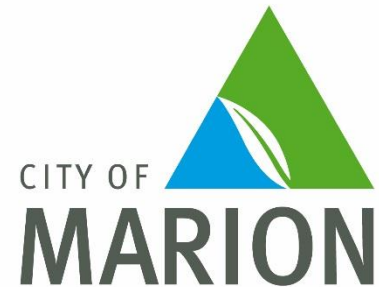


**CAP030724 – 4.2 – 377A Cross Road, Edwardstown.**

**Withdrawn from the Agenda**

Please note the above item has been withdrawn from the agenda and will not be considered by the Council Assessment Panel.

Members – Council Assessment Panel  
**CITY OF MARION**



**NOTICE OF  
COUNCIL ASSESSMENT PANEL MEETING**

Notice is hereby given that a Council Assessment Panel Meeting will be held:

**Wednesday 3 July 2024**

**Commencing at 6.30 p.m.**

**Council Chamber**

**Council Administration Centre**

**245 Sturt Road, Sturt**

A copy of the Agenda for the meeting is attached. Meetings are open to the public and interested members of the community are welcome to attend. Access to the CAP Meeting is via the main entrance to the Administration building, 245 Sturt Road, Sturt.



Alex Wright  
**ASSESSMENT MANAGER**

26 June 2024

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

**CITY OF MARION  
COUNCIL ASSESSMENT PANEL AGENDA  
FOR MEETING TO BE HELD ON  
WEDNESDAY 3 JULY 2024  
COMMENCING AT 6.30PM**

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**1. MEETING PROCEDURES**

**1.1 OPEN MEETING**

**1.2 PRESENT**

**1.3 APOLOGIES**

**1.4 IN ATTENDANCE**

**2. GENERAL OPERATIONS**

No items listed for discussion.

**3. DEVELOPMENT ACT 1993 APPLICATIONS**

No items listed for discussion.

**4. PDI ACT APPLICATIONS**

**4.1 DEVELOPMENT NO 24002304**

**98 DAVENPORT TERRACE, SEACLIFF PARK**

**Detached dwelling, earthworks, swimming pool and associated safety features.**

Report Reference: CAP030724- 4.1 .....3

**4.2 DEVELOPMENT NO 24010859**

**377A CROSS ROAD, EDWARDSTOWN**

**Change of Use to a Service Trade Premise (Car Sales Premises proposing a maximum of sixteen vehicles being stored at the site for online listing and sale).**

Report Reference: CAP030724 - 4.2 .....59

**5. APPEALS UPDATE**

Verbal update provided.

**6. POLICY OBSERVATIONS**

No items listed for discussion.

**7. OTHER BUSINESS**

**7.1 GENERAL ANALYSIS REPORT.....104**

**8. CONFIRMATION OF THE COUNCIL DEVELOPMENT ASSESSMENT PANEL MEETING  
HELD ON 3 JULY 2024**

**9. MEETING CLOSURE**

**2. GENERAL OPERATING PROCEDURES  
CITY OF MARION  
COUNCIL ASSESSMENT PANEL AGENDA  
FOR MEETING TO BE HELD ON  
WEDNESDAY 3 JULY 2024**

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No items listed for discussion.

**3. DEVELOPMENT ACT APPLICATIONS  
CITY OF MARION  
COUNCIL ASSESSMENT PANEL AGENDA  
FOR MEETING TO BE HELD ON  
WEDNESDAY 3 JULY 2024**

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No items listed for discussion.

**REPORT REFERENCE: CAP030724 – 4.1**  
**CITY OF MARION**  
**COUNCIL ASSESSMENT PANEL AGENDA**  
**FOR MEETING TO BE HELD ON**  
**WEDNESDAY 3 JULY 2023**

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<b>Originating Officer:</b>	<b>Michael Hughes (Development Officer – Planning)</b>
<b>Applicant:</b>	<b>Mr Michael Katianos</b>
<b>Application No:</b>	<b>24002304</b>
<b>Development Description:</b>	<b>Three level detached dwelling with retaining walls, masonry wall exceeding 1 metre swimming pool and associated safety features</b>
<b>Site Location:</b>	<b>98 Davenport Terrace Seacliff Park</b>
<b>Zone:</b>	<b>Hills Neighbourhood Zone</b>
<b>Lodgement Date:</b>	<b>07/02/2024</b>
<b>Planning and Design Code:</b>	<b>18 January 2024 Version 2024.1</b>
<b>Referrals:</b>	<b>Nil</b>
<b>Application Type:</b>	<b>Performance Assessed</b>
<b>Delegations Policy:</b>	<b>Instrument of Delegation – CAP, Clause 5.1.1.1</b> <i>The delegation of the power to grant or refuse planning consent pursuant to Section 102(1)(a) of the Act is limited to applications in relation to which: Any Performance Assessed application that has undergone Public Notification where at least one representor has expressed opposition to the proposed development and has expressed their desire to be heard by the Panel.</i>
<b>Public Notification</b>	<b>Public Notification required</b> <i>A 'Dwelling' is excluded from Public Notification within the Hills Neighbourhood Zone (Table 5, Clause 3(b) EXCEPT development that exceeds the maximum building height specified in Hills Neighbourhood Zone DTS/DPF 4.1, being no greater than 9 metres and 2 levels.</i>  <i>'Retaining walls' are excluded from Public Notification within the Hills Neighbourhood Zone (Table 5, Clause 8) EXCEPT where they do not satisfy Hills Neighbourhood Zone DTS/DPF 11.3 (more than 1.5 metres in height and not stepped in a series of low walls each not exceeding 1 metre in height and separated by at least 700mm). Earthworks are not excluded Public Notification within the Hills Neighbourhood Zone.</i>
<b>Recommendation:</b>	<b>That Planning Consent be GRANTED subject to Conditions</b>

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**Attachments**

<i>Attachment I:</i>	<i>Proposal Plan and supporting documentation</i>
<i>Attachment II:</i>	<i>Statement of Representations</i>
<i>Attachment III:</i>	<i>Applicant's Response to Representations</i>
<i>Appendix 1:</i>	<i>Code Rules</i>

## SUBJECT LAND

The subject land comprises a rectangular shaped allotment. It has a site area measuring 738 square metres and a frontage to Davenport Terrace of 16.15 metres in total. The site is currently vacant and has been vacant since council's aerial photography library commenced in 1949. There are no regulated or significant trees on the application site nor within 20 metres of the application site. Whilst the allotment exists in its own right, no lawful access point is present.

A bus stop is located in front of the allotment, just to the top of the boundary, adjacent to the north-east corner of the front boundary. The bus stop will require to be relocated approximately 3.5m to the north.

The allotment comprises a significant gradient and slopes down sharply from the front to the rear of the allotment by some 10 metres, in addition the allotment also slopes down gently from the south to the north. The site is elevated above John Street to the rear.

A 4.5-metre-wide stormwater easement runs north to south along the allotment's rear boundary. The proposal does not propose to impact the stormwater easement.



Figure 1: Subject land



## LOCALITY

The immediate locality includes dwellings surrounding the intersection of Davenport Terrace and John Street and extending up the lower portion of Gooroogna Street. The wider locality includes the streets and dwellings surrounding the natural gully which extends down with the slope of the land down to the council linear reserve to the west of John Street.

Dwellings on the eastern side of Davenport Terrace in the immediate locality are typically sited above the road level with driveways sloping down to the street. Conversely, dwellings (and associated garaging and driveways) on the western side of Davenport Terrace site below the street. Dwellings on the western side of Davenport Terrace are generally oriented to the west, gaining views towards the Adelaide plains/western suburbs and distant coastline.

Dwellings within the locality are generally single and two-storey (including split-level) detached dwellings on large allotments, comprising generous, albeit somewhat inconsistent, setbacks from front boundaries. Dwellings on the western side of Davenport Terrace often comprise limited setbacks to side boundaries.

The Seaview Downs Primary School is located 200 metres to the south-east of the subject land, and the Linear Reserve is located 70 metres to the west.

The subject site is located approximately 1600 metres from the ocean to the west. The topography of the land enables ocean views including Brighton Jetty located approximately 3km to the northwest.

The subject site is located in the Hills Neighbourhood Zone. The nearest neighbouring zone is the General Neighbourhood Zone located approximately 250m to the north of the subject site.

The subject site and locality can be viewed via this [Google Maps link](#).

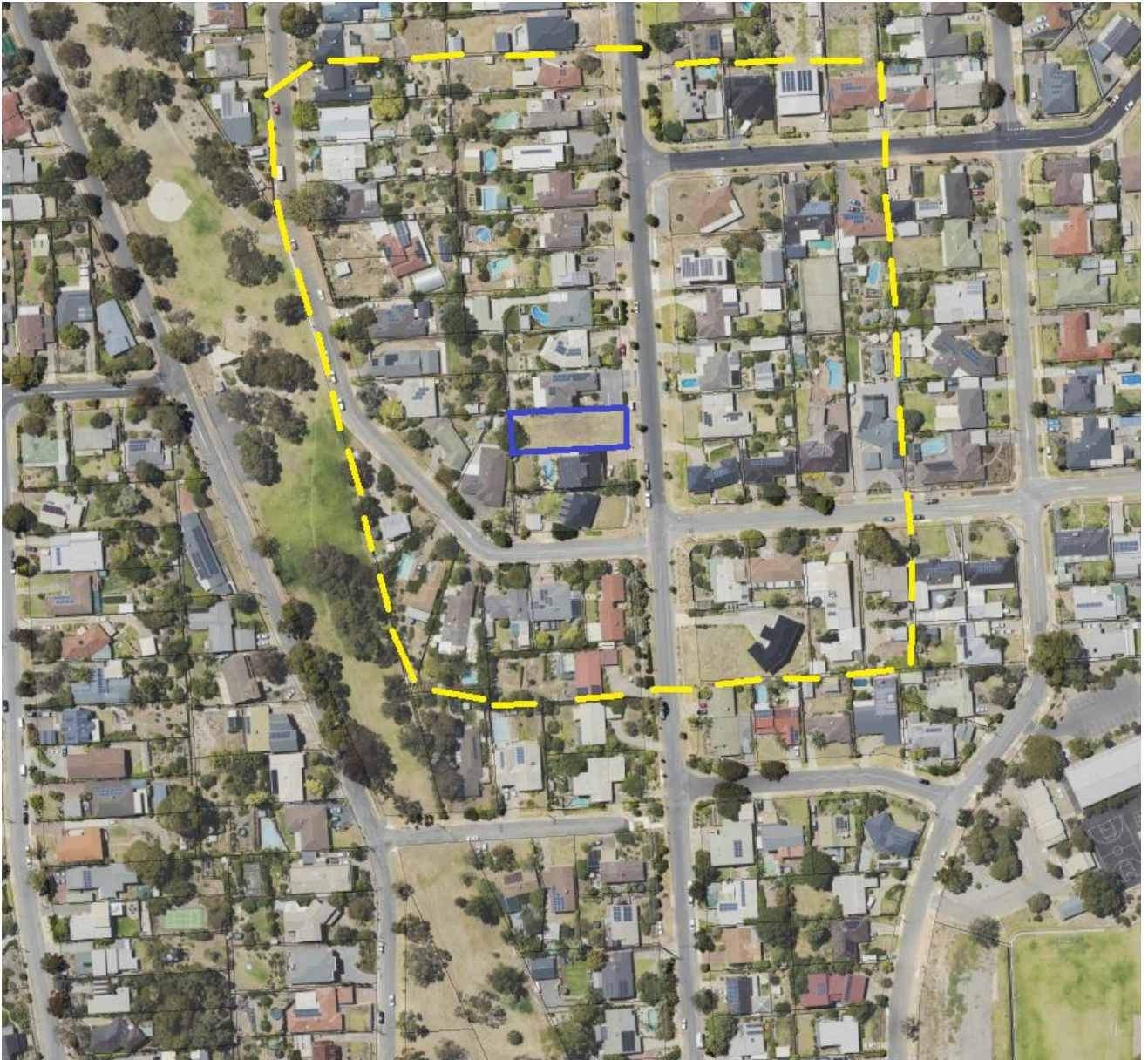


Figure 2: Locality

## PROPOSED DEVELOPMENT

The application seeks the construction of a three-storey, three-bedroom, detached dwelling, masonry wall exceeding 1 metre, swimming pool and alfresco along with associated earthworks, retaining and landscaping. The proposed dwelling is oriented to the east and incorporates the following.

Floor Level	Detail
'Garage' level	<p>The garage level consists of the following:</p> <ul style="list-style-type: none"><li>• 4 car garage and associated vehicle reversing bay</li><li>• Storage</li><li>• Swimming pool (3.8m x 7m) along with pool pump/equipment</li><li>• Alfresco</li><li>• Laundry and laundry chute</li><li>• Gym</li><li>• Lift</li></ul> <p>Garage seeks direct vehicular access via Davenport Terrace, utilising a proposed crossover. The garage level incorporates fill to enable the gradient of the driveway to facilitate convenient vehicular access</p>
'Ground' level	<p>The 'ground' level will include:</p> <ul style="list-style-type: none"><li>• Bedrooms 2 and 3</li><li>• Study/home office</li><li>• Linen/store</li><li>• Pantry and wine store</li><li>• An open plan living/dining and kitchen area</li><li>• An alfresco</li></ul> <p>The front door is accessed from the street by ascending a short staircase that raises 1.3m above natural ground level (at boundary interface).</p>
'Upper' level	<p>The upper floor comprises the following:</p> <ul style="list-style-type: none"><li>• Sitting room and Bedroom 1</li><li>• Ensuite bathroom and robe</li></ul>

The proposed development is for a three-storey detached dwelling with associated pool, earthworks and retaining. The proposal will present to the street as a two-storey dwelling with an additional undercroft garage. The driveway services the undercroft garage and incorporates moderate 'fill' to facilitate appropriate driveway gradients. As such, the total height of the front elevation is approximately 8m above natural ground level (at boundary interface), with the Finished Floor Level (FFL) of the undercroft garage being sited some 1.8m below natural ground level. The maximum height of the dwelling, taken from the lowest point of any built form to the highest point of the building, is 14.7m.

The lowest part of the proposal is the north-western corner of the pool which proposes retaining and pool perimeter path. This built form is located above an area of natural ground achieving a level of 92.75. 'Alfresco 1' is positioned on top of the pool. The lowest part of the built form at 92.75 (pool retaining), to the highest part of the dwelling (second story roof capping) at 107.45, results in a total height of some 14.7 metres.

The garage level incorporates stepping down, in the order of 2.6m, to Alfresco 2 to the rear. The ground level and upper level do not incorporate stepping and maintain the same FFLs.

<b>Existing and proposed levels</b>	
Highest point of dwelling	14.7m
'Upper' Floor level	14.7m
'Ground'	7.7m
Existing kerb level	99.61RL
'Garage'	4.4m
'Pool' & 'Alfresco' Pool Level	1.8m
Lowest part of natural ground level	94.37RL

The lower ground level will include a 4-car garage, store and gym with a pool (3.8 metre x 7 metre) and alfresco. The ground level includes two bedrooms, a cooking and living area, a study and an alfresco. The upper level includes a bedroom and sitting room with ensuite bathroom and walk in-robe.

A landscaping plan nominates trees to be planted across the site, along with an indicative landscape schedule.

The proposal does not conflict with any Regulated or Significant Trees on the land or adjacent land.

## **PROCEDURAL MATTERS**

### **Classification**

The subject land is in the Hills Neighbourhood Zone of the Planning & Design Code (the Code) as of 30 March 2023.

The proposed development is not prescribed as 'accepted', 'deemed to satisfy' or 'restricted' development in the Zone. The proposal is therefore 'performance assessed' pursuant to Section 107 the Planning, Development and Infrastructure Act 2016 and will be assessed on its merits against the various provisions of the Code.

### **Notification**

The proposal is for dwelling additions within the Hills Neighbourhood Zone which fail to satisfy Zone DTS/DPF 4.1 relating to maximum building height, and hence the proposal required notification in accordance with the HNZ, Table 5, Clause 3(g) exception 1.

As such, the development was processed in accordance with the Act.



## PUBLIC NOTIFICATION

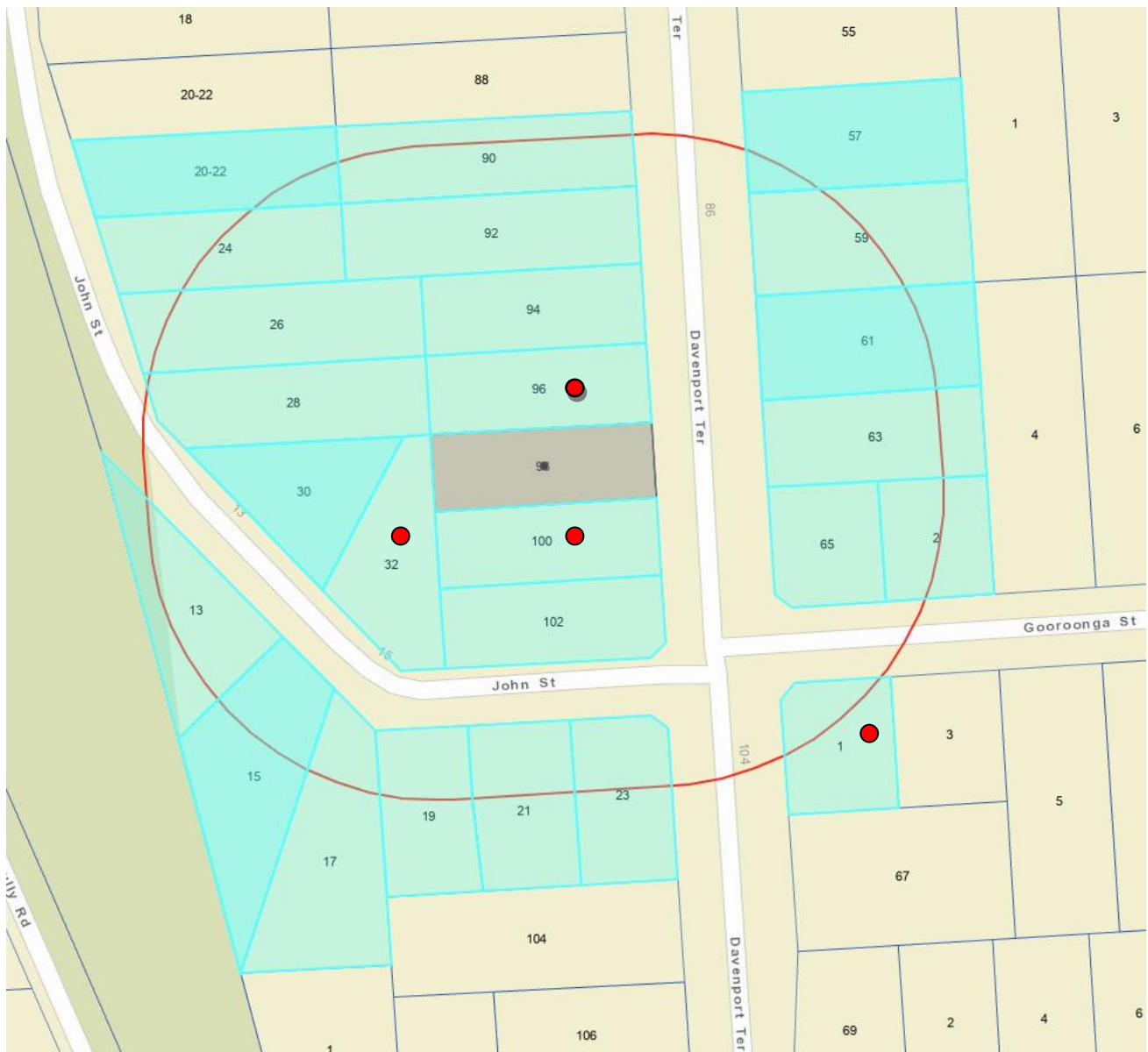


Figure 3: Public Notification Map

### Properties Notified Representations received

30  
4 representations received (from 4 properties marked by red dots above), all representations opposed the proposed development

### Representations who wished to be heard

- Anradha Mundkur of 96 Davenport Terrace
- WL Rudd and GR Thomas of 1 Gooroonga Street
- Robyn Trenouth of 100 Davenport Terrace

### Applicant Response

A response by the applicant is included within the report attachments.

## Referrals

### Internal

Development Engineer – council's Development Engineer has reviewed the engineered site works plan and is satisfied with the proposed driveway gradients and stormwater management of the proposal.

Traffic Engineer – council's Traffic Engineer has reviewed the location of the proposed driveway. The bus stop relocation will require a separate future *Local Government Act 1999*, Sec 221 application to be submitted to council at the cost of the applicant. Council's Technical Services Team has reviewed the proposed bus stop relocation and support the proposal, subject to the application for the proposed dwelling receiving approval.

## Approach to Assessment

Part 1 – Rules of Interpretation of the Planning and Design Code (the Code) provides clarity on how to interpret the policies in the Code. Of particular note 'Designated Performance Features' (DPF) assist Councils to interpret Performance Outcomes (PO).

The Rules of Interpretation clearly state that a DPF provides a guide but does not need to necessarily be satisfied in order for a certain development to meet the PO, i.e. the outcome can be met in another way:

***In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.*** (My underlining added)

A DPF provision should not be interpreted as quantitative requirements, instead they simply present one way in achieving the corresponding PO. There can be variation from DPF policies, and not just in a minor way. Emphasis should be placed on satisfying the qualitative Performance Outcome in the circumstances where a specified DPF is not met.

It is with the above approach in mind that I have assessed this development.

## ASSESSMENT

Part 1 - Rules of Interpretation of the Code advises that for each Zone Table 3 specifies the policies and rules that apply to classes of development within the zone. I note:

***The policies specified in Table 3 constitute the policies applicable to the particular class of development within the zone to the exclusion of all other policies within the Code, and no other policies are applicable. For the avoidance of doubt, the relevant authority may determine that one or more of the listed policies are not relevant to a particular development.***

The code policies applicable to this development can be reviewed in Appendix 1.

## ZONE CONSIDERATIONS

*Hills Neighbourhood Zone*

DO1, PO 1.1,  
PO 3.1,  
PO 4.1,  
PO 5.1,  
PO 7.1,  
PO 8.1,  
PO 9.1,  
PO 10.2,  
PO's 11.1, 11.2

## OVERLAY CONSIDERATIONS

Affordable Housing Overlay- PO 1.1  
Airport Building Heights (Regulated) Overlay- DO 1, PO 1.1  
Stormwater Management Overlay- DO 1, PO 1.1  
Urban Tree Canopy Overlay- DO 1, PO 1.1

## GENERAL DEVELOPMENT POLICIES CONSIDERATIONS

***Clearance from Overhead Powerlines-*** DO 1, PO 1.1

***Design in Urban Areas***

DO 1,  
PO 8.1,  
PO 10.1,  
PO's 17.1, 17.2,  
PO 18.1,  
PO's 20.2, 20.3,  
PO's 21.1, 21.2, PO 22.1,  
PO 23.4

***Interface between Land Uses***

DO 1, PO's 3.1, 3.2, 3.3



**Site Contamination- DO 1, PO 1.1**

**Transport, Access and Parking**

DO 1, PO 5.1

**Quantitative snapshot**

Existing site dimensions		
Site area	738m <sup>2</sup>	
Frontage width	16.15m	
Site depth	45.7m	
Gradient	1-in-5	
Proposed Development		
Element	Proposed additions	Suggested DTS/DPF
Site coverage	38% (283m2)	40%
Building height	3 levels (split) 12.98m14.7m - 3 levels	2 levels < 9m
Front setback	10.1m	Average of adjoining 8.0m & 9.0m = 8.5m
Northern side setback	Lower-level 1.5m Upper-level: 4m	Lower-level 1.9m Upper-level 1.9m
Southern side setback	Lower-level: 2.0m Upper-level: 4.07m	Ground-level 4.5m Upper-level 4.9m
Rear setback	13m	Lower 4m Upper 6m
Private open space	>400m <sup>2</sup>	60m <sup>2</sup>
Soft landscaping	41% (300m <sup>2</sup> )	25%
On-site car parking	4 Covered	2 spaces (1 covered)
Stormwater Management Overlay	Retention volume: 4000L (detention not required due to over 35% site perviousness)	Min retention volume: 4000L
Urban Tree Canopy Overlay	2 small trees	1 medium tree or 2 small trees

## **Assessment Discussion**

In my view, the most pertinent planning considerations for this assessment relate to the proposed building height and setbacks of the dwelling, in addition to the external appearance of the built form and potential amenity impacts on neighbours and the public realm. The following discussion considers the proposed development against provisions of the Planning and Design Code relating to:

- Land Use
- Zone Assessment
  - Built form and character
  - Building Height
  - Setbacks
  - Site Coverage
- External appearance
- Amenity impacts
  - Attractive Outlook
  - Access to light and ventilation
  - View loss assessment
  - Visual impact
  - Overshadowing
  - Visual privacy
- Landscaping
- Fencing and walls
- Stormwater disposal
- Swimming pool equipment

### **Land Use**

The proposed development is primarily for the construction of a detached dwelling, along with other ancillary development. As a form of development anticipated within the Zone (i.e. residential development in a Neighbourhood Zone) and having regard to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, the proposed dwelling is an envisaged low density residential use that is not considered to be seriously at variance to the Planning & Design Code.

### **Zone Assessment**

#### *Built form and character*

Hills Neighbourhood Zone Desired Outcome DO1 seeks for low density housing to minimise disturbance to natural landforms and existing vegetation to mitigate the visible extent of building, earthworks and retaining walls. Performance Outcome 1.1 seeks low density residential development compatible with natural landforms, while PO 11.1 seeks buildings to be sited and designed to integrate with the natural topography of the land using measures such as split-level building construction and other approaches that minimise the extent of cut and fill.

Whilst the proposed development incorporates a considerable extent of earthworks and thus disturbance to the natural landform is not entirely minimised as sought by PO's 1.1 and 11.1, the earthworks proposed are largely in the form of fill into the sloping site which enables the dwelling to have an increased front setback that reduces the overall bulk of the dwelling as it is set further back from the street boundary and enables the angle of driveway to be more accommodating to the topography of the land. The use of fill has had an impact on the side elevations as these elevations appear as three storey dwellings that sit on fill rather than having been 'cut' into the land. The visual impact of the side elevations is discussed further below.

Zone PO 10.1 suggests that development prominently visible from the Adelaide Plains or urban areas within regional cities or townships should:

- (a) achieve a profile that blends with the topography of the land
- (b) avoid the use of bright and highly reflective external materials and finishes
- (c) incorporate existing vegetation wherever possible and additional landscaping to assist in reducing the apparent bulk and scale.

The dwelling is sited in a residential area and will be visible from the Adelaide Plains, however the visible impact of the building, when viewed from the north, is negligible, due to its proximity to the existing neighbouring three storey dwelling immediately to the south of the subject site.

### *Building Height*

Hills Neighbourhood Zone Performance Outcome 4.1 seeks for buildings to contribute to a low-rise suburban character and complement the height of nearby buildings. The corresponding DPF/DTS 4.1 provides a numeric maximum building height of 9 metres and 2 levels.

The proposed dwelling comprises three storeys with a maximum building height of 14.7m, taken as a vertical line from the lowest point of natural ground level to the highest point of the building. Accordingly, the overall building height exceeds that envisaged of 'low-rise' development ('low-rise' considered by the Code to be a maximum of 2 storeys).

The allotment incorporates an overall gradient of 1 in 5 as the allotment falls from 99.61RL to 90.07RL over the 45.7m length of the allotment. The gradient is not uniform across the site, with a south-eastern to north-western crossfall. Whilst an overall building height of 14.7m is proposed, it should be noted that this height is taken from the lowest possible natural ground level below the built form to the highest portion of the built form.

When viewed from the side, the built form ranges in height from 7.3 metres (shortest) to 13.6 metres (tallest).

The dwelling height does not start to exceed 9m in height until it is setback approximately 14m from the front boundary before the building height rises with the upper level and then continues to exceed 9m in height to the rear elevation.

The dwelling will present as three storeys to the street however the visual impact of the front elevation is reduced by the 'garage level' sited 3.55 metres below kerb level and approximately 1.85 metres below the NGL (Natural Ground Level) at the front boundary. The front door (and middle floor) will be 1.3m above the natural ground level and would be reached from the street by a short set of stairs. From street level, the 'upper' level, will for the most part, present as a second level, with a maximum building height of 8.0 metres above NGL at the front boundary.



Figure 4: Showing how the front elevation will present to the street.

The PO also seeks for buildings to complement the height of nearby buildings, however the height of dwellings within the locality varies considerably. Dwellings adjacent the subject land comprise of a mixture of older split level and two-storey dwellings with more modest building heights, designed to take advantage of the coastal views to the northwest.

The PO seeks for buildings to contribute to a low-rise suburban character, with 'low-rise' defined by the Planning and Design Code as up to, and including, 2 building levels. In this regard it is noted that the proposed dwelling will be sited adjacent the southern neighbour (100 Davenport Terrace). This neighbouring dwelling at 100 Davenport Terrace presents as two levels to the front elevation with an additional dormer roof addition incorporating front windows that face the street, creating the impression of a third storey when viewed from the street. This neighbouring dwelling incorporates the topography of the site, and has three levels that present to the rear, a ground floor, middle floor and upper floor. The middle and upper floors have balconies that wrap around the western and northern elevations.

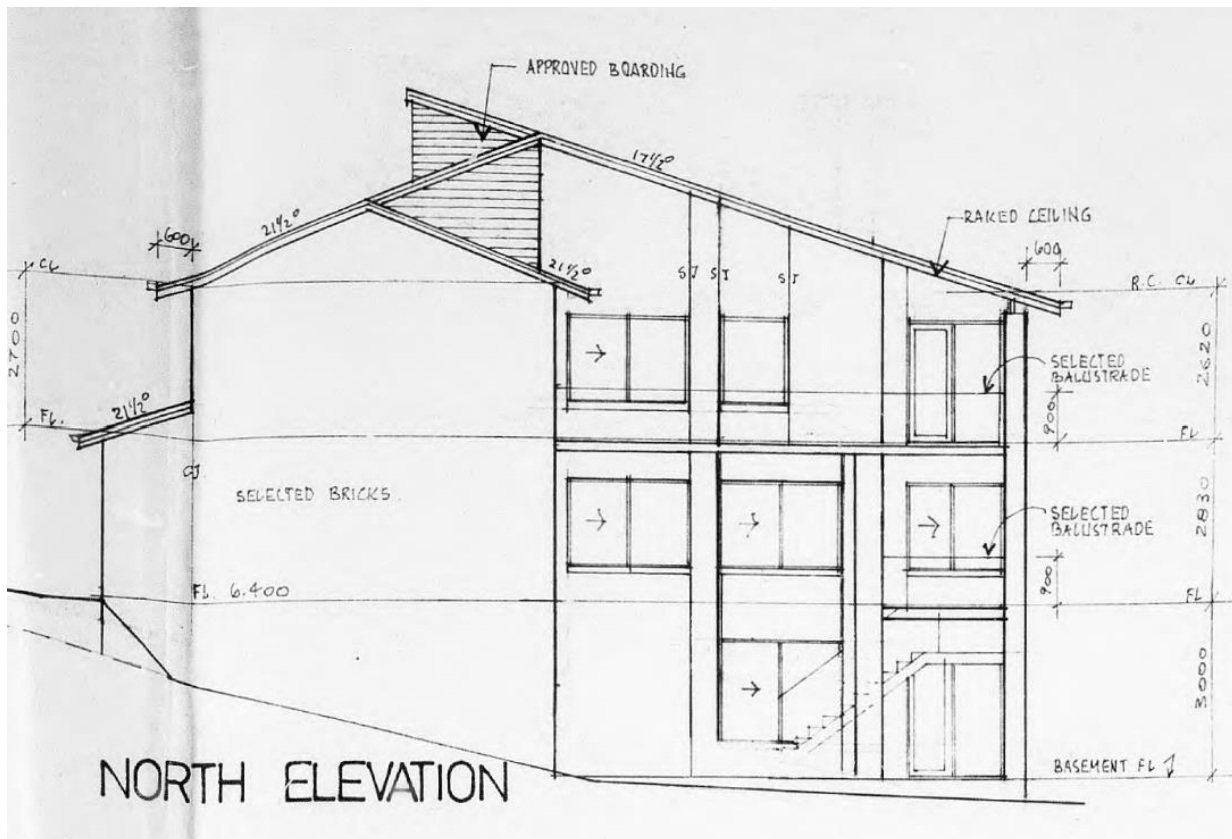


Figure 6 showing the northern elevation of 100 Davenport Terrace

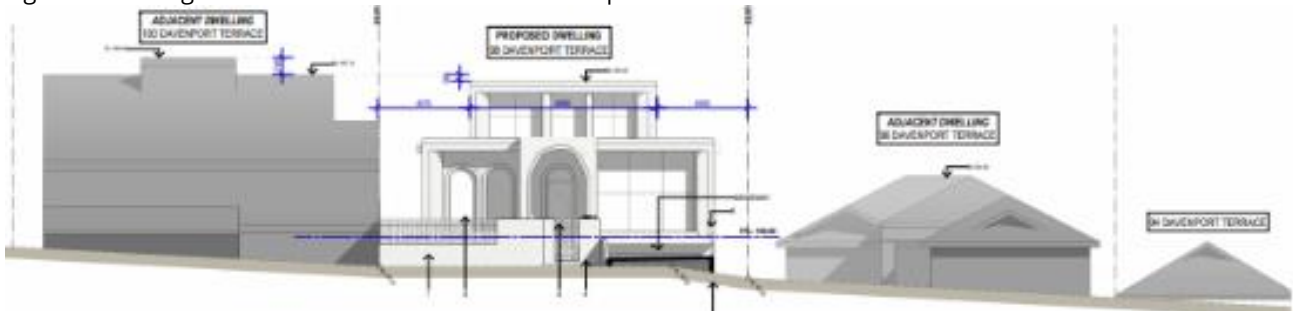


Figure 6 Showing the front elevation of the proposed dwelling (in the middle) in relation to its existing neighbours to the north and south.

The proposed dwelling presents to the street as 1.02m lower than the neighbouring dwelling to the south. This is due to the front of the neighbouring southern property being approximately 0.5m higher and located on a higher level due to the upward slope of the land.

The neighbouring dwelling to the north (96 Davenport Terrace) is a split-level home that presents to the street as a single storey dwelling. The difference between the maximum height of the front of the proposed dwelling and this northern neighbouring dwelling is approximately 4.3m.

Whilst the upper level of the proposed dwelling is 4.3m higher than the neighbouring dwelling to the north, the roof height of the ground level is only 1.8m higher than that dwelling's roof apex. Due to the topography of the land, there is little uniformity of building heights within the locality, 96 Davenport Terrace presents to the street with a maximum height 3m higher than their northern neighbour at 94 Davenport Terrace.

Despite the dwelling being sited higher than the northern neighbour, given what exists within the locality, the height is nonetheless considered complementary to the low-rise suburban character sought. This is due to the topography of the area creating an inconsistency of building heights within the locality that goes beyond the immediate neighbours to the north and south. For example, to the south of 100 Davenport Terrace, is 102 Davenport Terrace on the northwest corner with John Street. 102 Davenport Terrace presents as a double storey dwelling to Davenport Terrace and appears to be much lower than 100 Davenport Terrace despite having a maximum building height of over 9.5m.

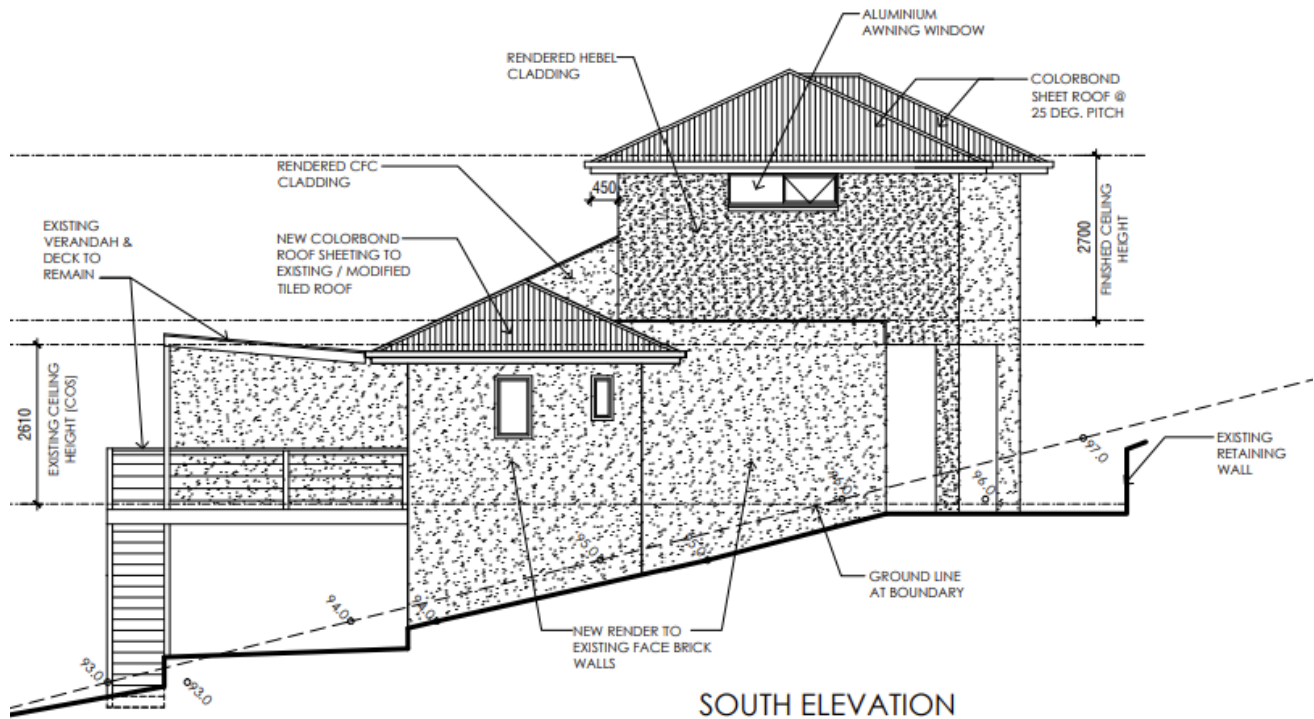


Figure 7 showing the southern elevation of 102 Davenport Terrace to the north of the subject site.





Figure 8: showing 102 Davenport Terrace presenting as double storey dwelling and its larger and higher neighbouring property at 100 Davenport Terrace.

PO 4.1 does not relate only to the height of the front of buildings, and it is considered that when discussing building height it is important to consider the height of the rear and side elevations and whether they also contribute to a low-rise suburban character and complement the height of nearby buildings.

Due to the sloping nature of the topography and built form design, the direct floor to ceiling height varies.

The building height in relation to the southern side, taken from ground level to upper floor, is 11.95m (setback 4.07m from the southern boundary), whilst the building at the westernmost point will be 11.48m (setback 2m from the southern boundary).

The building height in relation to the northern side elevation, taken from ground level to upper floor, is 12.98m (setback 4m from the northern boundary), whilst the building at the westernmost point will be 11.5m (setback 1.5m from the northern boundary).

The rear building height, taken from natural ground level to the top of the ground level is approximately 11.2 metres, with the upper level being set in further and less apparent when viewed from the rear.

The building heights for the rear and side elevations exceed the 9m maximum suggested by DTS/DPF 4.1, however due to the inconsistent nature of building heights in the locality these heights are not considered unreasonable. For example, the maximum building height of the northern side of 96 Davenport is 9.2m above natural ground level and for 100 Davenport Terrace it is 9.4m to the upper storey and 11.2m to the dormer roof addition. Furthermore, the northern side wall of 100 Davenport Terrace is located on the boundary and achieves a height of approximately 9.4m.



Figure 9 showing the 2-storey boundary wall on the northern side boundary.

Hills Neighbourhood Zone, PO 10.2 relates to built form and character. The PO seeks that development of more than one building level in height takes into account its height and bulk relative to adjoining neighbours through the incorporating of stepping in the design to take account of the slope. The proposed dwelling incorporates similar setbacks and building footprint's to existing dwellings in the locality. The dwelling does not however incorporate stepping like many dwellings on the western side of Davenport Terrace. However, the existing neighbouring dwelling to the south also does not incorporate stepping in the design, and the proposed dwelling will be lower in height than existing and with more generous side setbacks.

Demonstrably, there are circumstances where excess building levels and heights have been considered acceptable in relation to the context and overall merit of each proposal. In this instance, and as discussed above, the excess in building height is largely a symptom of pre-existing site conditions. Whilst the proposed building height exceeds the 9m suggested in DTS/DPF 4.1, the building heights are appropriate when considering the pre-existing site context, are comparable to other dwellings within the locality and considered to contribute to the low-rise suburban character of the locality sought within the Zone.



Whilst the subject site is located in the Airport Building Heights (Regulated) Overlay, it is not considered that the building height will pose a danger to the operation of an airport.

### *Setbacks*

#### *Front Setback*

Zone PO 5.1 seeks for buildings to be set back from primary street boundaries consistent with the existing streetscape. The corresponding DTS/DPF seeks for a setback equal to that of the adjacent dwellings to the north (96 Davenport Terrace) and to the south (100 Davenport Terrace). The proposed front setback for both the garage level and the ground level are approximately 10m from the front boundary. The setback for the upper-level building line is approximately 14 metres. The primary street setback of 96 Davenport Terrace is approximately 9 metres to the building line. The primary street setback of 100 Davenport Terrace is approximately 8 metres to the building line.

Relevant to the discussion regarding primary street setback in this instance, Design in Urban Areas PO 20.1 seeks for garaging to be designed to not detract from the streetscape or appearance of the dwelling with the corresponding DTS/DPF outlining that garages should be situated so that no part of the garage will be forward of the building line of the dwelling. The proposal includes a four car double tandem garage that will utilise a 5m wide double garage door. The bottom of the proposed garage door will be located approximately 1.8m below NGL.

The presence of garaging on the streetscape in this location is apparent. For existing dwellings on the western side of Davenport Terrace, garaging is located below the natural ground level at the front boundary due to the slope of the site. It is considered that, due to the location and siting of the proposed garage, the design does not detract from the streetscape nor the appearance of the dwelling. It is considered that the proposal satisfies Zone PO 5.1.

#### *Side Setbacks*

Zone PO 8.1 outlines that buildings should be set back from side boundaries to provide separation between dwellings in a way that complements the established character of the locality and access to natural light and ventilation for neighbours. The corresponding DPF seeks a side setback of at least 1.9 metres for the northern side setback (regardless of wall height) and 1.9 metres plus a distance of 1/3 of extent to which the height of the wall exceeds 3 metres from the natural ground level for a south facing wall.

	DPF 8.1 Requirement	Proposed
<b>Southern side setback</b>	Lower level - 4.7m	Lower level: 2.0m
	Upper level - 5.7m	Upper level: 4.07m
<b>Northern side setback</b>	Lower level - 1.9m	Lower level 4.7m
	Upper level - 1.9m	Upper level: 5.2m

The proposed development incorporates a setback to the southern side boundary of 2.0 metres for the 'garage' level and 'ground' level, and 4.07 metres to the 'upper' level. This setback does not increase in line with the slope and as such the southern elevation (incorporating both the garage and ground levels) increases to a maximum wall height of 11.48 metres. The upper storey achieves a southern side elevation height of 14.3 metres and proposes a side setback 4.07 metres.

The proposed development incorporates a setback to the northern side boundary of 1.5 metres for the 'garage' level and 'ground' level, and 4 metres to the 'upper' level. Like the southern side elevation, the setback does not increase in association with the slope, therefore resulting in the northern side elevation increasing to a maximum wall height of 14.7 metres.

The height of the garage level and ground level increase as the allotment slopes down to the rear, however the side setbacks for these floors are constant at 2.0 metres for the southern elevation and 1.5 metres for the northern elevation.

Whilst these proposed setbacks fail to satisfy the suggested DPF criteria, the PO seeks for separation to complement the established character of the locality and provide access to natural light and ventilation for neighbours. The PO however does not specifically seek to minimise visual impact.

This notwithstanding, the proposed separation to this boundary remains somewhat reflective of the established character of the locality as sought by the PO, with dwellings in the locality maintaining limited side setbacks. However, it is acknowledged that very few dwellings are truly 'three-storey', with most being split-level and set into the hillside.

The established character of the locality includes numerous examples of dwellings (particularly those more recently constructed) which have been designed to take up the width of the property to maximise on coastal views. As such, many dwellings observe limited side setbacks which would not satisfy the suggested DPF criteria. Most obviously this is observed with the 9m high boundary wall located directly to the south of the proposed dwelling (see Figure 7).

The requirement for a more generous upper-level setback to the southern side (as opposed to the northern side) arises from the Code's desire to mitigate overshadowing impacts upon adjacent dwellings. Concerns with regards to overshadowing are discussed below in the Amenity Impacts section of this report.

Additional impacts of the reduced side setbacks, side elevation heights and lengths are discussed in the relevant sections below.

### *Rear Setback*

PO 9.1 seeks buildings be set back from rear boundaries to provide separation between buildings in a way that complements the established character of the locality and enables access

to natural light and ventilation for neighbours, sufficient private open space and space for landscaping and vegetation.

The rear elevation of the dwelling will be set 16.5m from the rear boundary. The proposed pool of the 'garage level' and alfresco of the ground level will be setback approximately 13m from the rear. The proposed upper level will be setback over 21m from the rear boundary. The generous rear setback, articulated at each level, is considered important in reducing the visual bulk/scale posed by the dwelling's four storey appearance.



Figure 10 – showing the rear elevation of the dwelling

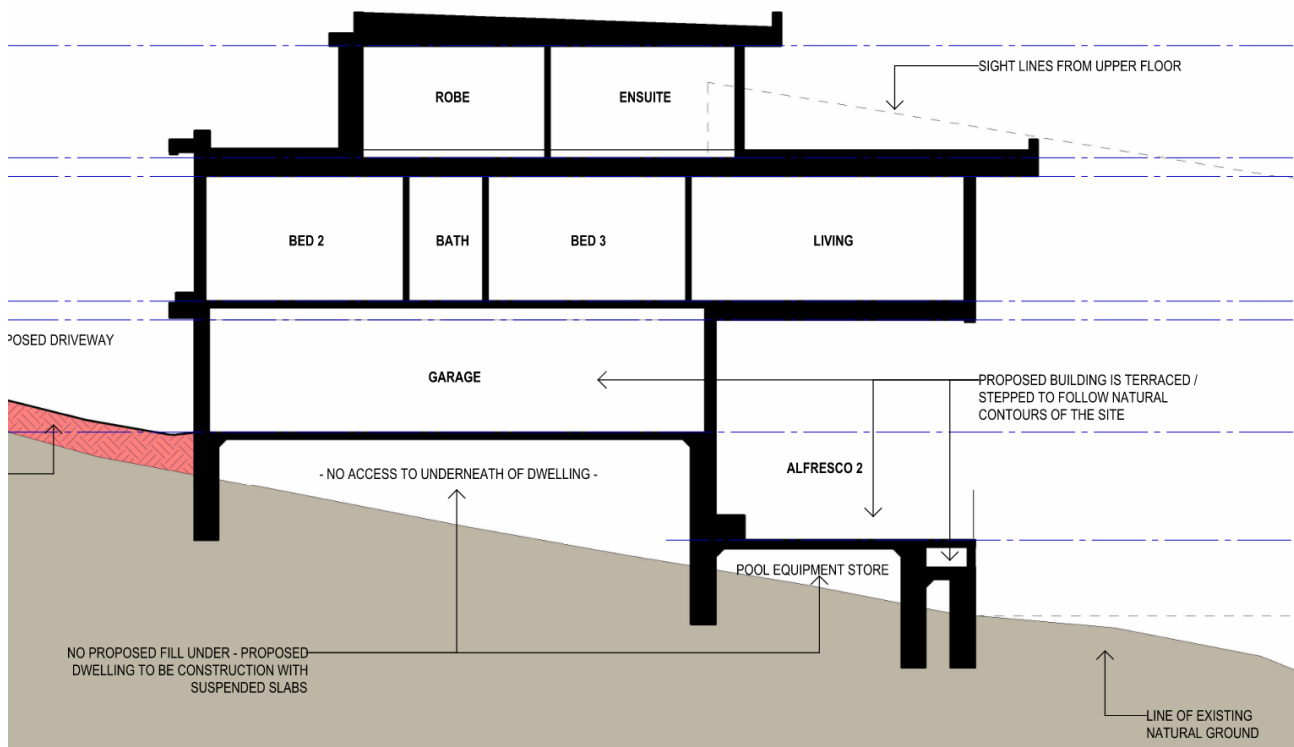


Figure 11 showing the cross section of the dwelling and the void beneath the garage and Alfresco 2.

The rear setbacks provide separation between buildings in a way that complements the established character of the locality. Whilst the neighbouring dwellings have rear setbacks of approximately 15m and 19m for 96 and 100 Davenport Terrace, there are examples of dwellings in the immediate locality incorporating rear setbacks of approximately 13m, such as 32 John Street, beyond the rear boundary of the subject site. The 16.5m rear setback is considered to complement the established character by providing a generous rear setback that enables sufficient space to be retained for POS and landscaping, despite the slope of the land. In addition, the rear setback provides sufficient distance between buildings to enable neighbouring dwellings to receive sufficient access to ventilation. With regards to enabling access the natural light, the applicant has provided an overshadowing diagram that will be discussed in the section regarding Amenity Impacts below.

### *Site Coverage*

Zone PO 3.1 seeks building footprints consistent with the character and pattern of a low-density suburban neighbourhood and which provide sufficient space around buildings to limit visual impact, provide an attractive outlook and access to light and ventilation.

The proposed building footprint equates to some 38% of the site and remains compatible with the character and pattern of development expected in a low-density suburban neighbourhood. The proposed dwelling incorporates a substantial rear setback that takes account of the easement along the rear boundary. It is acknowledged that there are shortfalls in side setbacks (as discussed further below), however it is considered that the space provided around the building remains acceptable in providing an attractive outlook as well as access to light and

ventilation for both future occupants of the subject dwelling as well as those of adjacent dwellings.

### *Earthworks and retaining*

The allotment slopes steeply to the rear with a gradient of 1 in 5. Zone PO 11.1 suggests buildings are sited, and designed to integrate with the natural topography of the land using measures such as split-level building construction and other approaches that minimise the extent of cut and fill.

The proposal incorporates modest fill at the front of the property to facilitate appropriate driveway grades and 'build up' the dwelling to enable compatible front setbacks. The proposal maintains the FFL levels of each floor and does not propose stepping down these levels to reflect the sloping topography.

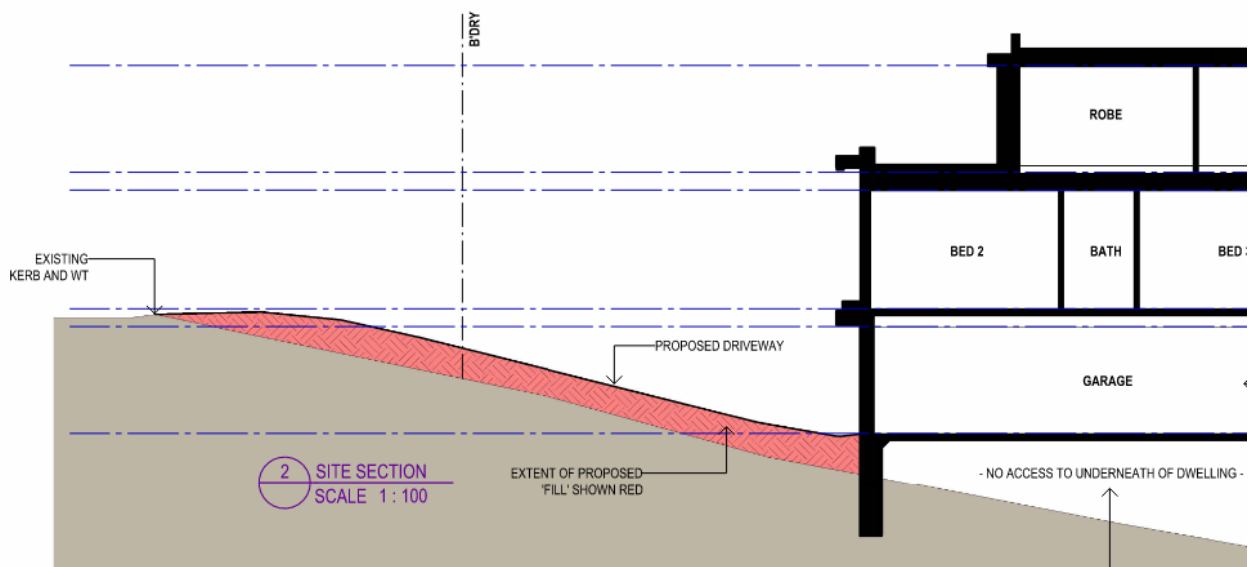


Figure 12 showing the extent of the fill in red

The proposal therefore requires retaining walls and deepened rebates to maintain the garage floor levels and pool. Predominantly these are set-off from boundaries and are sited inside the allotment to retain the driveway and the stepping of the front garden. The retaining walls will be constructed using either concrete sleepers or blocks. In addition, retaining walls will be sited 1m from the southern boundary to accommodate the external stairs (required to provide access to the rear garden).

This is consistent with other dwellings on the western side of Davenport Terrace that do not incorporate splits within the floor levels.

Whilst incorporating a split-level design may have assisted in reducing the visual impact of the proposal, the built form is considered to be in keeping with similar dwelling designs within the locality.

## **External Appearance**

Design in Urban Areas PO 20.2 seeks dwelling's to make a positive contribution to the streetscape. In addition, PO's 17.1 and 17.2 seek the inclusion of windows facing primary street frontages to encourage passive surveillance and make a positive contribution to the streetscape, as well as entry doors within street frontages to address the street and provide a legible entry point for visitors.

The front elevation is considered to make a positive contribution to the streetscape, utilising both horizontal and vertical elements providing visual interest. The visual impact of the undercroft garaging, driveway and associated garage doors is reduced by being below street level, whilst the small staircase and curved portico emphasis the front entrance and provides a legible entry point for visitors. The softening of the front elevation is also aided by the upper level being set back over 4.5m from the front elevation of the portico.

Numerous front facing windows provide passive surveillance of the streetscape. In tandem with the landscaping in the front garden and the carefully considered design, the proposal provides a positive contribution to the streetscape and locality and satisfies PO's 20.2 and 17.1 and 17.2.

## **Amenity Impacts**

### *Attractive Outlook and Visual Impact*

Design in Urban Areas PO 20.3 seeks for the visual mass of larger buildings to be reduced when viewed from adjoining allotments or public streets. As discussed within the External Appearance section of this report, the visual mass of the dwelling within the streetscape has been reduced through the use of both horizontal and vertical elements, articulation, visual interest and material selections.

With the undercroft garaging setback from the front elevation, the proposed dwelling presents primarily to the street as a two-storey dwelling that is in keeping with the neighbouring dwelling to the north and other two storey dwellings in the locality. The front elevation provides an attractive addition to the streetscape.

With regards to the side elevations, it is considered that the height and the length of the side elevations, will have a significant visual impact on the outlook of neighbouring properties.

As discussed previously, the application offers side setbacks that are reflective of those present in the locality. Whilst reduced side setbacks are observed in the locality, it is worth noting that the length of the proposed side elevations are greater than other similar buildings in the immediate area. For example, the proposed dwelling will have a southern side elevation length of approximately 24m, for the garage level and ground levels. Of this 24m long side elevation, approximately 16.5m of the side elevation will be over 9m in height above natural ground level. This southern elevation has a proposed 2m side setback for the garage level and ground levels.

By comparison to the subject site 100 Davenport Terrace, a similarly sized dwelling with regards to the front elevation, has a northern side elevation of approximately 16m in length of which approximately 11m of the side elevation is over 9m in height.

The neighbouring dwelling to the north of the subject site at 96 Davenport Terrace, has a northern side elevation of 21.95m in length, with no part of the side elevation exceeding 9m in height and a 2m side setback. Similarly, the dwelling to the rear of the subject site at 32 John Street, has an eastern side elevation of approximately 23m in length, however this is a single storey dwelling with no wall heights over 9m in height.

The dwelling proposes side façades that have wall heights, combined with wall lengths, that are not similar to other dwellings in the locality. In addition, it is noted that there are large portions of the side facades (in particular on the northern side) that provides little to no visual interest or articulation.

It is acknowledged that the visual mass and subsequent impacts of this wall upon the balustrade enclosed entry of 96 Davenport Terrace are considerable. While the design of the dwelling for the most part has sought to minimise the visual mass of the built form, the northern wall in particular remains visually obtrusive. This area of concern is to be noted and considered in accordance with the overall merit of the proposed development.

Areas of blank walls in particular the 'garage level' on the northern side elevation, are limited to the garage wall, but even these will have windows of the 'ground level' above, adjacent to the neighbouring dwelling to break up the visual mass of the buildings. In addition, the setback of the upper storey will limit its visual impact and reduce the visual bulk of the dwelling when viewed from adjoining dwellings.

The proposal is finely balanced in regard to the appropriateness of the side elevations visual presentation.



*Figure 13 Showing the southern elevation of 96 Davenport Terrace*

### *Access to light and ventilation*

As described previously within the locality, there are examples of dwellings on or near side boundaries and it is considered that the dwelling provides sufficient side and rear setbacks to enable neighbouring dwellings access to light and ventilation.

### *View Loss Assessment*

The Planning and Design Code does not explicitly allow for consideration of view loss, nonetheless, a site inspection was undertaken to assess impacts upon the representors dwelling at 100 Davenport Terrace and 1 Gooroonga Street.

In assessing potential loss of views, it is nonetheless of value to recognise that the subject allotment is a private parcel of land, the owners of which have a right to undertake development in general accordance with the Planning and Design Code. Given the fact that adjacent dwellings take advantage of an outlook over the subject land due to the topography of the locality, it is inevitable that any increase to the building height of the dwelling on this land will have an impact upon the outlook of these adjacent properties.

In the Supreme Court judgment of *Hutchens v City of Holdfast Bay*, Justice Debelle stated that, when determining whether to grant consent to a new building which will obstruct views enjoyed by existing developments, regard *“must be had to the nature and extent of the view, the extent to which the view will be obstructed by the proposed development, and the reasonableness of the proposal as determined by reference to planning controls”*.

Justice Debelle endorsed a four-part test for the assessment of a development which would result in the obstructing of views of existing developments. In short, these are.

Step 1: Assess the views to be affected (i.e. water, land, coast etc).

Step 2: Consider from which part of the property the views were being obtained.

Step 3: Assess the extent of impact of the loss of views; and lastly

Step 4: Assess the reasonableness of the development proposal.

#### 100 Davenport Terrace

Step 1: Views currently available from this property are in a west to north-westerly direction over other existing dwellings and vegetation on the eastern side of John Street. The property has large balconies on the upper and middle floors that face the north and west. The views of the balcony on the upper level are superior to those on the middle level. The large windows and balconies on the northern and western elevations and raised outdoor areas enjoy attractive and unbroken ocean views of the Gulf of St Vincent. The proposed dwelling enjoys not only views of the ocean but also views of the coastal plain to the north and northwest, and all the way around to the north-east and the CBD. Ocean views to the west are limited due to the elevated topography of the land around Clubhouse Road and Ocean Boulevard.



Step 2: Views are gained from inside the property via large windows and outdoors via unscreened balconies on the middle and upper level that are sited on the north and west elevations.

Step 3: The impact of the proposed development upon the views available from 100 Davenport Terrace will be considerable and relates primarily to the rear elevation of the proposed dwelling extending 8.5m further out than the rear elevation of 100 Davenport Terrace. Whilst the upper level balcony will suffer reduced views, the lower level will lose most of its views particularly to the north where the proposed dwelling will be sited. It will still have ocean views, but they will be lessened.

By extending 8.5m nearer to the rear boundary the proposed dwelling will impact the northern and northwestern views enjoyed on the upper level balcony. By effectively blocking the north and northwestern views, the impact will be more limited views of the ocean between the elevated topography of the land around Ocean Boulevard to the west and Brighton Jetty to the northwest. The proposed dwelling would blight not only the expansive views of the ocean, to the north and northwest but all the way to the north-east and the CBD.

Although the proposal will retain some reduced views of the ocean from both balconies and windows in particular to the west on both the middle and upper levels, the loss of view is considered severe.

Step 4. It is considered that the development is reasonable with regards to the loss of views to the north and northeast. 100 Davenport Terrace has enjoyed unrestricted views to the north and northeast due to the subject land having never been previously developed. The subject site is directly north of 100 Davenport Terrace and the modern design is considered reasonable, even though it will result in a negative impact on the views that the property currently enjoys to the north and north-east.

The proposed loss of views to be experienced by the residents of 100 Davenport Terrace are considered severe. The upper and lower balconies have been orientated to maximise the views of the ocean. The proposal will enable the retention of some views of the ocean, however these views will be greatly diminished.

It has been noted that the extent of northern and north-western views will be lost. It is important to note that there is no 'right' to a view and that each allotment is entitled to be developed in accordance with the planning policies of the day.

In this circumstance the current owners of 100 Davenport Terrace have enjoyed largely unobstructed views to the north and north-west over undeveloped land.

Any development to occur on this site, including satisfying the suggested maximum height, will result in the loss of these views. In this situation the extent of view loss to the north-west is largely a result of the dwelling length, more so than height. This notwithstanding, the Planning & Design Code does not prescribe a minimum or maximum dwelling length, but rather minimum

setbacks and maximum site coverage. As already discussed, the dwelling satisfies the maximum site coverage and well exceeds the minimum desired rear setbacks.

Whilst the extent of view loss experienced by the occupants of 100 Davenport Terrace is severe the loss is considered reasonable given the circumstances.

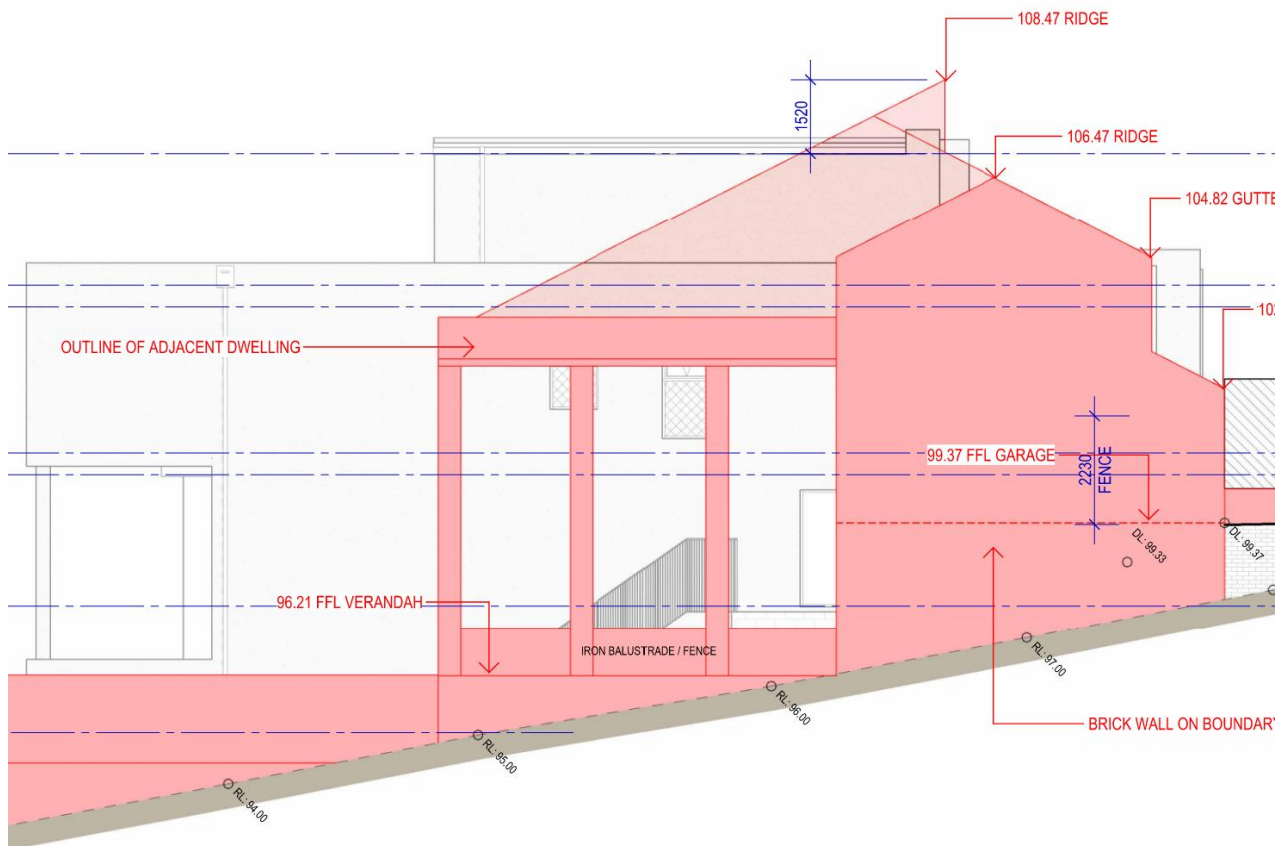


Figure 14 showing the southern elevation outlines of 100 Davenport Terrace in red and the outline of the proposed dwelling at 98 Davenport Terrace

## 1 Gooroonga Street

Step 1: The dwelling currently enjoys an extensive and unbroken views of the Gulf of St Vincent to the west and northwest. The views also take in the coastal plain to the north, as far as Outer Harbour, and includes Brighton Jetty and the associated Telstra phone tower approximately 3km to the northwest.

Step 2: The views are extensively obtained from a covered outdoor deck area that wraps around the northwest corner of the property and has been designed to maximise the views. In addition, windows located on the northern and western elevations also benefit from the views.

Step 3: The proposed dwelling will reduce the view from the property, including blocking out the view of the Brighton Jetty and the associated Telstra phone tower there. However given the separation distance between the two properties of over 60m, the proposed dwelling will still

enable an impressive unbroken view of the ocean to the horizon, and the coastal plain to the north. The loss of view is considered moderate.

Step 4: Whilst the proposed dwelling is sizeable and exceeds 9m and 2 storeys outlined in DPF 4.1 the property is lower in height than the neighbouring dwelling to the north. Given the topography of the land, and the height and size of the neighbouring dwelling, the proposed dwelling is considered reasonable.



Figure 15 showing the ocean view to the northwest from the deck area of 1 Gooroonga Street

With regards to the impact on the views experienced from 1 Gooroonga Street, it is considered that whilst the proposed dwelling will obscure a view of a portion of the ocean view, and that this may include Brighton Jetty, overall the impact on the view is reasonable, given the topography of the land and the 60 metres distance between the proposed dwelling and 1 Gooroonga Street. The proposed dwelling will still enable expansive views of the ocean including an unbroken view of the horizon.

### *Overshadowing*

Interface between land uses PO's 3.1 and 3.2 suggest overshadowing of habitable room windows and primary areas of private open space of adjacent residential land uses in a neighbourhood-type zone be minimised to maintain access to direct winter sunlight. The corresponding DPF's suggests north-facing windows of habitable rooms of adjacent dwellings receive at least 3 hours of direct sunlight, and for either half the area of private open space or 35 square metres of private open space (whichever is the lesser) of adjacent dwellings to maintain at least 2 hours of direct sunlight, between 9am and 3pm on 21 June.

The applicant has provided shadow diagrams demonstrating the extent of shadows cast between 9:00am and 3:00pm on the winter solstice. Being orientated east to west, during the winter solstice the proposed dwelling will cause overshadowing of the dwelling to the south especially at 9am when the morning sun is at its lowest. The proposed dwelling will cause overshadowing of the northern uncovered side lower balcony and the covered rear upper balcony that have both been built on the side boundary. The lack of setback of these structures to the northern boundary contributes to the impacts experienced.

Overshadowing diagrams for all three levels of the proposed building, and additionally an overshadowing diagram for just the garage and ground levels, has been provided. This second diagram illustrates the limited impact that the upper level has on overshadowing. Other than the balconies, the vast majority of the rear garden POS remains unaffected by the proposed dwelling.

Whilst the PO's 3.1 and 3.2 reference the winter solstice, the applicant has also provided additional overshadowing diagrams for the summer solstice. It is considered that these diagrams may be more useful as they demonstrate the impact of overshadowing during the time of year when balconies and POS are most likely to be enjoyed by residents. These overshadowing diagrams demonstrate that the proposed dwelling will not cause issues of overshadowing on this day.

With regards to the proposal and the impact of overshadowing, it is considered that PO's 3.1 and 3.2 are satisfied.

### *Visual privacy*

The Planning and Design Code seeks to mitigate direct overlooking from upper-level windows and balconies of habitable rooms and private open spaces of adjacent dwellings as sought by Design in Urban Areas PO's 10.1 and 10.2.

The neighbours to both sides and the rear of the development site raised concerns in their representations with regards to overlooking.

In the Planning and Design Code, direct overlooking is defined as:

*In relation to direct overlooking from a window, is limited to an area that falls within a horizontal distance of 15 metres measured from the centre line of the overlooking window and not less than 45 degree angle from the plane of that wall containing the overlooking window.*

*In relation to direct overlooking from a deck, balcony or terrace, is limited to an area that falls within a horizontal distance of 15 metres measured from any point of the overlooking deck, balcony or terrace.*

With regards to the neighbour at 32 John Street to the rear of the application site, this property falls outside of the definition of direct overlooking as the property is located beyond 15m from any proposed windows and balconies.

Regarding the adjoining neighbouring properties north and south of the subject site, it is considered that existing levels of privacy are low, as both properties have large unscreened upper storey windows and balconies on their rear and side elevations in order to maximize the views that the properties enjoy.

The proposed dwelling does provide some obscure glazing that is between 1.5m and 2.1m in height in addition to some unobscured windows and balconies, sited to maximize the views to the ocean and the coastal plain, and in keeping with the lack of privacy treatments that are experienced in the locality.

Although 'reasonableness' is not overtly referenced in PO 10.1 and PO 10.2, considering the proposed screening measures, the topography of the land, existing levels of overlooking in the locality and unscreened windows and balconies on the neighbouring properties, the visual privacy provided by the proposal is reasonable.



Figure 16 showing the unscreened southern side windows and rear balcony of 96 Davenport Terrace





Figure 17 showing the unscreened upper and lower balconies on the northern elevation of 100 Davenport Terrace.

With regards to a qualitative assessment of overlooking and visual privacy, it is considered that the proposal mitigates direct overlooking with the proposed privacy measures to the standard of the locality.

### **Landscaping**

Landscaping comprised of groundcovers, low height shrubs and grasses is proposed in the front garden, somewhat softening the appearance of the staircase leading up to the front door. Additional landscaping including a tree planting is proposed within the southwestern corner of the front garden forward of the front elevation of the dwelling, again softening impacts upon the streetscape. Further landscaping is provided along the northern side boundary between the driveway and the northern side boundary, as well as within the rear POS.

The proposal includes soft landscaping down both side boundaries and to the rear of the dwelling.

Soft landscaping equates to some 53% of the site, substantially exceeding the 25% sought by Design in Urban Areas DPF 22.1. Considered against the PO, the proposed landscaping is considered to adequately (a) help to reduce heat absorption and reflection; (b) contribute shade and shelter; (c) provide for stormwater infiltration and biodiversity; and (d) enhance the appearance of the land and streetscape.

## **Fencing and walls**

Design in Urban Areas PO 9.1 requires that fences, walls and retaining walls are of sufficient height to maintain privacy and security without unreasonably impacting visual amenity and adjoining land's access to sunlight or the amenity of public places.

Due to the topography of the land the proposal includes a number of retaining walls. Predominantly these are to be located off side boundaries and are sited inside the allotment to retain the driveway and the stepping of the front garden. In addition, there will be retaining walls sited 1m from the southern boundary that will accommodate the external stairs that will provide access to the rear garden as the allotment slopes down.

With regards to residential amenity the most impactful retaining walls will be the retaining walls on the southern boundary that will be up to 3.3 metres in height. Whilst the majority of these higher retaining walls will be located adjacent the neighbouring boundary wall, retaining will also extend forward of the neighbouring dwelling on the shared boundary that will include a masonry fence on top. The proposed masonry fence and retaining wall will be 8 metres in length. These retaining walls and masonry fence will have a combined maximum height of 2.95 metres when measured from the driveway of the neighbouring dwelling, reducing to 1.69 metres at its eastern edge.

There is currently a small masonry fence as detailed in Figure 16 below.

Whilst it is envisaged that the wall will help maintain privacy and does not interfere with road safety, it is worth considering whether the wall height and proximity to the front elevation of 100 Davenport Terrace will unreasonably impact the visual amenity of occupants. At its maximum 2.95 metres height, the wall has the potential to be visually imposing to people using the garage or on the driveway especially when compared to the open nature of the existing low boundary wall, which enables views to the northeast and the Adelaide Plain.

However, it is noted that the proposed wall will be adjacent to the driveway and two single garage doors. The garage doors will separate the proposed wall from the nearest ground floor window and front door. The nearest ground floor window is located approximately 6.2 metres from the proposed wall and the front door will be located 9 metres from the proposed wall. This separation distance enables the visual impact of the proposed wall on the occupants of the dwelling to be considered reasonable. It is considered that the visual impact of the proposed wall on the streetscape is reasonable, being a modest structure compared to the two dwellings on either side of it, and because its height at the front boundary will be only 1.65 metres above the existing driveway,

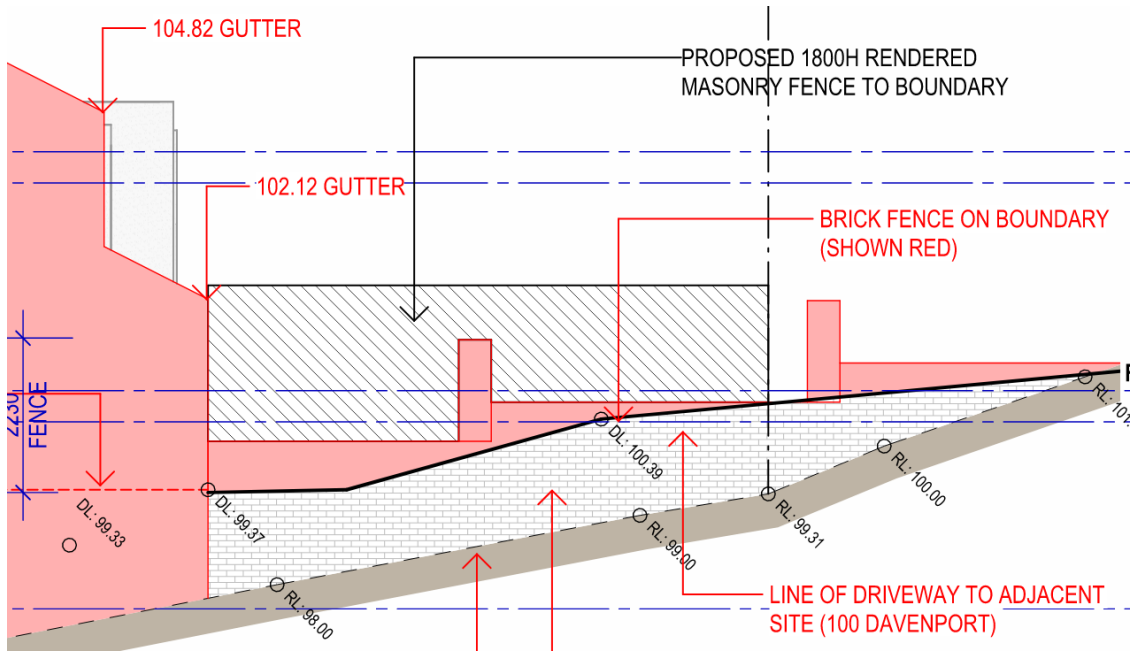


Figure 18 showing the proposed masonry boundary wall in relation to the front elevation and driveway of 100 Davenport Terrace



Figure 19 showing the proposed location of the proposed masonry boundary wall in relation to the front elevation and driveway of 100 Davenport Terrace



## **Stormwater disposal**

The application includes a 5,000L combination RWT with 4,000L retention and 1,000L detention volume. All stormwater is to be discharged to the stormwater easement to the rear of the allotment. Council's Development Engineer has confirmed that the proposed finished floor levels are appropriate to mitigate potential flooding impacts, and that the proposed stormwater collection satisfies code requirements. The proposal does not include any building work within the easement.

## **Swimming pool equipment**

Interface between land uses PO 4.3 seeks fixed plant and equipment in the form of pumps and/or filtration systems for a swimming pool or spa be positioned and/or housed to not cause unreasonable noise nuisance to adjacent sensitive receivers. The proposed pool plant will be located beneath the swimming pool, within a masonry enclosure and although not located over 5 metres away from the northern neighbour, being a minimum of 3.2m away, it is considered the location will offer sufficient sound reducing qualities to not cause unreasonable noise nuisance.

## CONCLUSION

The proposed development is for a three-storey dwelling on an undeveloped site. The proposed building footprint (including front and rear setbacks) are consistent with the character and pattern of a low-density suburban neighbourhood as sought by Hills Neighbourhood Zone PO 3.1 and the POS, off-street car parking provision and soft landscaping satisfy the relevant provisions.

Whilst a three level dwelling is proposed with a height of 14.7 metres (exceeding DPF 4.1 of the Zone), practically, the dwelling will appear as a double storey building to the streetscape due to the undercroft garage being 1.8m lower than the natural ground level at the front boundary of the site. In addition, the third storey is setback approximately 3.6m from the front elevation of the property, this reducing its visual impact.

Despite the 14.7 metre maximum building height and three storeys the proposal is considered to adequately satisfy Hills Neighbourhood Zone PO 4.1 by contributing to a low-rise suburban character. There is no uniformity within the locality with regards to building heights or the number of storeys. For example, the existing neighbouring dwelling to the south is a three-storey dwelling, with a maximum building height of 11.2m, and which has a higher front elevation than the proposed dwelling. While the proposed building height is not consistent with that of other nearby dwellings, it nonetheless remains complementary to those dwellings as well as the emerging building height of newer dwellings and additions within the wider locality.

The 'ground' level southern side setback of 2.0 metres and the 'ground' level northern side setback of 1.5 metres represents a substantial disparity from the suggested minimum numeric suggested guideline, being 4.5 metres for the southern side setback and 4.7m for the northern side setback. Despite this, the proposed separation to this boundary remains somewhat reflective of the established character of the locality as sought by Zone PO 8.1. It is acknowledged the shortfall in side setbacks may be exacerbated by the side facades, which are considerably higher and longer than other dwellings within the immediate locality. Despite this, it is considered that in an area where reduced side setbacks are not uncommon, that the shortfall in side setback does not impede access to natural light and ventilation for neighbours partly due to the exposed nature of the land and the orientation of the allotment in relation to the path of the sun, and satisfies Hills Neighbourhood Zone PO 8.1(b), as well as Interface between Land Uses POs 3.1 and 3.2.

The impact upon the outlook/views of nearby dwellings varies. As the subject site has never been developed, the proposed development will represent a change to the current outlook of the surrounding dwellings and does result in a meaningful view loss to the occupants of 100 Davenport Terrace. Due to this three-storey dwelling currently enjoying unbroken views from the ocean to the northwest all the way around to the CBD and hills beyond, even a more modest development on the site would have had a potential impact on the views currently enjoyed, especially from the middle floor balcony. This impact is considerable from the north and west facing side windows and balconies. However, the proposal will still enable the property to enjoy ocean views up to the area around Brighton Jetty. In totality, the view loss impact is considered severe due to unprecedented views that the property enjoys and has enjoyed due to being next

to an undeveloped allotment. In any case, it is acknowledged that the relevant Planning and Design Code criteria does not explicitly refer to view loss.

In my view, after the loss of panoramic views experienced by 100 Davenport Terrace, the next most significant impact of the proposal relates to the visual impact arising from the height and length of the side elevations upon both 98 and 100 Davenport Terrace.

The proposal satisfies Hills Neighbourhood Zone PO 10.2 by stepping its upper level in accordance with the slope of the land and providing greater setbacks to boundaries than that of the lower level of the dwelling. Both side and rear elevations provide windows, balconies and articulation that will provide an attractive outlook with areas of blank walls (in particular on the northern side elevation) limited to where they will be adjacent to neighbouring dwellings. In this regard, Design in Urban Areas PO 20.3, which outlines that the visual mass of larger buildings be reduced when viewed from adjoining allotments of public streets, may be acceptable on balance but not be fully satisfied.

Design in Urban Areas PO 20.2 seeks for dwelling elevations facing public streets to make a positive contribution to the streetscape, and it is noted that other dwellings and structures also impact upon the character of the streetscape. For example, the height and width of the neighbouring dwelling at 100 Davenport Terrace has a significantly greater impact on the streetscape.

To this end the application is finely balanced. The dwelling design has some consistency with the character of the locality and while the length and height of the side elevations may cause some overshadowing, visual impact and residential amenity due to a loss of views.

Following consideration of matters pertinent to this finely balanced application, I am ultimately of the view that the proposals merits outweigh the discrepancies, and that Planning Consent is warranted.

## RECOMMENDATION

**Having considered all relevant planning matters in relation to the subject development application:**

- (a) The Panel notes this report and concur with the findings and reasons for the recommendation;**
- (b) The Panel concurs that the proposed development is not seriously at variance<sup>1</sup> to the Planning and Design Code, in accordance with Section 126(1) of the Planning, Development and Infrastructure Act 2016; and**
- (c) That Planning Consent for Development Application ID: 24002304 for a three level detached dwelling with retaining walls, masonry wall exceeding 1 metre swimming pool and associated safety features at 98 Davenport Terrace be GRANTED subject to the following Conditions.**

## RESERVED MATTER

- 1. Prior to the issuing of Development Approval, the applicant will provide to the Council Assessment Manager written confirmation from the relevant asset owner that the infrastructure (bus stop and associated components) have been formally approved for relocation under Sec 221 of the Local Government Act 1999.**

## CONDITIONS

- 1. The development granted Development Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below**
- 2. All stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details, with on-site water retention systems connected to collect roof stormwater from each dwelling, prior to the occupation of the premises to the reasonable satisfaction of the Council.**

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<sup>1</sup> Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016* (or Section 35(2) of the *Development Act 1993* for applications under that Act), a "*development must not be granted planning consent if it is, in the opinion of the relevant authority, seriously at variance with the Planning and Design Code*" (or the *Development Plan* if under the *Development Act*).

What is 'seriously at variance' is not a defined legislative term and is not synonymous with a proposal that is merely 'at variance' with certain provisions of the Code (or Plan), which many applications will be. Instead, it has been interpreted to be an important or grave departure in either quantity or degree from the Code (or Plan) and accordingly not worthy of consent under any circumstances and having the potential to undermine the objectives of the Code (or Plan) for the land or the Zone.

3. All devices/treatments proposed and nominated on the approved plans, and forming part of the Development Application, to protect the privacy of adjoining properties shall be installed and in use prior to occupation of the premises and maintained for the life of the building.
4. Landscaping shall be planted and maintained in accordance with the plans and details forming part of the development authorisation.
5. Any swimming pool pump and/or filtration system ancillary to a dwelling erected on the same site is:
  - enclosed in a solid acoustic structure located from the nearest habitable room located on an adjoining allotment; or
  - located at least 12m from the nearest habitable room located on an adjoining allotment.
6. All car parking areas, driveways and vehicle manoeuvring areas must be constructed in accordance with the approved plans and recognised engineering practices prior to the occupation of the premises or the use of the development herein approved and maintained in a good condition at all times.
7. Tree(s) must be planted and/or retained in accordance with DTS/DPF 1.1 of the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). New trees must be planted within 12 months of occupation of the dwelling(s) and maintained.
8. Rainwater tank(s) must be installed in accordance with DTS/DPF 1.1 of the Stormwater Management Overlay in the Planning and Design Code (as at the date of lodgement of the application) within 12 months of occupation of the dwelling(s).

## NOTES

1. 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).
2. The owner/applicant is advised that infrastructure located within Council road reserve (i.e. area between the kerb and allotment boundary) should be designed and constructed (including modified) in accordance with relevant / current Council standards. This includes, but is not limited to, driveway crossovers, alterations to

kerbing and footpaths, stormwater easement connections and domestic stormwater connection to the street watertable.

Further information on the standards can be obtained via Council's website. [marion.sa.gov.au](http://marion.sa.gov.au) > Search Civil engineering > Click 'Civil engineering infrastructure – standard drawing index'

3. If you are a developer or owner-builder, there are important Commonwealth telecommunications rules you need to comply with. For more information visit [www.infrastructure.gov.au/tind](http://www.infrastructure.gov.au/tind)
4. The owner/applicant is advised that consent from any relevant easement or encumbrance owner may be required prior to any construction. Easements may include, but are not limited to: drainage, Council easements (i.e. stormwater, encroachments, access etc), power transmission (SA Power Networks), telecommunications, or other forms of access (such as vehicle) rights of way.

Easements and encumbrances would be registered on the relevant Certificate of Title. The location of easements on the land would be shown on the Deposited Plan. A copy of the Certificate of Title and Deposited Plan can be obtained from the South Australian Integrated Land Information System (SAILIS) at:  
<https://sailis.lssa.com.au/home/auth/login>

5. You are undertaking work that may affect the stability of adjoining land. Section 139 of the Planning, Development and Infrastructure Act 2016 and Regulation 64 of the Planning, Development and Infrastructure (General) Regulations 2017, prescribe that you must notify your neighbour at least 20 business days before the building work is commenced.

This is to enable your neighbour to obtain a report for which you are obliged to pay, that specifies any work that is required to be undertaken to ensure the stability of your neighbour's property is maintained during and following the undertaking of the work you propose. This is also to enable you to advise your neighbour that access to their site may be required. You should make yourself aware of these requirements before proceeding.

6. The Fences Act 1975 details certain requirements and procedures in order to remove, replace or repair boundary fencing. If you intend to remove or repair an existing boundary fence, you are obligated to give the other affected neighbours 30 days notice to comment and respond as per a "Form 2". If a fence is removed (even if only temporarily) by a neighbour without the consent of the adjoining owner, or without following the procedure under the Fences Act, you may be liable to compensate the other owner.



For more information, please refer to the Legal Services Commission brochure titled "Fences and the Law". Copies are available at Council's Administration Centre, or online at <http://www.lawhandbook.sa.gov.au/ch31s02.php>.

7. As the proposal involves work on or near the boundary, it is recommended that the boundaries are clearly defined by a Licensed Surveyor prior to the commencement of any building work.
8. Dust emissions from the site during construction shall be controlled by a dust suppressant or by watering regularly.
9. All runoff and stormwater from the subject site during the construction phase must be either contained on site or directed through a temporary sediment trap or silt fence, prior to discharge to the stormwater system (acceptable ways of controlling silt and runoff during construction can be found in the Stormwater Pollution Prevention Code of Practice issued by the Environment Protection Authority).

Measures to prevent silt and mud from vehicle tyres and machinery being transported onto the road shall be installed and maintained at all times during the construction phase of the development (a suggested measure is to install a gravelled construction exit with wash down facilities).

10. Any portion of Council's infrastructure damaged as a result of work undertaken on the allotment or associated with the allotment must be repaired/reinstated to Council's satisfaction at the developer's expense.
11. If excavating, it is recommended you contact Before You Dig Australia (BYDA) ([www.byda.com.au](http://www.byda.com.au)) to keep people safe and help protect underground infrastructure.
12. This approval does not relate to the removal of, or to any tree damaging activity to, any regulated or significant tree (as defined under the Planning, Development and Infrastructure Act 2016) that may be located on the subject site or adjoining land. Removal or tree damaging activity may not occur unless a relevant separate Development Approval is received.

Should regulated or significant tree(s) exist on the subject site, care must be taken during demolition/construction of the proposed buildings to ensure no damage is done to that/those tree(s) (including their root systems) unless otherwise approved by Council. For this reason, a protective barrier should be erected at the dripline of the tree, and that barrier should be maintained for the duration of the demolition/construction. It is also recommended that you seek the advice of a qualified arborist.

**Important:** Changes came into effect on 16 May 2024 which provide more trees with legal protection as Regulated and Significant trees.

**Changes include but are not limited to reduced minimum trunk and stem circumferences, reduced exclusion distance from dwellings and pools, and reduced list of species of trees excluded within distance of dwellings and pools.**

**More information is available from PlanSA online at**

**[https://plan.sa.gov.au/our\\_planning\\_system/programs\\_and\\_initiatives/significant\\_and\\_regulated\\_trees](https://plan.sa.gov.au/our_planning_system/programs_and_initiatives/significant_and_regulated_trees).**

**APPENDIX 1- Applicable Planning & Design Code Policies****Part 2- Zones and Sub Zones**

Hills Neighbourhood Zone							
Desired Outcomes							
DO 1	Development provides a complementary transition to adjacent natural and rural landscapes. Low density housing minimises disturbance to natural landforms and existing vegetation to mitigate the visible extent of buildings, Earthworks and retaining walls.						
Performance Outcomes		Designated Performance Features					
Site Coverage							
PO 3.1	Building footprints consistent with the character and pattern of a low-density suburban neighbourhood and provide sufficient space around buildings to limit visual impact, provide an attractive outlook and access to light and ventilation.	DPF 3.1	The development does not result in site coverage exceeding: (a) on sites with a gradient more than 1-in-8, 40% (b) On sites with a gradient less than 1-in-8, 50%				
Building Height							
PO 4.1	Buildings contribute to a low-rise suburban character and complement the height of nearby buildings.	DPF 4.1	Building height (excluding garages, carports and outbuildings) is no greater than the following: <table><tr><td>Maximum Building Height (metres)</td></tr><tr><td>Maximum building height is 9m</td></tr><tr><td>Maximum Building Height (levels)</td></tr><tr><td>Maximum building height is 2 levels</td></tr></table>	Maximum Building Height (metres)	Maximum building height is 9m	Maximum Building Height (levels)	Maximum building height is 2 levels
Maximum Building Height (metres)							
Maximum building height is 9m							
Maximum Building Height (levels)							
Maximum building height is 2 levels							
Primary Street Setback							
PO 5.1	Buildings are set back from primary street boundaries consistent with the existing streetscape.	DPF 5.1	DTS/DPF 5.1 The building line of a building set back from the primary street boundary:  Where there is an existing building on both abutting sites sharing the same street frontage as the site of the proposed building:  The average setback of the existing buildings.				
Side Boundary Setback							
PO 8.1	Buildings are set back from side boundaries to provide:  (a) separation between dwellings in a way that complements the established character of the locality	DPF 8.1	Building walls not sited on side boundaries set back from the side boundary: (c) on sites with a site gradient greater than 1-in-8 (i) at least 1900mm				

	(b) access to natural light and ventilation for neighbours.		(ii) for a wall that is south facing and the wall height exceeds 3m measured from the lower of natural or finished ground level - at least 1.9m from the boundary of the site plus a distance of 1/3 of the extent to which the height of the wall exceeds 3m from the lower of natural or finished ground level.
<i>Rear Boundary Setback</i>			
PO 9.1	Buildings are set back from rear boundaries to provide: (a) separation between dwellings in a way that complements the established character of the locality (b) access to natural light and ventilation for neighbours (c) private open space (d) space for landscaping and vegetation	DPF 9.1	Buildings are set back from the rear boundary at least: (a) 4m for the first building level (b) 6m for any second building level
<i>Built Form and Character</i>			
PO 10.2	Development of more than 1 building level in height takes account of its height and bulk relative to adjoining dwellings by:  (d) Incorporating stepping in the design in accordance with the slope of the land (e) Where appropriate, setting back the upper level a greater distance from front and side boundaries than the lower level.	DPF 10.2	None are applicable.
<i>Earthworks and Retaining</i>			
PO 11.1	Buildings sited and designed to integrate with the natural topography of the land using measures such a split-level building construction and other approaches that minimise the extent of cut and fill.	DPF 11.1	None are applicable.
PO 11.2	Vegetation is used to screen buildings and excavation or filling from view.	DPF 11.2	None are applicable.
PO 11.3	Retaining walls are stepped series of low walls constructed of dark, natural coloured materials and screened by landscaping.	DPF 11.3	Retaining walls: do not retain more than 1.5m in height or where more than 1.5m is to be retained in total, are stepped in a series of low walls each not exceeding 1m in height and separated by at least 700mm.

## Part 3- Overlays

Airport Building Heights (Regulated) Overlay			
DO 1	Management of potential impacts of buildings and generated emissions to maintain operational and safety requirements of registered and certified commercial and military airfields, airports, airstrips and helicopter landing sites.		
PO 1.1	Building height does not pose a hazard to the operation of a certified or registered aerodrome.		
Affordable Housing Overlay			
DO 1	Development results in 0-19 additional allotments / dwellings.		
Stormwater Management Overlay			
DO 1	Development incorporates water sensitive urban design techniques to capture and re-use stormwater.		
PO 1.1	Residential development is designed to capture and re-use water to: <div>(a) Maximise conservation of water resources (b) Manage peak stormwater runoff flows and volume to ensure the carrying capacities of downstream systems are not overloaded (c) Manage stormwater runoff quality.</div>	DPF 1.1	Residential development comprising detached, semi-detached or row dwellings, or less than 5 group dwellings or dwellings within a residential flat building: (a) includes rainwater tank storage: <div><div>i. connected to at least:<div><div>A. in relation to a detached dwelling (not in a battle-axe arrangement), semi-detached dwelling or row dwelling, 60% of the roof area</div><div>B. in all other cases, 80% of the roof area</div></div><div>ii. connected to either a toilet, laundry cold water outlets or hot water service for sites less than 200m<sup>2</sup></div><div>iii. connected to one toilet and either the laundry cold water outlets or hot water service for sites of 200m<sup>2</sup> or greater</div><div>iv. with a minimum total capacity in accordance with Table 1</div><div>v. where detention is required, includes a 20-25 mm diameter slow release orifice at the bottom of the detention component of the tank</div></div> (b) incorporates dwelling roof area comprising at least 80% of the site's impervious area</div>
Table 1: Rainwater Tank			

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			<table><tr><th>Site size (m<sup>2</sup>)</th><th>Minimum retention volume (Litres)</th><th>Minimum detention volume (Litres)</th></tr><tr><td>&lt;200</td><td>1000</td><td>1000</td></tr><tr><td>200–400</td><td>2000</td><td>Site perviousness &lt;30%: 1000 Site perviousness ≥30%: N/A</td></tr><tr><td>&gt;401</td><td>4000</td><td>Site perviousness &lt;35%: 1000 Site perviousness ≥35%: N/A</td></tr></table>	Site size (m <sup>2</sup> )	Minimum retention volume (Litres)	Minimum detention volume (Litres)	<200	1000	1000	200–400	2000	Site perviousness <30%: 1000 Site perviousness ≥30%: N/A	>401	4000	Site perviousness <35%: 1000 Site perviousness ≥35%: N/A																
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Urban Tree Canopy Overlay																															
DO1	Residential development preserves and enhances urban tree canopy through the planting of new trees and retention of existing mature trees where practicable.																														
PO 1.1	Trees are planted or retained to contribute to an urban tree canopy.	DPF 1.1	Tree planting is provided in accordance with the following: <table><tr><th>Site size per dwelling (m<sup>2</sup>)</th><th>Tree size* and number required per dwelling</th></tr><tr><td>&lt;450</td><td>1 small tree</td></tr><tr><td>450-800</td><td>1 medium tree or 2 small trees</td></tr><tr><td>&gt;800</td><td>1 large tree or 2 medium trees or 4 small trees</td></tr></table> *refer Table 1 Tree Size <table><tr><th colspan="4">Table 1 Tree Size</th></tr><tr><th>Tree size</th><th>Mature height (minimum)</th><th>Mature spread (minimum)</th><th>Soil area around tree within development site (minimum)</th></tr><tr><td>Small</td><td>4 m</td><td>2m</td><td>10m<sup>2</sup> and min. dimension of 1.5m</td></tr><tr><td>Medium</td><td>6 m</td><td>4 m</td><td>30m<sup>2</sup> and min. dimension of 2m</td></tr><tr><td>Large</td><td>12 m</td><td>8m</td><td>60m<sup>2</sup> and min. dimension of 4m</td></tr></table>	Site size per dwelling (m <sup>2</sup> )	Tree size* and number required per dwelling	<450	1 small tree	450-800	1 medium tree or 2 small trees	>800	1 large tree or 2 medium trees or 4 small trees	Table 1 Tree Size				Tree size	Mature height (minimum)	Mature spread (minimum)	Soil area around tree within development site (minimum)	Small	4 m	2m	10m <sup>2</sup> and min. dimension of 1.5m	Medium	6 m	4 m	30m <sup>2</sup> and min. dimension of 2m	Large	12 m	8m	60m <sup>2</sup> and min. dimension of 4m
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## Part 4- General Development Policies

Clearance from Overhead Powerlines	
DO 1	



	Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.		
PO 1.1	Buildings are adequately separated from aboveground powerlines to minimise potential hazard to people and property.	DPF 1.1	One of the following is satisfied:  (a) a declaration is provided by or on behalf of the applicant to the effect that the proposal would not be contrary to the regulations prescribed for the purposes of section 86 of the Electricity Act 1996 there are no aboveground powerlines adjoining the site that are the subject of the proposed development.
Design in Urban Areas			
Desired Outcomes			
D0 1	Development is:  (a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate area (b) durable - fit for purpose, adaptable and long lasting (c) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors (d) sustainable - by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.		
Performance Outcomes		Designated Performance Features	
External Appearance			
PO 1.3	Building elevations facing the primary street (other than ancillary buildings) are designed and detailed to convey purpose, identify main access points and complement the streetscape.	DPF 1.3	None are applicable.
Safety			
PO 2.1	Development maximises opportunities for passive surveillance of the public realm by providing clear lines of sight, appropriate lighting and the use of visually permeable screening wherever practicable.	DPF 2.1	None are applicable.
PO 2.2	Development is designed to differentiate public, communal and private areas.	DPF 2.2	None are applicable.
PO 2.3	Buildings are designed with safe, perceptible and direct access from public street frontages and vehicle parking areas.	DPF 2.3	None are applicable.

PO 2.4	Development at street level is designed to maximise opportunities for passive surveillance of the adjacent public realm.	DPF 2.4	None are applicable.
<i>Landscaping</i>			
PO 3.1	<p>PO 3.1</p> <p>Soft landscaping and tree planting are incorporated to:</p> <ul style="list-style-type: none"> <li>a) minimise heat absorption and reflection</li> <li>b) maximise shade and shelter</li> <li>c) maximise stormwater infiltration</li> <li>d) enhance the appearance of land and streetscapes.</li> </ul>	DPF 3.1	None are applicable.
<i>Environmental Performance</i>			
PO 4.1	Buildings are sited, oriented and designed to maximise natural sunlight access and ventilation to main activity areas, habitable rooms, common areas and open spaces.	DPF 4.1	None are applicable.
PO 4.2	Buildings are sited and designed to maximise passive environmental performance and minimise energy consumption and reliance on mechanical systems, such as heating and cooling.	DPF 4.2	None are applicable.
PO 4.3	Buildings incorporate climate responsive techniques and features such as building and window orientation, use of eaves, verandahs and shading structures, water harvesting, at ground landscaping, green walls, green roofs and photovoltaic cells.	DPF 4.3	None are applicable.
<i>Car parking appearance</i>			
PO 7.1	Development facing the street is designed to minimise the negative impacts of any semibasement and undercroft car parking on streetscapes through techniques such as:	DPF 7.1	None are applicable.
<i>Earthworks and sloping land</i>			
PO 8.1	Development, including any associated driveways and access tracks, minimises the need for earthworks to limit disturbance to natural topography.	DPF 8.1	<p>Development does not involve any of the following:</p> <ul style="list-style-type: none"> <li>(a) Excavation exceeding a vertical height of 1m</li> <li>(b) filling exceeding a vertical height of 1m</li> <li>(c) a total excavation and filling vertical height of 2m or more</li> </ul>

PO 8.2	Driveways and access tracks designed and constructed to allow safe and convenient access on sloping land.	DPF 8.2	Development does not involve any of the following: (a) Excavation exceeding a vertical height of 1m (b) Filling exceeding a vertical height of 1m (c) A total combined excavation and filling vertical height of 2m or more
PO 8.3	Driveways and access tracks on sloping land (with a gradient exceeding 1 in 8): (a) Do not contribute to the instability of embankments and cuttings (b) Provide level transition areas for the safe movement of people and goods to and from the development (c) Are designed to integrate with the natural topography of the land.	DPF 8.3	None are applicable
PO 8.4	Development on sloping land (with a gradient exceeding 1 in 8) avoids the alteration of natural drainage lines and includes on site drainage systems to minimise erosion.	DPF 8.4	None are applicable
PO 8.5	Development does not occur on land at risk of landslip or increase the potential for landslip or land surface instability.	DPF 8.5	None are applicable
<i>Fences and walls</i>			
PO 9.1	Fences, walls and retaining walls of sufficient height maintain privacy and security without unreasonably impacting visual amenity and adjoining land's access to sunlight or the amenity of public places.	DPF 9.1	None are applicable.
PO 9.2	PO 9.2 Landscaping is incorporated on the low side of retaining walls that are visible from public roads and public open space to minimise visual impacts.	DPF 9.2	A vegetated landscaped strip 1m wide or more is provided against the low side of a retaining wall.
<i>Overlooking/Visual Privacy</i>			
PO 10.1	Development mitigates direct overlooking from upper-level windows to habitable rooms and private open space of adjoining residential uses in neighbourhood type zones.	DPF 10.1	DTS/DPF 10.1 Upper level windows facing side or rear boundaries shared with a residential use in a neighbourhood-type zone: (a) are permanently obscured to a height of 1.5 metres above finished flood

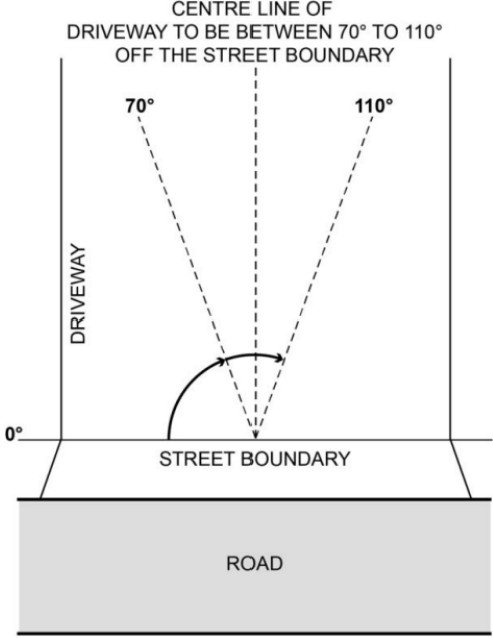
			<p>level and are fixed or not capable of being opened more than 125mm</p> <p>(b) have sill heights greater than or equal to 1.5m above finished floor level</p> <p>(c) incorporate screening with a maximum of 25% openings, permanently fixed no more than 500mm from the window surface and sited adjacent to any part of the window less than 1.5m above the finished floor level.</p>
PO 10.2	Development mitigates direct overlooking from balconies to habitable rooms and private open space of adjoining residential uses in neighbourhood type zones.	DPF 10.2	<p>One of the following is satisfied:</p> <p>(a) the longest side of the balcony or terrace will face a public road, public road reserve or public reserve that is at least 15m wide in all places faced by the balcony or terrace</p> <p>or</p> <p>(b) sides of balconies or terraces on upper building levels are permanently obscured by screening with a maximum 25% transparency/openings fixed to a minimum height of:</p> <p>(i) 1.5m above finished floor level where the balcony is located at least 15 metres from the nearest habitable window of a dwelling on adjacent land</p> <p>Or</p> <p>(ii) 1.7m above finished floor level in all other cases</p>
<i>Front elevations and passive surveillance</i>			
PO 17.1	Dwellings incorporate windows facing primary street frontages to encourage passive surveillance and make a positive contribution to the streetscape.	DPF 17.1	<p>Each dwelling with a frontage to a public street:</p> <p>(a) includes at least one window facing the primary street from a habitable room that has a minimum internal room dimension of 2.4m</p> <p>(b) has an aggregate window area of at least 2m<sup>2</sup> facing the primary street.</p>
PO 17.2	Dwellings incorporate entry doors within street frontages to address the street and provide a legible entry point for visitors.	DPF 17.2	Dwellings with a frontage to a public street have an entry door visible from the primary street boundary.
<i>Outlook and Amenity</i>			
PO 18.1	Living rooms have an external outlook to provide a high standard of amenity for occupants.	DPF 18.1	A living room of a dwelling incorporates a window with an external outlook of the street frontage, private open space, public open space, or waterfront areas.

<i>External Appearance</i>			
PO 201	Garaging is designed to not detract from the streetscape or appearance of a dwelling.	DPF 20.1	<p>Garages and carports facing a street:</p> <ul style="list-style-type: none"> <li>(a) are situated so that no part of the garage or carport will be in front of any part of the building line of the dwelling</li> <li>(b) are set back at least 5.5m from the boundary of the primary street</li> <li>(c) have a garage door / opening width not exceeding 7m</li> <li>(d) have a garage door / opening width not exceeding 50% of the site frontage unless the dwelling has two or more building levels at the building line fronting the same public street.</li> </ul>
PO 20.2	Dwelling elevations facing public streets and common driveways make a positive contribution to the streetscape and the appearance of common driveway areas.	DPF 20.2	<p>Each dwelling includes at least 3 of the following design features within the building elevation facing a primary street, and at least 2 of the following design features within the building elevation facing any other public road (other than a laneway) or a common driveway:</p> <ul style="list-style-type: none"> <li>(a) a minimum of 30% of the building wall is set back an additional 300mm from the building line</li> <li>(b) a porch or portico projects at least 1m from the building wall</li> <li>(c) a balcony projects from the building wall</li> <li>(d) a verandah projects at least 1m from the building wall</li> <li>(e) eaves of a minimum 400mm width extend along the width of the front elevation</li> <li>(f) a minimum 30% of the width of the upper level projects forward from the lower level primary building line by at least 300mm</li> <li>(g) a minimum of two different materials or finishes are incorporated on the walls of the front building elevation, with a maximum of 80% of the building elevation in a single material or finish.</li> </ul>
PO 20.3	The visual mass of larger buildings is reduced when viewed from adjoining allotments or public streets.	DPF 20.3	None are applicable.
<i>Private Open Space</i>			

PO 21.1	Dwellings are provided with suitable sized areas of usable private open space to meet the needs of occupants.	DPF 21.1	Private open space is provided in accordance with Design in Urban Areas Table 1 - Private Open Space.										
PO 21.2	Private open space is positioned to provide convenient access from internal living areas.	DPF 21.2	Private open space is directly accessible from a habitable room.										
Landscaping													
PO 22.1	Soft landscaping is incorporated into development to: (a) minimise heat absorption and reflection (b) contribute shade and shelter (c) provide for stormwater infiltration and biodiversity (d) enhance the appearance of land and streetscapes.	DPF 22.1	Residential development incorporates soft landscaping with a minimum dimension of 700mm provided in accordance with (a) and (b): (a) a total area as determined by the following table: table: <table><tr><th>Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m<sup>2</sup>)</th><th>Minimum percentage of site</th></tr><tr><td>&lt;150</td><td>10%</td></tr><tr><td>150-200</td><td>15%</td></tr><tr><td>&gt;200-450</td><td>20%</td></tr><tr><td>&gt;450</td><td>25%</td></tr></table> (b) at least 30% of any land between the primary street boundary and the primary building line	Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m <sup>2</sup> )	Minimum percentage of site	<150	10%	150-200	15%	>200-450	20%	>450	25%
Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m <sup>2</sup> )	Minimum percentage of site												
<150	10%												
150-200	15%												
>200-450	20%												
>450	25%												
Car parking, access and manoeuvrability													
PO 23.1	Enclosed car parking spaces are of dimensions to be functional, accessible and convenient.	DPF 23.1	Residential car parking spaces enclosed by fencing, walls or other structures have the following internal dimensions (separate from any waste storage area): (A) single width car parking spaces: a minimum length of 5.4m per space a minimum width of 3.0m a minimum garage door width of 2.4m (B) double width car parking spaces (side by side): a minimum length of 5.4m a minimum width of 5.4m minimum garage door width of 2.4m per space.										
PO 23.3	Driveways and access points are located and designed to facilitate safe access and egress while maximising land available for street tree planting, pedestrian movement,	DPF 23.3	Driveways and access points satisfy (sites with a frontage to a public road greater than 10m: have a maximum width of 5m measured at the property boundary and are the only access point provided on the										



	domestic waste collection, landscaped street frontages and on-street parking.		site; have a width between 3.0 metres and 3.2 metres measured at the property boundary and no more than two access points are provided on site, separated by no less than 1m.
PO 23.4	Vehicle access is safe, convenient, minimises interruption to the operation of public roads and does not interfere with street infrastructure or street trees.	DPF 23.4	<p>Vehicle access to designated car parking spaces satisfy (a) or (b):</p> <p>(a) is provided via a lawfully existing or authorised access point or an access point for which consent has been granted as part of an application for the division of land</p> <p>(b) where newly proposed, is set back:</p> <ol style="list-style-type: none"> <li>0.5m or more from any street furniture, street pole, infrastructure services pit, or other stormwater or utility infrastructure unless consent is provided from the asset owner</li> <li>2m or more from the base of the trunk of a street tree unless consent is provided from the tree owner for a lesser distance</li> <li>6m or more from the tangent point of an intersection of 2 or more roads</li> <li>outside of the marked lines or infrastructure dedicating a pedestrian crossing.</li> </ol>
PO 23.5	Driveways are designed to enable safe and convenient vehicle movements from the public road to on-site parking spaces.	DPF 23.5	<p>Driveways are designed and sited so that:</p> <p>(A) The gradient of the driveway does not exceed a grade of 1 in 4 and includes transitions to ensure a maximum grade change of 12.5% (1 in 8) for summit changes, and 15% (1 in 6.7) for sag changes, in accordance with AS 2890.1:2004 to prevent vehicles bottoming or scraping</p> <p>(B) The centreline of the driveway has an angle of no less than 70 degrees and no more than 110 degrees from the street boundary to which it takes its access as shown in the following diagram:</p>

			 <p>CENTRE LINE OF DRIVEWAY TO BE BETWEEN 70° TO 110° OFF THE STREET BOUNDARY</p> <p>70° 110°</p> <p>DRIVEWAY</p> <p>0°</p> <p>STREET BOUNDARY</p> <p>ROAD</p> <p>(c) If located to provide access from an alley, lane or right of way - the alley, land or right of way is at least 6.2m wide along the boundary of the allotment / site.</p>
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#### Interface between Land Uses

#### Desired Outcomes

D0 1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.
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#### Performance Outcomes

#### Designated Performance Features

PO 3.1	<p>Overshadowing of habitable room windows of adjacent residential land uses in:</p> <p>a. a neighbourhood-type zone is minimised to maintain access to direct winter sunlight</p> <p>b. other zones is managed to enable access to direct winter sunlight.</p>	DPF 3.1	<p>North-facing windows of habitable rooms of adjacent residential land uses in a neighbourhood-type zone receive at least 3 hours of direct sunlight between 9.00am and 3.00pm on 21 June.</p>
PO 3.2	<p>Overshadowing of the primary area of private open space or communal open space of adjacent residential land uses in:</p> <p>a. a neighbourhood type zone is minimised to maintain access to direct winter sunlight</p> <p>b. other zones is managed to enable access to direct winter sunlight.</p>	DPF 3.2	<p>Development maintains 2 hours of direct sunlight between 9.00 am and 3.00 pm on 21 June to adjacent residential land uses in a neighbourhood-type zone in accordance with the following:</p> <p>a. for ground level private open space, the smaller of the following:</p> <p>i. half the existing ground level open space</p> <p>or</p> <p>ii. 35m<sup>2</sup> of the existing ground</p>

			<div>level open space (with at least one of the area's dimensions measuring 2.5m)</div> <div>b. for ground level communal open space, at least half of the existing ground level open space.</div>
PO 3.3	<div>Development does not unduly reduce the generating capacity of adjacent rooftop solar energy facilities taking into account:</div> <div><div>(a) the form of development contemplated in the zone</div><div>(b) the orientation of the solar energy facilities</div><div>(c) the extent to which the solar energy facilities are already overshadowed.</div></div>	DPF 3.3	None are applicable.
Site Contamination			
Desired Outcomes			
DO 1	Ensure land is suitable for the proposed use in circumstances where it is, or may have been, subject to site contamination.		
Transport, Access and Parking			
Desired Outcomes			
DO 1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.		
Performance Outcomes		Designated Performance Features	
Vehicle Parking Rates			
PO 3.1	Safe and convenient access minimises impact or interruption on the operation of public roads.	DPF 3.1	<div>The access is:</div> <div><div>(a) Provided via a lawfully existing or authorised driveway or access point or an access point for which consent has been granted as part of an application for the division of land</div><div>Or</div><div>(b) Not located within 6m of an intersection of 2 or more roads or a pedestrian activated crossing.</div></div>
PO 5.1	Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as:	DPF 5.1	Development provides a number of car parking spaces on-site at a rate no less than the amount calculated using one of the following, whichever is relevant:

	<ul style="list-style-type: none"> <li>(a) availability of on-street car parking</li> <li>(b) shared use of other parking areas</li> <li>(c) in relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site, the provision of vehicle parking may be shared</li> <li>(d) the adaptive reuse of a State or Local Heritage Place.</li> </ul>		<ul style="list-style-type: none"> <li>(a) Transport, Access and Parking Table 1 - General Off-Street Car Parking Requirements</li> <li>(b) Transport, Access and Parking Table 2 - Off-Street Vehicle Parking Requirements in Designated Areas</li> <li>(c) if located in an area where a lawfully established carparking fund operates, the number of spaces calculated under (a) or (b) less the number of spaces offset by contribution to the fund.</li> </ul>
PO 7.1	Undercroft and below ground garaging of vehicles is designed to enable safe entry and exit from the site without compromising pedestrian or cyclist safety or causing conflict with other vehicles.	DPF 7.1	None are applicable

**REPORT REFERENCE: CAP030724 – 4.2**  
**CITY OF MARION**  
**COUNCIL ASSESSMENT PANEL AGENDA**  
**FOR MEETING TO BE HELD ON**  
**WEDNESDAY 3 JULY 2024**

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<b>Originating Officer:</b>	<b>Phil Mabbs</b> <b>Acting Senior Urban Planner</b>
<b>Application No:</b>	<b>24010859</b>
<b>Applicant:</b>	<b>Mr Alastair Bowes</b>
<b>Development Description:</b>	<b>Change of Use to a Service Trade Premise (Car Sales Premises proposing a maximum of sixteen vehicles being stored at the site for online listing and sale)</b>
<b>Site Location:</b>	<b>377A Cross Road, Edwardstown</b>
<b>Zone:</b>	<b>Employment Zone</b>
<b>Lodgement Date:</b>	<b>02/05/2024</b>
<b>Planning and Design Code:</b>	<b>18 Apr 2024 Version 2024.7</b>
<b>Elements</b>	<b>Change of use (service trade premises) and internal building work (office)</b>
<b>Referrals:</b>	<b>Nil</b>
<b>Application Type:</b>	<b>Performance Assessed</b>
<b>Delegations Policy:</b>	<b>Instrument of Delegation – CAP, Clause 5.1.1.1</b> <i>The delegation of the power to grant or refuse planning consent pursuant to Section 102(1)(a) of the Act is limited to applications in relation to which: Any Performance Assessed application that has undergone Public Notification where at least one representor has expressed opposition to the proposed development and has expressed their desire to be heard by the Panel.</i>
<b>Public Notification</b>	<b>Public Notification required</b> <i>A 'Service Trade Premise' is not a Land Use which is excluded from the Table 5 Public Notification requirements of the Employment Zone.</i>
<b>Recommendation:</b>	<b>That Planning Consent be GRANTED subject to Conditions</b>

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**Attachments**

<i>Attachment I:</i>	<i>Proposal Plan and supporting documentation</i>
<i>Attachment II:</i>	<i>Statement of Representations</i>
<i>Attachment III:</i>	<i>Applicant's Response to Representations</i>
<i>Appendix 1:</i>	<i>Code Rules</i>

## SUBJECT LAND

The subject land comprises a rectangular shaped allotment with an area measuring 3226 square metres and a frontage to Cross Road of 32.7 metres in total and a depth of 98 metres. The site currently contains an internally split commercial building comprising two separate tenancies; a shop (BWS) to the front section and a vacant section at the rear.

Car parking is located forward of the built form and is provided access via a pair of existing crossovers, designed to allow vehicles to enter in the north-eastern corner of the site, and exit from the north-western corner. The car parking area provides for 26 car parking spaces which are shared between tenancies. The front setback of the site is open/shared with the adjoining lot to the east, which has a similar car parking layout and access points. This site is operated/owned separately to the subject site and is occupied by Foodbank.

The site is predominantly flat and adjoins other commercial businesses which have similar built forms. The road reserve incorporates a Telstra pit, overhead powerlines and a single mature tree in the centre of the frontage.

The site is devoid of any Regulated or Significant Trees.

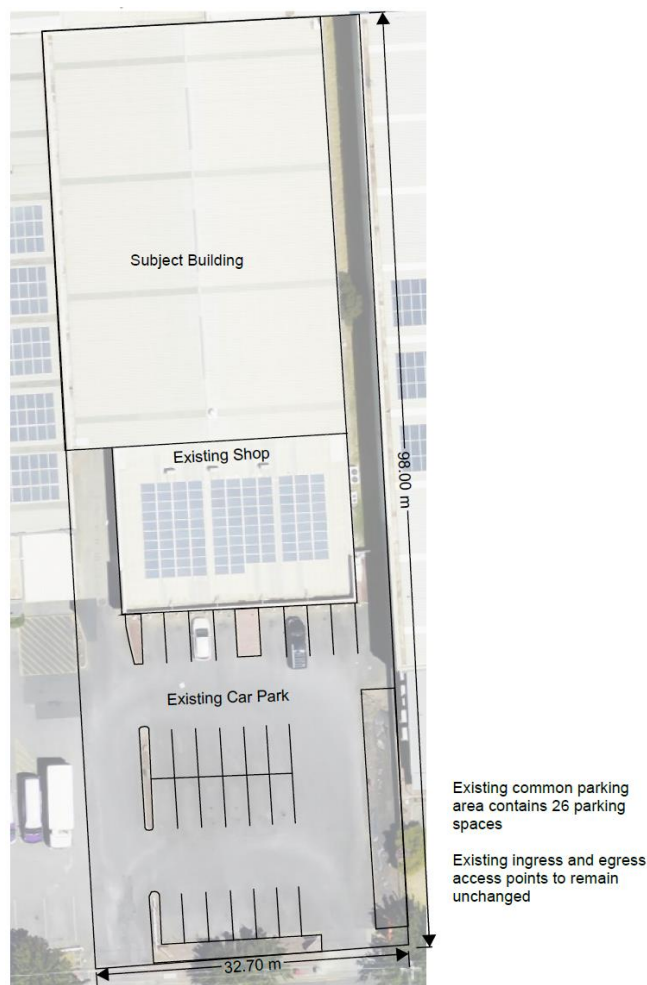


Figure 1: Subject land

## LOCALITY

The immediate locality includes the commercial buildings on the southern side of Cross Road and adjoining the rear of the site. The wider locality includes the streets, a rail line and dwellings which address Cross Road, Pine Street and Lindfield Avenue.



**Figure 2: Locality**

Dwellings within the locality are generally single storey detached dwellings on large allotments, comprising generous and consistent, setbacks from front boundaries. Commercial buildings within the locality are typically located on large, deep allotments, often with extensive front setbacks accommodating car parking to maximise building footprints and reduce side and rear setbacks.

The intersection of Cross Road & South Road is located 200 metres to the east of the site.

The subject site and locality can be viewed via this [Google Maps link](#).



## PROPOSED DEVELOPMENT

A change in the use of land for the rear tenancy of the existing warehouse to a Service Trade Premise (Car Sales Premises proposing a maximum of sixteen vehicles being stored at the site for online listing and sale) is sought. As shown on the proposed site plan, the rear of the building is able to be separately accessed via a side roller door driving area, which services the rear of the shop at the front of the building.

The proposal will include vehicles up to sixteen being stored at the site for online listing and sale, with a small office within the building for two (2) employees to operate from. The sale vehicles will be stored within the existing building, in two (2) rows of eight (8). Vehicles will be moved to and from the site in coordination with other car sales sites operated by the same company. The proposed floor plan illustrates the internal floor area will be used for vehicle storage, turning areas or as unoccupied vacant space. The proposed floor plan has designated the location of the 16 spaces, which occupies 216sqm (20% of the gross leasable floor area), which will be reinforced via a condition.

Occasional customer inspections of the vehicles may occur on the site on rare occasions, though the primary role of the site is to operate as a temporary holding site for vehicles as they are listed online for sale.

No external building works or signage/advertisement are proposed as part of the development. The internal area of the building is proposed to include two 8 car-parking-bays and an office for the staff to operate in. No alterations are proposed to the access/egress points of the site.

The applicant has provided the below information of the proposed use.

Maximum number of staff who will be on site at one time:

- Two (2)

Operating Hours :

Monday – Friday

- 0830 - 1700

Saturday

- 0900 - 1300

Sunday

- Closed

Method of Delivery to Site:

- Vehicles arrive to the site under their own power,
- A maximum of 3 truck deliveries per week by Light Rigid Vehicle (LRV),

Waste Collection method:

- To utilise Council's waste collection services.

Maximum number of vehicles stored on the site at any one time:

- Sixteen (16)

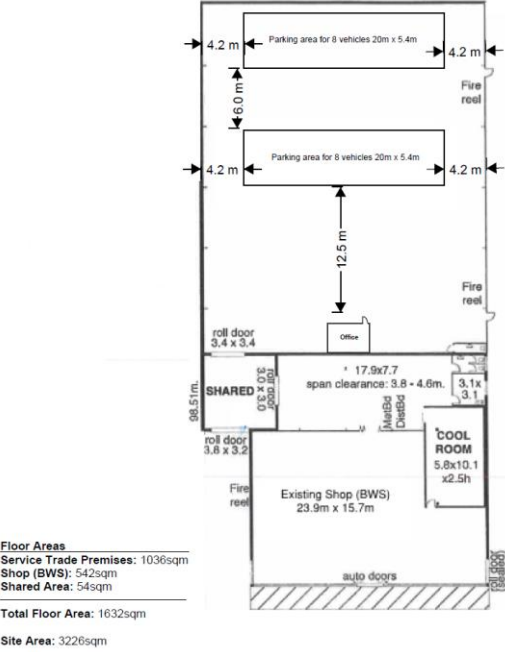


Figure 4: The Proposed Site Plan

## PUBLIC NOTIFICATION

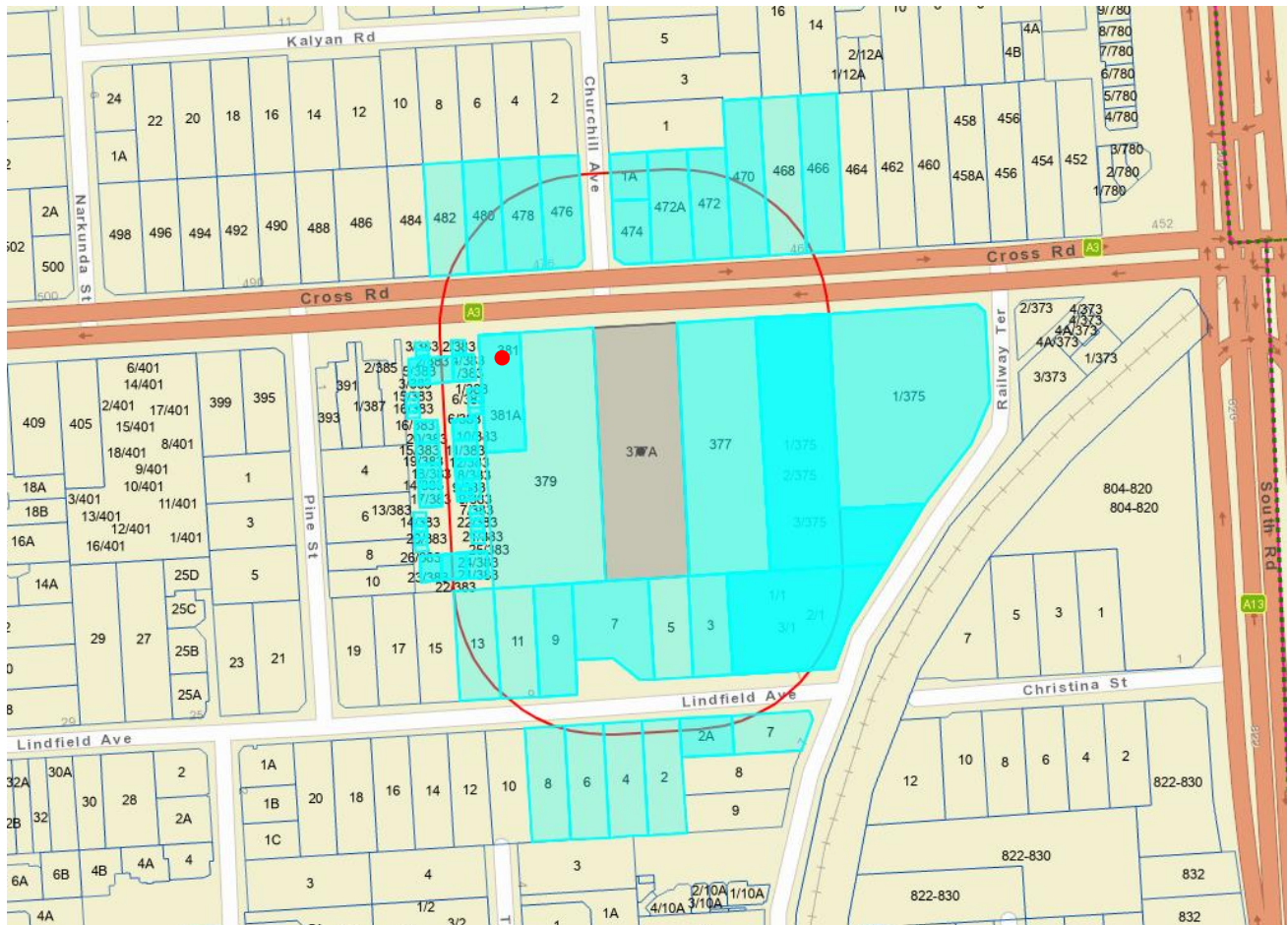


Figure 5: Public Notification Map

### Properties Notified

### Representations received

### Representations who wished to be heard

### Applicant Response

124 (multiple tenanted properties)

1 representation received (from 1 property),

- One (1) opposing the proposed development
- Chris Carter of 381 Cross Road, Edwardstown

A written response by the applicant is included within the report attachments.

## Approach to Assessment

Part 1 – Rules of Interpretation of the Planning and Design Code (the Code) provides clarity on how to interpret the policies in the Code. Of particular note 'Designated Performance Features' (DPF) assist Councils to interpret Performance Outcomes (PO).

The Rules of Interpretation clearly state that a DPF provides a guide but does not need to necessarily be satisfied in order for a certain development to meet the PO, i.e. the outcome can be met in another way:

***In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.*** (My underlining added)

A DPF provision should not be interpreted as quantitative requirements, instead they simply present one way in achieving the corresponding PO. There can be variation from DPF policies, and not just in a minor way. Emphasis should be placed on satisfying the qualitative Performance Outcome in the circumstances where a specified DPF is not met.

It is with the above approach in mind that I have assessed this development.

## ASSESSMENT

Part 1 - Rules of Interpretation of the Code advises that for each Zone Table 3 specifies the policies and rules that apply to classes of development within the zone. I note:

***The policies specified in Table 3 constitute the policies applicable to the particular class of development within the zone to the exclusion of all other policies within the Code, and no other policies are applicable. For the avoidance of doubt, the relevant authority may determine that one or more of the listed policies are not relevant to a particular development.***

The code policies applicable to this development can be reviewed in Appendix 1. The following provisions within table 3 are considered relevant to this assessment.

### Zone Considerations

Employment Zone: *DO1, PO1.1*

### Overlay

Major Urban Transport Routes Overlay: *DO 1, 2, PO 2.1, 3.1*

### General Development Policies Considerations

Interface between Land Uses: *DO 1, PO 2.1, 4.1*

Transport, Access and Parking: *DO 1, PO 5.1, 6.1, 6.2*

## Quantitative snapshot

Existing site dimensions	
Site area	3,226 m <sup>2</sup>
Frontage width	32.7 m
Site depth	98 m
Front setback	36.6 m
Eastern side setback	Nil
Western side setback	4 m
Rear setback	Nil
On-site car parking	26 formalised spaces in the front setback (none covered)

## **Assessment Discussion**

In my view, the most pertinent planning considerations for this assessment relate to the operation of the business. The assessment considers the impacts of the proposal upon adjacent and surrounding land. Consideration is given to the proposal's impacts on waste management, vehicle parking and the operation of the use. These impacts are individually considered under the Zone, Overlays and General Development Policies of the Planning and Design Code.

### **Land Use**

The proposed development seeks a change in the use of land to a service trade premises (with specific characteristics). As a use anticipated by the Zone, and having regard to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, the proposal is not considered to be seriously at variance to the Planning & Design Code.

The applicant has provided written confirmation of the proposed business use and how it will function. Further information was provided by the applicant, who confirmed that the proposed use is for a temporary storage area for vehicles which are listed and sold online. As the site is to be used primarily for storage, there are limited abilities for potential buyers to attend the site for visual inspections of the vehicles.

Whilst 'service trade premises' is the 'element' proposed, the land use has been more narrowly defined to appropriately describe the use and operations. Advice provided to Council for a similar application suggests, should a new 'use' be proposed (even if meeting the service trade premises definition), a new application and assessment would be required.

Employment Zone Performance Outcome PO 1 seeks to encourage a range of employment generating businesses which service the local community, whilst not detrimentally affecting the local amenity. The proposal is considered to respond to this PO as it seeks to use the land for the storage/holding of light vehicles for online listing and sale. This consideration is affirmed by the proposal's satisfaction of DTS/DPF 1.1, where it is a listed use. As the vehicles are to be temporarily held on the site, it is further considered that the proposal provides a service trade business that would not produce emissions that would detrimentally affect the local amenity. Whilst not proposed in this application, it is also worthy to note that a 'warehouse' is also listed in PO 1, suggesting low intensity operations/storage uses are also anticipated within the Zone.

In the context of the locality, the proposed use is in keeping with the existing use character of the locality. Allotments to the immediate east and west of the site, and further away in the broader locality, comprise established buildings which are used for a combination of warehouses, shops, showrooms, fitness centres, offices and charitable businesses. The surrounding land uses are also low impact compatible business activities which complement the role of the surrounding zones. These businesses tend to be self-contained, in that the activity is confined to the internal area of the building itself, and the most visible element of the use is the associated car parking, typically provided at grade at the front of buildings. The proposal is considered compatible with these land uses as it will be confined to the existing building, with no signage being proposed. Given the low number of employees who will be operating on the



site, and the business model, the proposal will have a minimal impact on the operation of these businesses and will not affect the visual amenity of the streetscape.

The proposed floor plan illustrates the internal floor area will be used for vehicle storage, turning areas or as unoccupied vacant space. The proposed floor plan has designated the location of the 16 spaces, which occupies 216sqm (20% of the gross leasable floor area), which will be reinforced via a condition.

Interface Between Land Uses PO 1 seeks to ensure that development does not have adverse effects on neighbouring and proximate land uses. The existing built form is provided with appropriate setbacks to adjoining residential allotments in the locality to ensure that the proposed change of use does not have a detrimental impact on the amenity of the residential allotments near the site. The Northern boundary of the site abuts Cross Road, which is a Major Urban Transport Road. Given that the proposed use is for the temporary holding of vehicles and an office within the building itself, the proposed development is not considered to result in additional amenity impacts which exceed those already present in the area.

### **Hours of Operation**

Interface Between Land Uses PO 2.1 suggests consideration be given to the impact of operating hours on the locality. The applicant has proposed the following hours of operation Monday-Friday 0830-1700 and Saturday 0900-1300, which generally reflects standard commercial hours of operation. The shop (BWS) operates between the hours of Monday to Wednesday 0900-2000, Thursday to Saturday 0900-2100 and Sunday from 1000 to 1900. Given the envisaged land use, the scale/type of business being proposed and the site's proximity to other commercial uses, the proposed hours of operation are considered to be acceptable. To ensure amenity impacts outside of the core business hours are minimised suggested conditions to the proposed vehicle delivery hours are recommended. .



**Figure 6: View towards the subject land from Cross Road**

### **Waste Management**

The applicant has confirmed that there would be no servicing or repair of vehicles on the site and therefore any waste generated by daily operations would be associated with the office component.

As such, as no hazardous materials are anticipated to be generated from the use and the volume of rubbish likely to be generated from the site is acceptable, waste will be collected via the normal standards (general waste weekly, recyclables and organic fortnightly).

Should additional rubbish be generated on site a private collection arrangement would be required (the use may have also changed and require a fresh assessment).

The recommended conditions of consent also restrict the use so that no mechanical work or panel repairs would occur. The applicant has agreed to these conditions as part of the proposal.

## **Vehicle Parking**

The overall site has an area of 3,226sqm, with an established shared car parking area to the front of the site. The building floor plan states the shop tenancy (BWS) has a floor area of 542sqm and the warehouse tenancy has a floor area of 1036sqm. The current theoretical car park requirements for Tenancy 1 (shop) is 30 spaces whilst Tenancy 2 (warehouse) requires 6, resulting in a need of 36 spaces (when considered against the current Planning & Design Code suggested parking rates).

26 spaces are currently provided – a deficit of 10 spaces.

In determining whether the proposal satisfies the Vehicle Parking Rates PO 5.1, the needs of the land use must be considered and whether it can reasonably operate with a reduced on-site car parking provision. These factors include, amongst others, the shared use of other parking areas and (in relation to mixed use developments) the hours of operation of commercial activities within the same site. It is considered that, as discussed earlier, the applicant seeks to use the site as a vehicle holding facility and operate during normal business hours, with rare attendance by visitors and a maximum of two (2) employees on site at any one time.

The suggested parking rate applicable for the proposed use is calculated on the internal floor area of the site (determined by the Gross Leasable Floor Area definition). A second rate is associated with the outdoor/external display of goods, which has a rate of 1 space per 100sqm.

The car parking requirement of 2.5 per 100sqm requires the provision of 26 spaces, whilst the second rate of 1 per 100sqm requires the provision of 11 – some 15 spaces less.

When combining the current car parking requirements for the existing shop and the proposed service trade premises, there is a theoretical requirement for the site to accommodate 56 car parking spaces. The higher figure would require 56 spaces (30 theoretical shortfall), whilst the lower figure would require 41 spaces (15 theoretical shortfall).

Were the outdoor car parking rate to be applied to the proposal, a minimum theoretical car parking requirement of eleven (11) would be required. When compared to the existing land uses of the site, the proposed use results in a five (5) space parking deficit increase to the 15 spaces mentioned above.

Given the nature of the proposed use, it is suggested the lower rate is more applicable.

The application proposes the provision of 16 internal spaces, which will be used to accommodate vehicles involved in the on-going use. In this instance, the proposed parking location within the building itself forms part of both the on-going operations and within the building's leasable floor area.

When considering the likely operations of the proposed use and existing shop, provision of additional space internally should additional parking be required (highly unlikely) and the minimal number of staff (2), the overall provision of on-site parking (shared) is considered appropriate for this specific use.

When considering a change in the nature of the use of a site, consideration to how a change in use will impact the amount and type of traffic which will enter and exit the site. The existing car parking area in the front of the site includes the provision of two crossovers, which currently allow vehicles to enter and exit in a forward direction. The existing car parking layout and crossover locations provide safe and efficient access to and from Cross Road. The layout of the car parking area in the front of the site allows for onsite queuing and has been designed to minimise the interruption of the performance of the road. The kerb is largely vacant and retains the required site lines to ensure the safety of vehicles and pedestrians. Aerial and Google Streetview images demonstrate that the car parking area is currently used by Large Rigid Vehicles. As these vehicles already use the site and are able to enter and exit in a forward direction, the car parking is considered to be fit-for-purpose and alterations to the crossover are not required to accommodate the proposed land use.

## CONCLUSION

The proposed development seeks planning consent change of use to a Service Trade Premise (Car Sales Premises proposing a maximum of sixteen vehicles being stored at the site for online listing and sale) at 377A Cross Road, Edwardstown. The proposed use is considered to appropriately respond to the character of the area and does not seek to alter the external appearance of the building. The use would have minimal impacts on the overall functioning of the site and the surrounding traffic network.

Whilst the proposal would result in an increase in the amount of activity occurring on the site compared to its current levels (as the rear warehouse is currently vacant), the number of staff and vehicles on the property will be relatively minor and there will be sufficient room within the existing building to accommodate the requirements of the business. The provision of parking provided is considered to satisfy the proposed use.

The proposed operating hours, staff numbers and business model are considered appropriate given the scale of the site, the locality and the surrounding land uses. Whilst concerns have been raised regarding the function of the business, the layout of the site and the off-site impacts which may result from its operation, the applicant has provided sufficient justification to demonstrate its appropriateness.

To ensure that the proposal does not result in an overdevelopment of the site or create unreasonable impacts, specific conditions have been recommended to ensure that the business operates in accordance with the business model as depicted in the supporting documentation. These conditions include additional requirements on the hours of operation, limits in vehicles, parking locations for sale vehicles, waste collection and staffing hours. Any future changes to the business beyond the consented levels will be considered on their merits.

Following consideration of matters pertinent to the application, I am ultimately of the view that the proposal provides a satisfactory response to the Code Rules and is considered to warrant Planning Consent, subject to the conditions and notes recommended.

## RECOMMENDATION

In accordance with Section 126(1) of the Planning, Development and Infrastructure Act 2016 the Council Assessment Panel;

- (a) Notes the assessment and recommendation(s) made by the report author;
- (b) Resolves that the proposed development, pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*, IS NOT seriously at variance<sup>1</sup> with the Planning and Design Code; and
- (c) Resolves that, pursuant to Section 102 (1) *Planning, Development and Infrastructure Act 2016*, Development Application 24010859 seeking a Change of Use to a Service Trade Premise at 377A Cross Road, Edwardstown, be GRANTED, subject to the following Conditions:

## 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).
2. No vehicle cleaning, mechanical services or repairs to the vehicles shall be undertaken on the site in association with the use hereby consented to.
3. No more than sixteen (16) sale vehicles, associated with the use hereby consented, shall be kept on the site at any one time.
4. No more than two (2) sale vehicles are to be delivered to the site per calendar month.
5. All car parking areas, driveways and vehicle manoeuvring areas must be constructed, marked/delineated and maintained in accordance with the approved plans and recognised engineering practices prior to the occupation of the premises or the use of the development herein approved and maintained in a good condition at all times.
6. All waste and other rubbish shall be stored in the designated areas and screened from public view in accordance with the approved plans.

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<sup>1</sup> Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016* (or Section 35(2) of the *Development Act 1993* for applications under that Act), a "development must not be granted planning consent if it is, in the opinion of the relevant authority, seriously at variance with the Planning and Design Code" (or the Development Plan if under the Development Act).

What is 'seriously at variance' is not a defined legislative term and is not synonymous with a proposal that is merely 'at variance' with certain provisions of the Code (or Plan), which many applications will be. Instead, it has been interpreted to be an important or grave departure in either quantity or degree from the Code (or Plan) and accordingly not worthy of consent under any circumstances and having the potential to undermine the objectives of the Code (or Plan) for the land or the Zone.

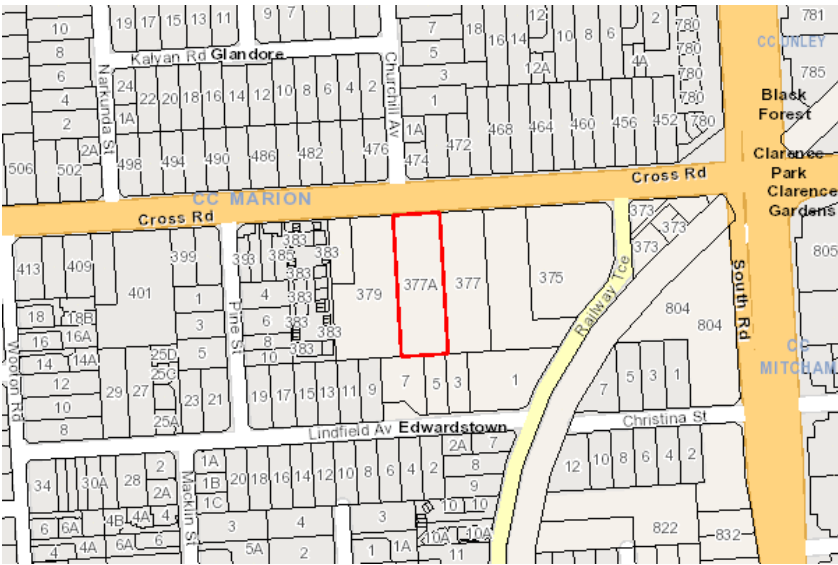
- 7. All loading and unloading of vehicles associated with the subject premises shall be carried out entirely upon the subject land.**
- 8. All vehicles shall enter and exit the subject land in a forward direction.**
- 9. Driveways and manoeuvring areas shall not be used for the storage or display of any goods, materials or waste at any time.**
- 10. Hours of operation are limited to the following:**
  - a. 0830 – 1700 Monday to Friday**
  - b. 0900 – 1300 Saturday**
- 11. Hours of deliveries to and from the site are limited to the following:**
  - a. 0830 – 1700 Monday to Friday**
  - b. 0900 – 1300 Saturday**
- 12. The business herein approved shall be restricted in capacity to a maximum of two (2) staff to be operating on the site at any given time.**

#### **NOTES**

- 1. Any portion of Council's infrastructure damaged as a result of work undertaken on the allotment or associated with the allotment must be repaired/reinstated to Council's satisfaction at the developer's expense.**

Address: 377A CROSS RD EDWARDSTOWN SA 5039

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



Property Zoning Details

Zone

Employment

Overlay

- Airport Building Heights (Regulated) (All structures over 15 metres)
- Building Near Airfields
- Future Road Widening
- Hazards (Flooding - Evidence Required)
- Major Urban Transport Routes
- Prescribed Wells Area
- Regulated and Significant Tree
- Traffic Generating Development

Local Variation (TNV)

- Maximum Building Height (Metres) (Maximum building height is 10m)
- Maximum Building Height (Levels) (Maximum building height is 2 levels)

Selected Development(s)

Service trade premises

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 of Interpretation - Determination of Classes of Development

Service trade premises - Code Assessed - Performance Assessed

Part 2 - Zones and Sub Zones



## Employment Zone

### Assessment Provisions (AP)

Desired Outcome (DO)

Desired Outcome	
DO 1	A diverse range of low-impact light industrial, commercial and business activities that complement the role of other zones accommodating significant industrial, shopping and business activities.
DO 2	Distinctive building, landscape and streetscape design to achieve high visual and environmental amenity particularly along arterial roads, zone boundaries and public open spaces.

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

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Land Use and Intensity	
<p>PO 1.1</p> <p>A range of employment-generating light industrial, service trade, motor repair and other compatible businesses servicing the local community that do not produce emissions that would detrimentally affect local amenity.</p>	<p>DTS/DPF 1.1</p> <p>Development comprises one or more of the following:</p> <ul style="list-style-type: none"> <li>(a) Advertisement</li> <li>(b) Consulting room</li> <li>(c) Indoor recreation facility</li> <li>(d) Light industry</li> <li>(e) Motor repair station</li> <li>(f) Office</li> <li>(g) Place of worship</li> <li>(h) Research facility</li> <li>(i) Retail fuel outlet</li> <li>(j) Service trade premises</li> <li>(k) Shop</li> <li>(l) Store</li> <li>(m) Telecommunications facility</li> <li>(n) Training facility</li> <li>(o) Warehouse.</li> </ul>
<p>PO 1.2</p> <p>Shops provide convenient day-to-day services and amenities to local businesses and workers, support the sale of products manufactured on-site and otherwise complement the role of Activity Centres.</p>	<p>DTS/DPF 1.2</p> <p>Shop where one of the following applies:</p> <ul style="list-style-type: none"> <li>(a) with a gross leasable floor area up to 100m<sup>2</sup></li> <li>(b) is a bulky goods outlet</li> <li>(c) is a restaurant</li> <li>(d) is ancillary to and located on the same allotment as an industry and primarily involves the sale by retail of goods manufactured by the industry.</li> </ul>
Built Form and Character	
<p>PO 2.1</p> <p>Development achieves distinctive building, landscape and streetscape design to achieve high visual and environmental amenity particularly along arterial roads, zone boundaries and public open spaces.</p>	<p>DTS/DPF 2.1</p> <p>None are applicable.</p>

## PO 2.2

Building facades facing a boundary of a zone primarily intended to accommodate residential development, public roads, or public open space incorporate design elements to add visual interest by considering the following:

- (a) using a variety of building finishes
- (b) avoiding elevations that consist solely of metal cladding
- (c) using materials with a low reflectivity
- (d) using techniques to add visual interest and reduce large expanses of blank walls including modulation and incorporation of offices and showrooms along elevations visible to a public road.

## DTS/DPF 2.2

None are applicable.

## Building height and setbacks

## PO 3.1

Buildings are set back from the primary street boundary to contribute to the existing/emerging pattern of street setbacks in the streetscape.

## DTS/DPF 3.1

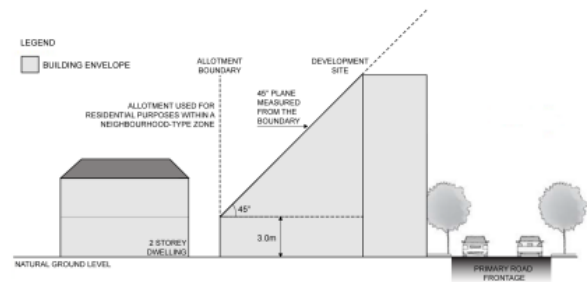
Buildings setback from the primary street boundary in accordance with the following table:

Development Context	Minimum setback
There is an existing building on both abutting sites sharing the same street frontage as the site of the proposed building.	The average setback of the existing buildings.
There is an existing building on only one abutting site sharing the same street frontage as the site of the proposed building and the existing building is not on a corner site.	The setback of the existing building.
There is an existing building on only one abutting site sharing the same street frontage as the site of the proposed building and the existing building is on a corner site.	<p>(a) Where the existing building shares the same primary street frontage – the setback of the existing building</p> <p>(b) Where the existing building has a different primary street frontage - 5m</p>
There is no existing building on either of the abutting sites sharing the same street frontage as the site of the proposed building.	5m

For the purposes of **DTS/DPF 3.2**:

- (a) the setback of an existing building on an abutting site to the street boundary that it shares with the site of the proposed building is to be measured from the closest building wall to that street boundary at its closest point to the building wall and any existing projection from the building such as a verandah, porch, balcony, awning or bay window is not taken to form part of the building for the purposes of determining its setback
- (b) any proposed projections such as a verandah, porch, balcony, awning or bay window may encroach not more

	than 1.5 metres into the minimum setback prescribed in the table				
<p>PO 3.2</p> <p>Buildings are set back from a secondary street boundary to accommodate the provision of landscaping between buildings and the street to enhance the appearance of land and buildings when viewed from the street.</p>	<p>DTS/DPF 3.2</p> <p>Building walls are no closer than 2m to the secondary street boundary.</p>				
<p>PO 3.3</p> <p>Buildings are set back from rear access ways to provide adequate manoeuvrability for vehicles to enter and exit the site.</p>	<p>DTS/DPF 3.3</p> <p>Building walls are set back from the rear access way:</p> <p>(a) where the access way is 6.5m wide or more, no requirement</p> <p>(b) where the access way is less than 6.5m wide, the distance equal to the additional width required to make the access way at least 6.5m wide.</p>				
<p>PO 3.4</p> <p>Buildings are sited to accommodate vehicle access to the rear of a site for deliveries, maintenance and emergency purposes.</p>	<p>DTS/DPF 3.4</p> <p>Building walls are set back at least 3m from at least one side boundary, unless an alternative means for vehicular access to the rear of the site is available.</p>				
<p>PO 3.5</p> <p>Building height is consistent with the form expressed in any relevant <i>Maximum Building Height (Levels) Technical and Numeric Variation layer</i> and <i>Maximum Building Height (Metres) Technical and Numeric Variation layer</i> or is generally low-rise to complement the established streetscape and local character.</p>	<p>DTS/DPF 3.5</p> <p>Building height is not greater than:</p> <p>(a) the following:</p> <table><tr><td><b>Maximum Building Height (Levels)</b></td></tr><tr><td>Maximum building height is 2 levels</td></tr><tr><td><b>Maximum Building Height (Metres)</b></td></tr><tr><td>Maximum building height is 10m</td></tr></table> <p>(b) in all other cases (i.e. there are blank fields for both maximum building height (metres) and maximum building height (levels)) - 2 building levels up to a height of 9m.</p> <p>In relation to DTS/DPF 3.5, in instances where:</p> <p>(c) more than one value is returned in the same field for DTS/DPF 3.5(a) refer to the <i>Maximum Building Height (Levels) Technical and Numeric Variation layer</i> or <i>Maximum Building Height (Metres) Technical and Numeric Variation layer</i> in the SA planning database to determine the applicable value relevant to the site of the proposed development</p> <p>(d) only one value is returned for DTS/DPF 3.1(a) (i.e. there is one blank field), then the relevant height in metres or building levels applies with no criteria for the other.</p>	<b>Maximum Building Height (Levels)</b>	Maximum building height is 2 levels	<b>Maximum Building Height (Metres)</b>	Maximum building height is 10m
<b>Maximum Building Height (Levels)</b>					
Maximum building height is 2 levels					
<b>Maximum Building Height (Metres)</b>					
Maximum building height is 10m					
<p>PO 3.6</p> <p>Buildings mitigate visual impacts of building massing on residential development within a neighbourhood-type zone.</p>	<p>DTS/DPF 3.6</p> <p>Buildings are constructed within a building envelope provided by a 45 degree plane, measured from a height of 3m above natural ground level at the boundary of an allotment used for residential purposes in a neighbourhood-type zone as shown in the following diagram, except where the relevant boundary is a southern boundary or where this boundary is the street boundary.</p>				

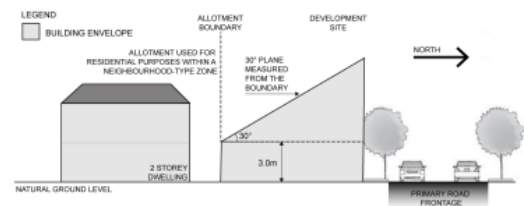


PO 3.7

Buildings mitigate overshadowing of residential development within a neighbourhood-type zone.

DTS/DPF 3.7

Buildings on sites with a southern boundary adjoining an allotment used for residential purposes within a neighbourhood-type zone are constructed within a building envelope provided by a 30 degree plane grading north measured from a height of 3m above natural ground level at the southern boundary, as shown in the following diagram (except where this boundary is a street boundary):



PO 3.8

Buildings on an allotment fronting a road that is not a State maintained road, and where land on the opposite side of the road is within a neighbourhood-type zone, provides an orderly transition to the built form scale envisaged in the adjacent zone to complement the streetscape character.

DTS/DPF 3.8

None are applicable.

### Landscaping

PO 5.1

Landscaping is provided to enhance the visual appearance of development when viewed from public roads and thoroughfares.

DTS/DPF 5.1

Other than to accommodate a lawfully existing or authorised driveway or access point, or an access point for which consent has been granted as part of an application for the division of land, a landscaped area is provided within the development site:

- (a) where a building is set back less than 3m from the street boundary - 1m wide or the area remaining between the relevant building and the street boundary where the building is less than 1m from the street boundary or
- (b) in any other case - at least 1.5m wide.

PO 5.2

DTS/DPF 5.2

Development incorporates areas for landscaping to enhance the overall amenity of the site and locality.	Landscape areas comprise: <ul style="list-style-type: none"> <li>(a) not less than 10 percent of the site</li> <li>(b) a dimension of at least 1.5m.</li> </ul>
Concept Plans	
PO 7.1 Development is compatible with the outcomes sought by any relevant Concept Plan contained within Part 12 - Concept Plans of the Planning and Design Code to support the orderly development of land through staging of development and provision of infrastructure.	DTS/DPF 7.1 The site of the development is wholly located outside any relevant Concept Plan boundary. The following Concept Plans are relevant: In relation to DTS/DPF 7.1, in instances where: <ul style="list-style-type: none"> <li>(a) one or more Concept Plan is returned, refer to Part 12 - Concept Plans in the Planning and Design Code to determine if a Concept Plan is relevant to the site of the proposed development. Note: multiple concept plans may be relevant.</li> <li>(b) in instances where 'no value' is returned, there is no relevant concept plan and DTS/DPF 7.1 is met.</li> </ul>

### 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

Notification tables exclude the classes of development listed in Column A from notification provided that they do not fall within a corresponding exclusion prescribed in Column B.

Where a development or an element of a development falls within more than one class of development listed in Column A, it will be excluded from notification if it is excluded (in its entirety) under any of those classes of development. It need not be excluded under all applicable classes of development.

Where a development involves multiple performance assessed elements, all performance assessed elements will require notification (regardless of whether one or more elements are excluded in the applicable notification table) unless every performance assessed element of the application is excluded in the applicable notification table, in which case the application will not require notification.

A relevant authority may determine that a variation to 1 or more corresponding exclusions prescribed in Column B is minor in nature and does not require notification.

Class of Development (Column A)	Exceptions (Column B)
1. 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. Any development involving any of the following (or of any combination of any of the following): <ul style="list-style-type: none"> <li>(a) advertisement</li> <li>(b) temporary public service depot.</li> </ul>	Except development that exceeds the maximum building height specified in Employment Zone DTS/DPF 3.5 or does not satisfy any of the following: <ul style="list-style-type: none"> <li>1. Employment Zone DTS/DPF 3.6</li> <li>2. Employment Zone DTS/DPF 3.7.</li> </ul>

3. Any development involving any of the following (or of any combination of any of the following): <ul style="list-style-type: none"> <li>(a) consulting room</li> <li>(b) light industry</li> <li>(c) office</li> <li>(d) motor repair station</li> <li>(e) retail fuel outlet</li> <li>(f) store</li> <li>(g) warehouse.</li> </ul>	Except where the site of the development is adjacent land to a site (or land) used for residential purposes in a neighbourhood-type zone.
4. Any development involving any of the following (or of any combination of any of the following): <ul style="list-style-type: none"> <li>(a) air handling unit, air conditioning system or exhaust fan</li> <li>(b) carport</li> <li>(c) deck</li> <li>(d) fence</li> <li>(e) internal building works</li> <li>(f) land division</li> <li>(g) outbuilding</li> <li>(h) pergola</li> <li>(i) private bushfire shelter</li> <li>(j) replacement building</li> <li>(k) retaining wall</li> <li>(l) shade sail</li> <li>(m) solar photovoltaic panels (roof mounted)</li> <li>(n) swimming pool or spa pool and associated swimming pool safety features</li> <li>(o) temporary accommodation in an area affected by bushfire</li> <li>(p) tree damaging activity</li> <li>(q) verandah</li> <li>(r) water tank.</li> </ul>	None specified.
5. Building for the purposes of railway activities.	None specified.
6. Demolition.	Except any of the following: <ul style="list-style-type: none"> <li>1. the demolition (or partial demolition) of a State or Local Heritage Place (other than an excluded building)</li> <li>2. the demolition (or partial demolition) of a building in a Historic Area Overlay (other than an excluded building).</li> </ul>
7. Railway line.	Except where located outside of a rail corridor or rail reserve.
8. Shop within any of the following: <ul style="list-style-type: none"> <li>(a) Retail Activity Centre Subzone</li> <li>(b) Roadside Service Centre Subzone.</li> </ul>	Except shop that exceeds the maximum building height specified in Employment Zone DTS/DPF 3.5 or does not satisfy any of the following: <ul style="list-style-type: none"> <li>1. Employment Zone DTS/DPF 3.6</li> <li>2. Employment Zone DTS/DPF 3.7.</li> </ul>
9. Shop.	Except: <ul style="list-style-type: none"> <li>1. where the site of the shop is adjacent land to a site (or land) used for residential purposes in a neighbourhood-</li> </ul>

	type zone or 2. shop that exceeds the maximum building height specified in Employment Zone DTS/DPF 3.5 or 3. shop that does not satisfy Employment Zone DTS/DPF 1.2.
10. Telecommunications facility.	Except telecommunications facility that does not satisfy Employment Zone DTS/DPF 1.3.

#### Placement of Notices - Exemptions for Performance Assessed Development

None specified.

#### Placement of Notices - Exemptions for Restricted Development

None specified.

## Part 3 - Overlays

### Airport Building Heights (Regulated) Overlay

#### Assessment Provisions (AP)

Desired Outcome (DO)

Desired Outcome	
DO 1	Management of potential impacts of buildings and generated emissions to maintain operational and safety requirements of registered and certified commercial and military airfields, airports, airstrips and helicopter landing sites.

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

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Built Form	
PO 1.1 Building height does not pose a hazard to the operation of a certified or registered aerodrome.	DTS/DPF 1.1 Buildings are located outside the area identified as 'All structures' (no height limit is prescribed) and do not exceed the height specified in the Airport Building Heights (Regulated) Overlay which applies to the subject site as shown on the SA Property and Planning Atlas.  In instances where more than one value applies to the site, the lowest value relevant to the site of the proposed development is applicable.

#### 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
Any of the following classes of development:  (a) building located in an area identified as 'All structures' (no height limit is prescribed) or will exceed the height specified in the <i>Airport Building Heights (Regulated) Overlay</i>  (b) building comprising exhaust stacks that generates plumes, or may cause plumes to be generated, above a height specified in the <i>Airport Building Heights (Regulated) Overlay</i> .	The airport-operator company for the relevant airport within the meaning of the <i>Airports Act 1996</i> of the Commonwealth or, if there is no airport-operator company, the Secretary of the Minister responsible for the administration of the <i>Airports Act 1996</i> of the Commonwealth.	To provide expert assessment and direction to the relevant authority on potential impacts on the safety and operation of aviation activities.	Development of a class to which Schedule 9 clause 3 item 1 of the Planning, Development and Infrastructure (General) Regulations 2017 applies.

## Building Near Airfields Overlay

### Assessment Provisions (AP)

Desired Outcome (DO)

Desired Outcome	
DO 1	Maintain the operational and safety requirements of certified commercial and military airfields, airports, airstrips and helicopter landing sites through management of non-residential lighting, turbulence and activities that may attract or result in the congregation of wildlife.

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

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
PO 1.1 Outdoor lighting associated with a non-residential use does not pose a hazard to commercial or military aircraft operations.	DTS/DPF 1.1 Development:  (a) primarily or wholly for residential purposes (b) for non-residential purposes that does not incorporate outdoor floodlighting.
PO 1.2 Development likely to attract or result in the congregation of wildlife is adequately separated from airfields to minimise the potential for aircraft wildlife strike.	DTS/DPF 1.2 All development except where it comprises one or more of the following located not less than 3km from the boundaries of an airport used by commercial or military aircraft:  (a) food packing/processing plant (b) horticulture (c) intensive animal husbandry (d) showground (e) waste management facility (f) waste transfer station (g) wetland

	(h) wildlife sanctuary.
PO 1.3 Buildings are adequately separated from runways and other take-off and landing facilities within certified or registered aerodromes to minimise the potential for building-generated turbulence and windshear that may pose a safety hazard to aircraft flight movement.	DTS/DPF 1.3 The distance from any part of a runway centreline to the closest point of the building is not less than 35 times the building height.

### 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

## Future Road Widening Overlay

### Assessment Provisions (AP)

Desired Outcome (DO)

Desired Outcome	
DO 1	Development which is consistent with and will not compromise efficient delivery of future road widening requirements.

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

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Future Road Widening	
PO 1.1 Development does not compromise or is located and designed to minimise its impact on future road widening requirements.	DTS/DPF 1.1 Development does not involve building work, or building work is located wholly outside the land subject to the 6m Consent Area, the C Type Requirement or the Strip Requirement of the Metropolitan Adelaide Road Widening Plan.

### Procedural Matters (PM)

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
Other than where all deemed-to-satisfy criteria for all policies relevant to this referral are met, development (including the division of land) that is within or may encroach within a Future Road Widening Area.	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	Development of a class to which Schedule 9 clause 3 item

		relevant to the Commissioner of Highways as described in the Planning and Design Code.	4 of the Planning, Development and Infrastructure (General) Regulations 2017 applies.
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## Hazards (Flooding - Evidence Required) Overlay

### Assessment Provisions (AP)

Desired Outcome (DO)

Desired Outcome	
DO 1	Development adopts a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment from potential flood risk through the appropriate siting and design of development.

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

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Flood Resilience	
PO 1.1 Development is sited, designed and constructed to minimise the risk of entry of potential floodwaters where the entry of flood waters is likely to result in undue damage to or compromise ongoing activities within buildings.	DTS/DPF 1.1 Habitable buildings, commercial and industrial buildings, and buildings used for animal keeping incorporate a finished floor level at least 300mm above:  (a) the highest point of top of kerb of the primary street or (b) the highest point of natural ground level at the primary street boundary where there is no kerb

### 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

## Major Urban Transport Routes Overlay

### Assessment Provisions (AP)

Desired Outcome (DO)

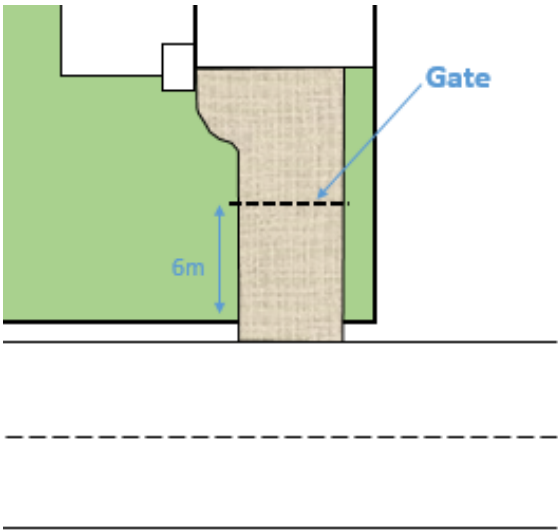
Desired Outcome	
DO 1	Safe and efficient operation of Major Urban Transport Routes for all road users.
DO 2	Provision of safe and efficient access to and from Major Urban Transport Routes.

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

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Access - Safe Entry and Exit (Traffic Flow)	
<p>PO 1.1</p> <p>Access is designed to allow safe entry and exit to and from a site to meet the needs of development and minimise traffic flow interference associated with access movements along adjacent State Maintained Roads.</p>	<p>DTS/DPF 1.1</p> <p>An access point satisfies (a), (b) or (c):</p> <p>(a) where servicing a single (1) residential dwelling / residential allotment:</p> <ul style="list-style-type: none"> <li>(i) it will not result in more than one access point</li> <li>(ii) vehicles can enter and exit the site in a forward direction</li> <li>(iii) vehicles can cross the property boundary at an angle between 70 degrees and 90 degrees</li> <li>(iv) passenger vehicles (with a length up to 5.2m) can enter and exit the site wholly within the kerbside lane of the road</li> <li>(v) have a width of between 3m and 4m (measured at the site boundary).</li> </ul> <p>(b) where the development will result in 2 and up to 6 dwellings:</p> <ul style="list-style-type: none"> <li>(i) it will not result in more than one access point servicing the development site</li> <li>(ii) entry and exit movements are left turn only</li> <li>(iii) vehicles can enter and exit the site in a forward direction</li> <li>(iv) vehicles can cross the property boundary at an angle between 70 degrees and 90 degrees;</li> <li>(v) passenger vehicles (with a length up to 5.2m) can enter and exit the site wholly within the kerbside lane of the road</li> <li>(vi) have a width of between 5.8m to 6m (measured at the site boundary) and an access depth of 6m (measured from the site boundary into the site).</li> </ul> <p>(c) where the development will result in over 7 dwellings, or is a non-residential land use:</p> <ul style="list-style-type: none"> <li>(i) it will not result in more than one access point servicing the development site</li> <li>(ii) vehicles can enter and exit the site using left turn only movements</li> <li>(iii) vehicles can enter and exit the site in a forward direction</li> <li>(iv) vehicles can cross the property boundary at an angle between 70 degrees and 90 degrees</li> <li>(v) have a width of between 6m and 7m (measured at the site boundary), where the development is expected to accommodate vehicles with a length of 6.4m or less</li> <li>(vi) have a width of between 6m and 9m (measured at the site boundary), where the development is</li> </ul>

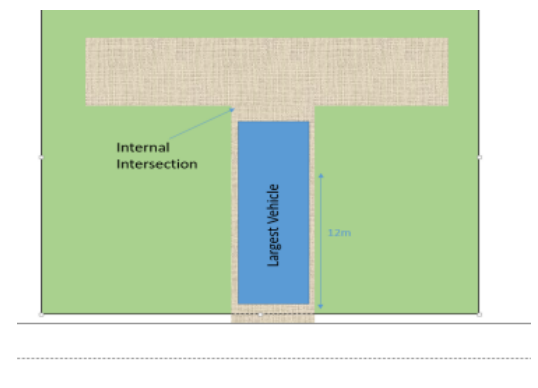
	<p>expected to accommodate vehicles with a length from 6.4m to 8.8m</p> <p>(vii) have a width of between 9m and 12m (measured at the site boundary), where the development is expected to accommodate vehicles with a length from 8.8m to 12.5m</p> <p>(viii) provides for simultaneous two-way vehicle movements at the access;</p> <p>A. with entry and exit movements for vehicles with a length up to 5.2m vehicles being fully within the kerbside lane of the road</p> <p>and</p> <p>B. with entry movements of 8.8m vehicles (where relevant) being fully within the kerbside lane of the road and the exit movements of 8.8m vehicles do not cross the centreline of the road.</p>
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Access - On-Site Queuing

<p>PO 2.1</p> <p>Sufficient accessible on-site queuing adjacent to access points is provided to meet the needs of development so that all vehicle queues can be contained fully within the boundaries of the development site, to minimise interruption of the functional performance of the road and maintain safe vehicle movements.</p>	<p>DTS/DPF 2.1</p> <p>An access point in accordance with one of the following:</p> <p>(a) will not service, or is not intended to service, more than 6 dwellings and there are no internal driveways, intersections, car parking spaces or gates within 6.0m of the access point (measured from the site boundary into the site) as shown in the following diagram:</p> <div data-bbox="916 1182 1476 1711"></div> <p>(b) will service, or is intended to service, development that will generate less than 60 vehicle movements per day and:</p> <p>(i) is expected to be serviced by vehicles with a length no greater than 6.4m</p> <p>(ii) there are no internal driveways, intersections, parking spaces or gates within 6.0m of the access point (measured from the site boundary into the site).</p> <p>(c) will service, or is intended to service, development that</p>
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will generate less than 60 vehicle movements per day and:

- (i) is expected to be serviced by vehicles with a length greater than a 6.4m small rigid vehicle
- (ii) there are no internal driveways, intersections, parking spaces or gates within 6.0m of the access point (measured from the site boundary into the site)
- (iii) any termination of, or change in priority of movement within the main car park aisle is located far enough into the site so that the largest vehicle expected on-site can store fully within the site before being required to stop
- (iv) all parking or manoeuvring areas for commercial vehicles are located a minimum of 12m or the length of the largest vehicle expected on site from the access (measured from the site boundary into the site) as shown in the following diagram:



#### Access – Location (Spacing) - Existing Access Points

PO 3.1

Existing access points designed to accommodate the type and volume of traffic likely to be generated by the development.

DTS/DPF 3.1

An existing access point satisfies (a), (b) or (c):

- (a) it will not service, or is not intended to service, more than 6 dwellings
- (b) it is not located on a Controlled Access Road and will not service development that will result in a larger class of vehicle expected to access the site using the existing access
- (c) it is not located on a Controlled Access Road and development constitutes:
  - (i) a change of use between an office <500m<sup>2</sup> gross leasable floor area and a consulting room <500m<sup>2</sup> gross leasable floor area or vice versa
  - (ii) a change in use from a shop to an office, consulting room or personal or domestic services establishment
  - (iii) a change of use from a consulting room or office <250m<sup>2</sup> gross leasable floor area to shop <250m<sup>2</sup> gross leasable floor area
  - (iv) a change of use from a shop <500m<sup>2</sup> gross leasable floor area to a warehouse <500m<sup>2</sup> gross leasable floor area
  - (v) an office or consulting room with a gross leasable floor area <500m<sup>2</sup>
  - (vi) a change of use from residential dwelling to a

	shop, office, consulting room or personal or domestic services establishment with <250m <sup>2</sup> gross leasable floor area.
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Access – Location (Spacing) – New Access Points

PO 4.1  New access points are spaced apart from any existing access point or public road junction to manage impediments to traffic flow and maintain safe and efficient operating conditions on the road.
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DTS/DPF 4.1

A new access point satisfies (a), (b) or (c):

(a) where a development site is intended to serve between 1 and 6 dwellings, access to the site is from the local road network (not being a Controlled Access Road) and is located outside of the bold lines shown in the following diagram:

The diagram illustrates two scenarios for prohibited locations for new access points. In the left scenario, a side road branches off a main road. A bold line indicates the prohibited zone for access points. Dimensions of 6m are shown for setbacks from the road edge and from the median opening. A 90-degree angle is indicated for the median opening. Points X1 and X are marked at the intersection of the main road centre-line and the extensions of the side road property lines. A heavy line indicates the prohibited location. In the right scenario, a side road branches off a main road. A bold line indicates the prohibited zone for access points. Dimensions of 6m are shown for setbacks from the road edge and from the median opening. A 90-degree angle is indicated for the median opening. Points X1 and X are marked at the intersection of the main road centre-line and the extensions of the side road property lines. A heavy line indicates the prohibited location. A legend states: TP = Tangent point.

NOTE:

The points marked  $X_1$  and  $X$  are respectively at the median end on a divided road and at the intersection of the main road centre-line and the extensions of the side road property lines shown as dotted lines, on an undivided road. On a divided road, dimension T-Y extends to Point  $T_1$ .

(b) where the development site is intended to serve between 1 and 6 dwellings, the new access:

- (i) is not located on a Controlled Access Road
- (ii) is not located on a section of road affected by double barrier lines
- (iii) will be on a road with a speed environment of 70km/h or less
- (iv) is located outside of the bold lines on the diagram shown in the diagram following part (a)
- (v) located minimum of 6m from a median opening or pedestrian crossing.

(c) where DTS/DPF 4.1 part (a) and (b) do not apply and access from an alternative local road at least 25m from the State Maintained Road is not available, and the access is not located on a Controlled Access Road, the new access is separated in accordance with the following:

Speed Limit	Separation between access points	Separation from public road junctions and merging/terminating lanes
50 km/h or less	No spacing requirement	20m
60 km/h	5m (for development intended to serve between 1 and 6 dwellings) and 20m for all other cases	123m
70 km/h	55m	151m

	80 km/h	70m	181m
	90 km/h	90m	214m
	100 km/h	110m	248m
	110 km/h	135m	285m

Access - Location (Sight Lines)

PO 5.1

Access points are located and designed to accommodate sight lines that enable drivers and pedestrians to navigate potential conflict points with roads in a controlled and safe manner.

DTS/DPF 5.1

An access point satisfies (a) and (c) or (b) and (c):

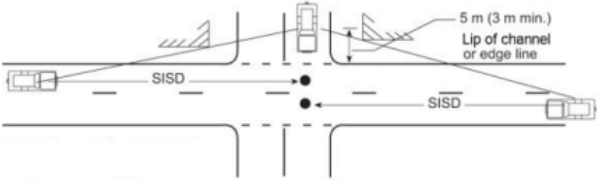
(a)

the development site does or is intended to serve between 1 and 6 dwellings and utilises an existing access point  
or

(b)

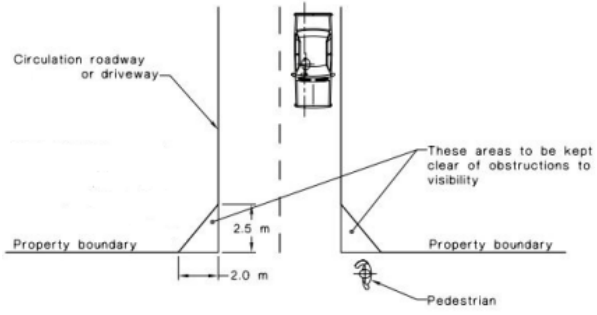
drivers approaching or exiting an access point have an unobstructed line of sight in accordance with the following (measured at a height of 1.1m above the surface of the road):

Speed Limit	Access Point serving 1-6 dwellings	Access point serving all other development
40 km/h or less	47m	73m
50 km/h	63m	97m
60 km/h	81m	123m
70 km/h	100m	151m
80 km/h	121m	181m
90 km/h	144m	226m
100 km/h	169m	262m
110km/h	195m	300m



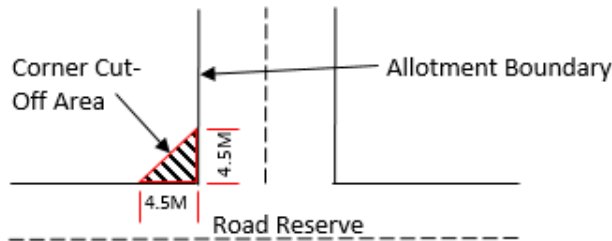
(c)

pedestrian sightlines in accordance with the following diagram:



Access - Mud and Debris



PO 6.1 Access points constructed to minimise mud or other debris being carried or transferred onto the road to ensure safe road operating conditions.	DTS/DPF 6.1 Where the road has an unsealed shoulder and the road is not kerbed the access way is sealed from the edge of seal on the road for a minimum of 10m or to the property boundary (whichever is closer)
Access - Stormwater	
PO 7.1 Access points designed to minimise negative impact on roadside drainage of water.	DTS/DPF 7.1 Development does not:  (a) decrease the capacity of an existing drainage point (b) restrict or prevent the flow of stormwater to an existing drainage point and system (c) results in access points becoming stormwater flow paths directly onto the road.
Building on Road Reserve	
PO 8.1 Buildings or structures that encroach onto, above or below road reserves designed and sited to minimise impact on safe movements by all road users.	DTS/DPF 8.1 No encroachment of buildings or structures onto, above or below the road reserve.
Public Road Junctions	
PO 9.1 New junctions with public roads (including the opening of unmade public road junctions) or modifications to existing road junctions located and designed to ensure safe and efficient road operating conditions are maintained on the State Maintained Road.	DTS/DPF 9.1 Development does not comprise any of the following:  (a) creating a new junction with a public road (b) opening an unmade public road junction (c) modifying an existing public road junction.
Corner Cut-Offs	
PO 10.1 Development is located and designed to maintain sightlines for drivers turning into and out of public road junctions to contribute to driver safety.	DTS/DPF 10.1 Development does not involve building work, or building work is located wholly outside the land shown as 'Corner Cut-Off Area' in the following diagram:  

### 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

Except where all of the relevant deemed-to-satisfy criteria are met, development (including the division of land) that involves any of the following to/on a State Maintained Road or within 25 metres of an intersection with any such road:	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.
<ul style="list-style-type: none"> <li>(a) creation of a new access or junction</li> <li>(b) alterations to an existing access or public road junction (except where deemed to be minor in the opinion of the relevant authority)</li> <li>(c) development that changes the nature of vehicular movements or increase the number or frequency of movements through an existing access (except where deemed to be minor in the opinion of the relevant authority).</li> </ul>			

## Traffic Generating Development Overlay

### Assessment Provisions (AP)

Desired Outcome (DO)

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

	<ul style="list-style-type: none"> <li>(a) building, or buildings, containing in excess of 50 dwellings</li> <li>(b) land division creating 50 or more additional allotments</li> <li>(c) commercial development with a gross floor area of 10,000m<sup>2</sup> or more</li> <li>(d) retail development with a gross floor area of 2,000m<sup>2</sup> or more</li> <li>(e) a warehouse or transport depot with a gross leasable floor area of 8,000m<sup>2</sup> or more</li> <li>(f) industry with a gross floor area of 20,000m<sup>2</sup> or more</li> <li>(g) educational facilities with a capacity of 250 students or more.</li> </ul>
<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"> <li>(a) building, or buildings, containing in excess of 50 dwellings</li> <li>(b) land division creating 50 or more additional allotments</li> <li>(c) commercial development with a gross floor area of 10,000m<sup>2</sup> or more</li> <li>(d) retail development with a gross floor area of 2,000m<sup>2</sup> or more</li> <li>(e) a warehouse or transport depot with a gross leasable floor area of 8,000m<sup>2</sup> or more</li> <li>(f) industry with a gross floor area of 20,000m<sup>2</sup> or more</li> <li>(g) educational facilities with a capacity of 250 students or more.</li> </ul>

### 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"> <li>(a) except where a proposed development has previously been referred under clause (b) - a building, or buildings, containing in excess of 50 dwellings</li> <li>(b) except where a proposed development has previously been referred under clause (a) - land division creating 50 or more additional allotments</li> <li>(c) commercial development with a gross floor area of 10,000m<sup>2</sup> or more</li> <li>(d) retail development with a gross floor area of 2,000m<sup>2</sup> or more</li> <li>(e) a warehouse or transport depot with a gross leasable floor area of 8,000m<sup>2</sup> or</li> </ul>	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.

more (f) industry with a gross floor area of 20,000m <sup>2</sup> or more (g) educational facilities with a capacity of 250 students or more.			
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## Part 4 - General Development Policies

### Clearance from Overhead Powerlines

#### Assessment Provisions (AP)

Desired Outcome (DO)

Desired Outcome	
DO 1	Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.

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

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
PO 1.1 Buildings are adequately separated from aboveground powerlines to minimise potential hazard to people and property.	DTS/DPF 1.1 One of the following is satisfied: (a) a declaration is provided by or on behalf of the applicant to the effect that the proposal would not be contrary to the regulations prescribed for the purposes of section 86 of the <i>Electricity Act 1996</i> (b) there are no aboveground powerlines adjoining the site that are the subject of the proposed development.

## Design

#### Assessment Provisions (AP)

Desired Outcome (DO)

Desired Outcome	
DO 1	Development is: (a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate area (b) durable - fit for purpose, adaptable and long lasting (c) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors (d) sustainable - by integrating sustainable techniques into the design and siting of development and landscaping

to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.

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

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
All development	
External Appearance	
<p>PO 1.4</p> <p>Plant, exhaust and intake vents and other technical equipment is integrated into the building design to minimise visibility from the public realm and negative impacts on residential amenity by:</p> <ul style="list-style-type: none"> <li>(a) positioning plant and equipment in unobtrusive locations viewed from public roads and spaces</li> <li>(b) screening rooftop plant and equipment from view</li> <li>(c) when located on the roof of non-residential development, locating the plant and equipment as far as practicable from adjacent sensitive land uses.</li> </ul>	<p>DTS/DPF 1.4</p> <p>Development does not incorporate any structures that protrude beyond the roofline.</p>
<p>PO 1.5</p> <p>The negative visual impact of outdoor storage, waste management, loading and service areas is minimised by integrating them into the building design and screening them from public view (such as fencing, landscaping and built form) taking into account the form of development contemplated in the relevant zone.</p>	<p>DTS/DPF 1.5</p> <p>None are applicable.</p>
On-site Waste Treatment Systems	
<p>PO 6.1</p> <p>Dedicated on-site effluent disposal areas do not include any areas to be used for, or could be reasonably foreseen to be used for, private open space, driveways or car parking.</p>	<p>DTS/DPF 6.1</p> <p>Effluent disposal drainage areas do not:</p> <ul style="list-style-type: none"> <li>(a) encroach within an area used as private open space or result in less private open space than that specified in Design Table 1 - Private Open Space</li> <li>(b) use an area also used as a driveway</li> <li>(c) encroach within an area used for on-site car parking or result in less on-site car parking than that 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.</li> </ul>
Carparking Appearance	
<p>PO 7.2</p> <p>Vehicle parking areas are appropriately located, designed and constructed to minimise impacts on adjacent sensitive receivers through measures such as ensuring they are attractively developed and landscaped, screen fenced and the like.</p>	<p>DTS/DPF 7.2</p> <p>None are applicable.</p>
<p>PO 7.3</p> <p>Safe, legible, direct and accessible pedestrian connections are provided between parking areas and the development.</p>	<p>DTS/DPF 7.3</p> <p>None are applicable.</p>
<p>PO 7.4</p> <p>Street level vehicle parking areas incorporate tree planting to</p>	<p>DTS/DPF 7.4</p> <p>None are applicable.</p>

provide shade and reduce solar heat absorption and reflection.	
PO 7.5 Street level parking areas incorporate soft landscaping to improve visual appearance when viewed from within the site and from public places.	DTS/DPF 7.5 None are applicable.
PO 7.6 Vehicle parking areas and associated driveways are landscaped to provide shade and positively contribute to amenity.	DTS/DPF 7.6 None are applicable.
PO 7.7 Vehicle parking areas and access ways incorporate integrated stormwater management techniques such as permeable or porous surfaces, infiltration systems, drainage swales or rain gardens that integrate with soft landscaping.	DTS/DPF 7.7 None are applicable.

## Infrastructure and Renewable Energy Facilities

### Assessment Provisions (AP)

Desired Outcome (DO)

Desired Outcome	
DO 1	Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity.

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

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Water Supply	
PO 11.1 Development is connected to an appropriate water supply to meet the ongoing requirements of the intended use.	DTS/DPF 11.1 Development is connected, or will be connected, to a reticulated water scheme or mains water supply with the capacity to meet the on-going requirements of the development.
Wastewater Services	
PO 12.1 Development is connected to an approved common wastewater disposal service with the capacity to meet the requirements of the intended use. Where this is not available an appropriate on-site service is provided to meet the ongoing requirements of the intended use in accordance with the following:  (a) it is wholly located and contained within the allotment of the development it will service (b) in areas where there is a high risk of contamination of surface, ground, or marine water resources from on-site disposal of liquid wastes, disposal systems are included to minimise the risk of pollution to those water resources	DTS/DPF 12.1 Development is connected, or will be connected, to an approved common wastewater disposal service with the capacity to meet the requirements of the development. Where this is not available it is instead capable of being serviced by an on-site waste water treatment system in accordance with the following:  (a) the system is wholly located and contained within the allotment of development it will service; and (b) the system will comply with the requirements of the South Australian Public Health Act 2011.

(c) septic tank effluent drainage fields and other wastewater disposal areas are located away from watercourses and flood prone, sloping, saline or poorly drained land to minimise environmental harm.	
PO 12.2 Effluent drainage fields and other wastewater disposal areas are maintained to ensure the effective operation of waste systems and minimise risks to human health and the environment.	DTS/DPF 12.2 Development is not built on, or encroaches within, an area that is, or will be, required for a sewerage system or waste control system.

## Interface between Land Uses

### Assessment Provisions (AP)

Desired Outcome (DO)

Desired Outcome	
DO 1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.

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

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature								
Hours of Operation									
PO 2.1 Non-residential development does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers) or an adjacent zone primarily for sensitive receivers through its hours of operation having regard to:  (a) the nature of the development (b) measures to mitigate off-site impacts (c) the extent to which the development is desired in the zone (d) measures that might be taken in an adjacent zone primarily for sensitive receivers that mitigate adverse impacts without unreasonably compromising the intended use of that land.	DTS/DPF 2.1 Development operating within the following hours: <table> <tr> <th>Class of Development</th><th>Hours of operation</th></tr> <tr> <td>Consulting room</td><td>7am to 9pm, Monday to Friday 8am to 5pm, Saturday</td></tr> <tr> <td>Office</td><td>7am to 9pm, Monday to Friday 8am to 5pm, Saturday</td></tr> <tr> <td>Shop, other than any one or combination of the following:  (a) restaurant (b) cellar door in the Productive Rural Landscape Zone, Rural Zone or Rural Horticulture Zone</td><td>7am to 9pm, Monday to Friday 8am to 5pm, Saturday and Sunday</td></tr> </table>	Class of Development	Hours of operation	Consulting room	7am to 9pm, Monday to Friday 8am to 5pm, Saturday	Office	7am to 9pm, Monday to Friday 8am to 5pm, Saturday	Shop, other than any one or combination of the following:  (a) restaurant (b) cellar door in the Productive Rural Landscape Zone, Rural Zone or Rural Horticulture Zone	7am to 9pm, Monday to Friday 8am to 5pm, Saturday and Sunday
Class of Development	Hours of operation								
Consulting room	7am to 9pm, Monday to Friday 8am to 5pm, Saturday								
Office	7am to 9pm, Monday to Friday 8am to 5pm, Saturday								
Shop, other than any one or combination of the following:  (a) restaurant (b) cellar door in the Productive Rural Landscape Zone, Rural Zone or Rural Horticulture Zone	7am to 9pm, Monday to Friday 8am to 5pm, Saturday and Sunday								
Activities Generating Noise or Vibration									
PO 4.1 Development that emits noise (other than music) does not unreasonably impact the amenity of sensitive receivers (or	DTS/DPF 4.1 Noise that affects sensitive receivers achieves the relevant Environment Protection (Commercial and Industrial Noise) Policy								

lawfully approved sensitive receivers).	criteria.				
<p>PO 4.2</p> <p>Areas for the on-site manoeuvring of service and delivery vehicles, plant and equipment, outdoor work spaces (and the like) are designed and sited to not unreasonably impact the amenity of adjacent sensitive receivers (or lawfully approved sensitive receivers) and zones primarily intended to accommodate sensitive receivers due to noise and vibration by adopting techniques including:</p> <ul style="list-style-type: none"> <li>(a) locating openings of buildings and associated services away from the interface with the adjacent sensitive receivers and zones primarily intended to accommodate sensitive receivers</li> <li>(b) when sited outdoors, locating such areas as far as practicable from adjacent sensitive receivers and zones primarily intended to accommodate sensitive receivers</li> <li>(c) housing plant and equipment within an enclosed structure or acoustic enclosure</li> <li>(d) providing a suitable acoustic barrier between the plant and / or equipment and the adjacent sensitive receiver boundary or zone.</li> </ul>	<p>DTS/DPF 4.2</p> <p>None are applicable.</p>				
<p>PO 4.5</p> <p>Outdoor areas associated with licensed premises (such as beer gardens or dining areas) are designed and/or sited to not cause unreasonable noise impact on existing adjacent sensitive receivers (or lawfully approved sensitive receivers).</p>	<p>DTS/DPF 4.5</p> <p>None are applicable.</p>				
<p>PO 4.6</p> <p>Development incorporating music achieves suitable acoustic amenity when measured at the boundary of an adjacent sensitive receiver (or lawfully approved sensitive receiver) or zone primarily intended to accommodate sensitive receivers.</p>	<p>DTS/DPF 4.6</p> <p>Development incorporating music includes noise attenuation measures that will achieve the following noise levels:</p> <table border="1"> <thead> <tr> <th>Assessment location</th><th>Music noise level</th></tr> </thead> <tbody> <tr> <td>Externally at the nearest existing or envisaged noise sensitive location</td><td>Less than 8dB above the level of background noise (<math>L_{90,15min}</math>) in any octave band of the sound spectrum (<math>LOCT_{10,15} &lt; LOCT_{90,15} + 8dB</math>)</td></tr> </tbody> </table>	Assessment location	Music noise level	Externally at the nearest existing or envisaged noise sensitive location	Less than 8dB above the level of background noise ( $L_{90,15min}$ ) in any octave band of the sound spectrum ( $LOCT_{10,15} < LOCT_{90,15} + 8dB$ )
Assessment location	Music noise level				
Externally at the nearest existing or envisaged noise sensitive location	Less than 8dB above the level of background noise ( $L_{90,15min}$ ) in any octave band of the sound spectrum ( $LOCT_{10,15} < LOCT_{90,15} + 8dB$ )				
Air Quality					
<p>PO 5.2</p> <p>Development that includes chimneys or exhaust flues (including cafes, restaurants and fast food outlets) is designed to minimise nuisance or adverse health impacts to sensitive receivers (or lawfully approved sensitive receivers) by:</p> <ul style="list-style-type: none"> <li>(a) incorporating appropriate treatment technology before exhaust emissions are released</li> <li>(b) locating and designing chimneys or exhaust flues to maximise the dispersion of exhaust emissions, taking into account the location of sensitive receivers.</li> </ul>	<p>DTS/DPF 5.2</p> <p>None are applicable.</p>				
Light Spill					
PO 6.1	DTS/DPF 6.1				



External lighting is positioned and designed to not cause unreasonable light spill impact on adjacent sensitive receivers (or lawfully approved sensitive receivers).

None are applicable.

## Transport, Access and Parking

### Assessment Provisions (AP)

Desired Outcome (DO)

Desired Outcome	
DO 1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.

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

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Movement Systems	
PO 1.4 Development is sited and designed so that loading, unloading and turning of all traffic avoids interrupting the operation of and queuing on public roads and pedestrian paths.	DTS/DPF 1.4 All vehicle manoeuvring occurs onsite.
Vehicle Access	
PO 3.1 Safe and convenient access minimises impact or interruption on the operation of public roads.	DTS/DPF 3.1 The access is: <ul style="list-style-type: none"> <li>(a) provided via a lawfully existing or authorised driveway or access point or an access point for which consent has been granted as part of an application for the division of land</li> <li>or</li> <li>(b) not located within 6m of an intersection of 2 or more roads or a pedestrian activated crossing.</li> </ul>
PO 3.5 Access points are located so as not to interfere with street trees, existing street furniture (including directional signs, lighting, seating and weather shelters) or infrastructure services to maintain the appearance of the streetscape, preserve local amenity and minimise disruption to utility infrastructure assets.	DTS/DPF 3.5 Vehicle access to designated car parking spaces satisfy (a) or (b): <ul style="list-style-type: none"> <li>(a) is provided via a lawfully existing or authorised access point or an access point for which consent has been granted as part of an application for the division of land</li> <li>(b) where newly proposed, is set back:               <ul style="list-style-type: none"> <li>(i) 0.5m or more from any street furniture, street pole, infrastructure services pit, or other stormwater or utility infrastructure unless consent is provided from the asset owner</li> <li>(ii) 2m or more from the base of the trunk of a street tree unless consent is provided from the tree owner for a lesser distance</li> <li>(iii) 6m or more from the tangent point of an intersection of 2 or more roads</li> <li>(iv) outside of the marked lines or infrastructure dedicating a pedestrian crossing.</li> </ul> </li> </ul>


Access for People with Disabilities	
PO 4.1 Development is sited and designed to provide safe, dignified and convenient access for people with a disability.	DTS/DPF 4.1 None are applicable.
Vehicle Parking Rates	
PO 5.1 Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as:  (a) availability of on-street car parking (b) shared use of other parking areas (c) in relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site, the provision of vehicle parking may be shared (d) the adaptive reuse of a State or Local Heritage Place.	DTS/DPF 5.1 Development provides a number of car parking spaces on-site at a rate no less than the amount calculated using one of the following, whichever is relevant:  (a) Transport, Access and Parking Table 2 - Off-Street Vehicle Parking Requirements in Designated Areas if the development is a class of development listed in Table 2 and the site is in a Designated Area (b) Transport, Access and Parking Table 1 - General Off-Street Car Parking Requirements where (a) does not apply (c) if located in an area where a lawfully established carparking fund operates, the number of spaces calculated under (a) or (b) less the number of spaces offset by contribution to the fund.
Vehicle Parking Areas	
PO 6.1 Vehicle parking areas are sited and designed to minimise impact on the operation of public roads by avoiding the use of public roads when moving from one part of a parking area to another.	DTS/DPF 6.1 Movement between vehicle parking areas within the site can occur without the need to use a public road.
PO 6.6 Loading areas and designated parking spaces for service vehicles are provided within the boundary of the site.	DTS/DPF 6.6 Loading areas and designated parking spaces are wholly located within the site.
Corner Cut-Offs	
PO 10.1 Development is located and designed to ensure drivers can safely turn into and out of public road junctions.	DTS/DPF 10.1 Development does not involve building work, or building work is located wholly outside the land shown as Corner Cut-Off Area in the following diagram:  

Table 1 - General Off-Street Car Parking Requirements

Class of Development	Car Parking Rate (unless varied by Table 2 onwards)
	Where a development comprises more than one development type, then the overall car parking rate will be taken to be the sum of the car parking rates for each development type.

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Commercial Uses	
Service trade premises	2.5 spaces per 100m2 of gross leasable floor area
	1 space per 100m2 of outdoor area used for display purposes.

Table 2 - Off-Street Car Parking Requirements in Designated Areas

Class of Development	Car Parking Rate		Designated Areas
	Where a development comprises more than one development type, then the overall car parking rate will be taken to be the sum of the car parking rates for each development type.		
	Minimum number of spaces	Maximum number of spaces	
Non-residential development			
Non-residential development excluding tourist accommodation	3 spaces per 100m2 of gross leasable floor area.	5 spaces per 100m2 of gross leasable floor area.	City Living Zone  Urban Corridor (Boulevard) Zone  Urban Corridor (Business) Zone  Urban Corridor (Living) Zone  Urban Corridor (Main Street ) Zone  Urban Neighbourhood Zone (except for Bowden, Brompton or Hindmarsh)

**5. APPEALS UPDATE  
CITY OF MARION  
COUNCIL ASSESSMENT PANEL AGENDA  
FOR MEETING TO BE HELD ON  
WEDNESDAY 3 JULY 2024**

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**APPEALS AGAINST PANEL DECISIONS**

***New Appeals***

**Nil.**

***On-going Appeals***

**Nil.**

**6. POLICY OBSERVATIONS**  
**CITY OF MARION**  
**COUNCIL ASSESSMENT PANEL AGENDA**  
**FOR MEETING TO BE HELD ON**  
**WEDNESDAY 3 JULY 2024**

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No items listed for discussion.

**7.1. OTHER BUSINESS – General Analysis**  
**CITY OF MARION**  
**COUNCIL ASSESSMENT PANEL AGENDA**  
**FOR MEETING TO BE HELD ON**  
**WEDNESDAY 3 JULY 2023**

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<b>Originating Officer:</b>	<b>Alex Wright</b> <b>Unit Manager – Planning &amp; Development / Council</b> <b>Assessment Manager</b>
<b>Report:</b>	<b>Council Assessment Panel General Analysis</b>
<b>Report Type:</b>	<b>General Business</b>
<b>Recommendation:</b>	<b>Council Assessment Panel NOTES the report.</b>

This report provides members with a snapshot of the CAP operations over the last five years. The report includes statistical data on the following:

- Number of applications presented to the CAP and their general type.
- Number of representors and applicants present.
- Average length of CAP meetings.
- Reason for delegation to the CAP.
- Administration recommendation to CAP.
- Panel Decisions, including the percentage of decisions not in line with administration recommendation.

### **Delegations**

The Council Assessment Panel is the 'Relevant Authority' for any application which requires Public Notification. The Panel has delegated the assessment of all applications to the Assessment Manager (or delegate) with the exception of those which have received one or more representation against, and the representor has indicated a desired to be heard by the Panel.

This report provides a summary and comparison of key indicators relating to Development Applications assessed by the Panel since 2020.

The reporting method was changed in 2023 to align in line with a change in Council reporting requirements, and to ensure consistency with the CAP term (1 July to 30 June). The 2022 figures therefore only consider the meetings held between 1 January 2022 and 30 June 2022, with additional figures provided for the 2022/2023 financial year.

## General Meeting Statistics

Meetings	2020	2021	2022 <sup>1</sup>	22/23	23/24
<b>No of Meetings</b>	15	12	4	11	6
<b>Ave duration (hours)</b>	1:44	0:38	0:47	1:18	0:53
<b>Average No. Reports per meeting</b>	2	2.54	2.25	2.73	1.5
<b>Avg Applicants Per Meeting</b>	2	1.8	2	1.55	1.17
<b>Average Reps per Meeting</b>	2	1.8	0.75	1.65	1.33
<b>Total Items</b>	<b>50</b>	<b>33</b>	<b>9</b>	<b>30</b>	<b>9</b>
<i>Total No. of Dev Act Reports</i>				4	1
<i>Total No. of PDI Act Reports</i>				21	7
<i>Total Administration Reports</i>				5	1
<b>Items in Confidence</b>				2	1
<b>Total Site Visits</b>	3	1	1	1	0

## Generalised Types of Applications Considered by the Panel.

Meetings	2020	2021	2022	22/23	23/24
<b>Residential</b> (Dwellings/Land Divisions)	32	16	3	11	6
<b>Residential</b> (Additions/ancillary structures)	1	1	3	3	1
<b>Commercial/Industrial</b>	8	5	0	7	0
<b>Other</b> (School, Signage, Phone towers etc)	9	7	3	4	1
<b>Total Items</b>	<b>50</b>	<b>29</b>	<b>9</b>	<b>25</b>	<b>8</b>

It is noted most applications presented to the Panel comprise residential forms of development, typically single, multi-dwelling or additions to existing dwellings.

Additional forms of development, in the form of school additions, childcare centres and commercial type uses have also been considered during the previous financial year.

<sup>1</sup> From January to June 2022

## **Recommendations & Decisions**

### **Administration Recommendations**

<b>Decisions</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>22/23</b>	<b>23/24</b>
<b>Approve Application</b>	48	28	8	22	8
<b>Refuse Application</b>	2	1	0	3	0

### **Panel Decisions**

<b>Decisions</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>22/23</b>	<b>23/24</b>
<b>Approve Application</b>	35	22	6	17	7
<b>Refuse Application</b>	13	5	2	5	1
<b>Defer Application</b>	2	2	0	2	0
<b>Decisions not in line with recommendation</b>	15/50	6/29	0/6	6/25	1/8
<b>Percentage of decisions not in line with recommendation</b>	30%	20.6%	0%	24%	12.5%
<b>Application withdrawn</b>	0	0	0	1	0

It is noted in the last financial year only 1 application was refused, which was against the recommendation made by administration staff.

### **Appeals**

The one application refused by the applicant was appealed to the ERD Court. This appeal was discontinued following a new proposal being lodged, considered and supported by administration staff (with the Assessment Manager being the relevant Authority).

### **Assessment Manager Review**

No request for review of an Assessment Manager decision was received during the 2023/2024 financial year.

### **Conclusion**

In summary, these statistics are provided for the panel to gain an understanding of the types and nature of applications that are delegated to CAP for decision.

### **Recommendation**

1. That the Panel **NOTE** the report.