 2.1	<ul style="list-style-type: none"> • Refer Section 9.5. 	✓
Activities Generating Noise or Vibration PO 4.1	<ul style="list-style-type: none"> • Refer Section 9.5. 	✓

Transport, Access and Parking

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO1 Vehicle Access PO 3.1 & 5.1	<ul style="list-style-type: none"> • Three existing on-site car parks are provided to the rear, however there is no minimum car parking requirement for development in the City Main Street Zone. • Safe and convenient access is proposed via an existing crossover and parking area. • There will be minimal change to vehicle movements along Lohrman Street considering three existing on-site car parks will be used by staff only. 	✓

9.5 Detailed Discussion

Land Use

The proposed use is undefined and not listed under Part 7 – Land Use Definitions in the Planning and Design Code (the Code). Part 1 – Rules of Interpretation prescribe that development which does not fall within one of the specified classes of development in Table 3 will be designated in the table as 'All Other Code Assessed Development'.

City Main Street Zone DO 1 and PO1.1 and City High Street Subzone DO1 and PO1.1 envisage a vibrant mix of land uses including shopping, hospitality, commercial, community, cultural and entertainment facilities among medium-high density housing. Despite not being defined in the Code, the proposed use is similar to desired non-residential uses in the zone and aligns with the existing and desired mixed use character. The development is expected to positively contribute to the vitality of the area during the daytime as sought by DO 1 and PO 1.1.

Zone PO 1.2 desires retail, office, entertainment and recreation related uses, supplemented by other businesses that provide a range of goods and services to the city and the surrounding district. Subzone PO 1.1 seeks uses that provide services to the local community. The dog day care will provide a service to the surrounding district that is otherwise lacking in the area. The service is expected to be utilised by residents and visitors in North Adelaide as well as the broader metropolitan area.

Zone PO 1.7 anticipates the efficient reuse of commercial premises to maintain and enhance vibrancy within activity centres. The proposed use will contribute to commercial activity as desired.

Environmental

The dog day care will accommodate up to 20 dogs at a time, providing care and supervision as well as cleaning and bathing between the hours of 7:30am and 7:30pm seven days a week. Dogs will be dropped off and picked up by owners on the same day and will not be kept on-site overnight. Only dogs weighing up to 10kgs will be cared for.

Due to potential noise impacts and proximity to noise sensitive receivers, an acoustic report was provided by the applicant. The acoustic report suggests the land use satisfies the requirements of the Code and Environment Protection (Noise) Policy 2007 in respect to noise impact. As outlined in the report, expected noise levels from the dog day care measured at the nearest sensitive receivers (two residential properties to the east, fronting George Street and Tynte Street) will be well within the noise limits. Expected noise from the dog day care is also predicted to be inaudible in adjacent commercial tenancies. The acoustic report has made recommendations for mitigation measures necessary to maintain acceptable levels of noise impact and these are included a recommended condition in Section 11.

A peer review of the acoustic report was undertaken by Council and this review concluded there were no issues with the methodology of the assessment and noise from the proposal will achieve the relevant Environment Protection (Noise) Policy 2007 criteria in accordance with Interface Between Land Uses PO/DPF 4.1. Consequently, the development is not anticipated to unreasonably impact the amenity of adjacent noise sensitive receivers and will satisfy Interface Between Land Uses DO 1 and PO 1.2.

The proposed hours of operation are similar to other businesses along O'Connell Street that are active throughout the day and evening. There are no specific hours of operation referred to for this proposed use in DPF 2.1, however noise impacts will be managed appropriately and existing uses in the area already occur well into the evening. Consequently, the proposal is considered to satisfy PO 2.1.

10. **CONCLUSION**

Despite the proposed 'dog day care' being an undefined land use in the zone, it aligns with the desired character of the City Main Street Zone and City High Street Subzone and is expected to be compatible with the O'Connell Street locality.

It has been demonstrated the operations of the land use will not have an unreasonable impact on the amenity of adjacent land by way of noise, traffic impact, hours or intensity of operation.

The proposal is not considered to be at variance with the provisions of the relevant provisions of the Planning and Design Code and exhibits sufficient merit to warrant the issuing of Planning Consent.

11. **RECOMMENDATION**

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 22031803, by Katerina Tsimouris and Zachary Kelly is granted Planning Consent subject to the following conditions and advices:

CONDITIONS

1. **The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).**
 - **Proposed Development Details, Existing and Proposed Floor Plan Provided by Applicant on 15 September 2022**
 - **Marshall Day Acoustics – Little Dog Day Care Noise Assessment – Report Dated 21 November 2022**

2. **The acoustic attenuation measures proposed for installation within the Development as detailed in section 4.3 of the Report prepared by Marshall Day Acoustics dated 21 November 2022 forming part of this consent shall be installed within the Development to the reasonable satisfaction of the Relevant Authority. Such acoustic attenuation measures shall be operational prior to the occupation or use of the Development.**

3. **The car parking on the Land shall be for the use of staff only.**

ADVISORY NOTES

1. Expiration Time of Approval

Pursuant to the provisions of Regulation 67 of the Planning, Development and Infrastructure (General) Regulations 2017, this consent / approval will lapse at the expiration of 2 years from the operative date of the consent / approval unless the relevant development has been lawfully commenced by substantial work on the site of the development within 2 years, in which case the approval will lapse within 3 years from the operative date of the approval subject to the proviso that if the development has been substantially or fully completed within those 3 years, the approval will not lapse.

2. Appeal Rights

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).

3. Notifications

Pursuant to Regulation 93 of the Planning, Development and Infrastructure Act, the Council must be given one business days' notice of the commencement and the completion of the building work on the site. To notify Council, contact City Planning via d.planner@cityofadelaide.com.au or phone 8203 7185.

4. Advertisements

This consent does not include advertisements for which a separate application must be submitted.