

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 6 April 2022

Commencing at 6.45 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.

A handwritten signature in blue ink, appearing to read "Alex Wright".

Alex Wright
ASSESSMENT MANAGER

30 March 2022

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**CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 06 APRIL 2022
COMMENCING AT 6.45PM**



1. MEETING PROCEDURES

- 1.1 OPEN MEETING (ON-SITE)**
- 1.2 PRESENT**
- 1.3 APOLOGIES**
- 1.4 IN ATTENDANCE**
- 1.5 RESUMPTION OF MEETING (ADMIN CENTRE)**
- 1.6 PRESENT**
- 1.7 APOLOGIES**
- 1.8 IN ATTENDANCE**

2. GENERAL OPERATIONS

No items listed for discussion

3. DEVELOPMENT ACT 1993 APPLICATIONS

No items listed

4. PDI ACT APPLICATIONS

- 4.1 DEVELOPMENT NO 21036525**
13 Morgan Avenue, Seaview Downs
Privacy Screen Adjoining Southern (Rear) Site Boundary
Report Reference: CAP060422 - 4.1.....2
- 4.2 DEVELOPMENT NO 21012619**
1 Freya Avenue, Hallett Cove & 3 Freya Avenue, Hallett Cove – CONFIDENTIAL ITEM
A change in land use from two detached dwellings to pre-school (childcare centre)
with associated advertisements and advertising hoarding, outbuilding, earthworks,
retaining walls and fencing.
Report Reference: CAP060422 - 4.2.....24
- 4.2 DEVELOPMENT NO 21012625**
10 Renown Avenue, Clovelly Park & 12 Renown Avenue, Clovelly Park –
CONFIDENTIAL ITEM
Construction of a child care centre with associated advertising, masonry walls and
ancillary storage shed.
Report Reference: CAP060422 - 4.3.....25

5. APPEALS UPDATE

5.1 APPEALS AGAINST PANEL DECISIONS

Verbal Update Provided

5.2 APPEALS AGAINST DELEGATED APPLICATIONS

Verbal Update Provided

6. POLICY OBSERVATIONS

No items listed for discussion

7. OTHER BUSINESS

No items listed for discussion

**8. CONFIRMATION OF THE COUNCIL DEVELOPMENT ASSESSMENT PANEL MEETING
HELD ON 06 APRIL 2022**

9. MEETING CLOSURE

**2. GENERAL OPERATING PROCEDURES
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 06 APRIL 2022**



No items listed for discussion.

REPORT REFERENCE: CAP060422 – 4.1
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 06 APRIL 2022



Originating Officer:	Nicholas Lupo Development Officer – Planning
Applicant:	Mr Callen Magier
Development Description:	Privacy Screen Adjoining Southern (Rear) Site Boundary
Site Location:	13 Morgan Avenue, Seaview Downs
Zone & Policy Area:	Hills Neighbourhood Zone
Lodgement Date:	20/12/2021
Planning and Design Code:	16 December 2021 Version 2021.17
Referrals:	Nil
Application Type:	Performance Assessed
Delegations Policy:	Instrument of Delegation – CAP, Clause 5.1.1.1 <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>
Public Notification	Public Notification required <i>An application which involves a privacy screen is not listed in Table 5 of the General Neighbourhood Zone to exclude it from Public Notification.</i>
Application No:	21036525
Recommendation:	That Planning Consent be GRANTED subject to Conditions

Appendices

Appendix 1: Planning and Design Code guidelines

Attachments

Attachment I: Proposal Plan and supporting documentation
Attachment II: Statement of Representations
Attachment III: Applicant's Response to Representations

SUBJECT LAND

The subject land comprises the following property:

13 Morgan Avenue, Seaview Downs

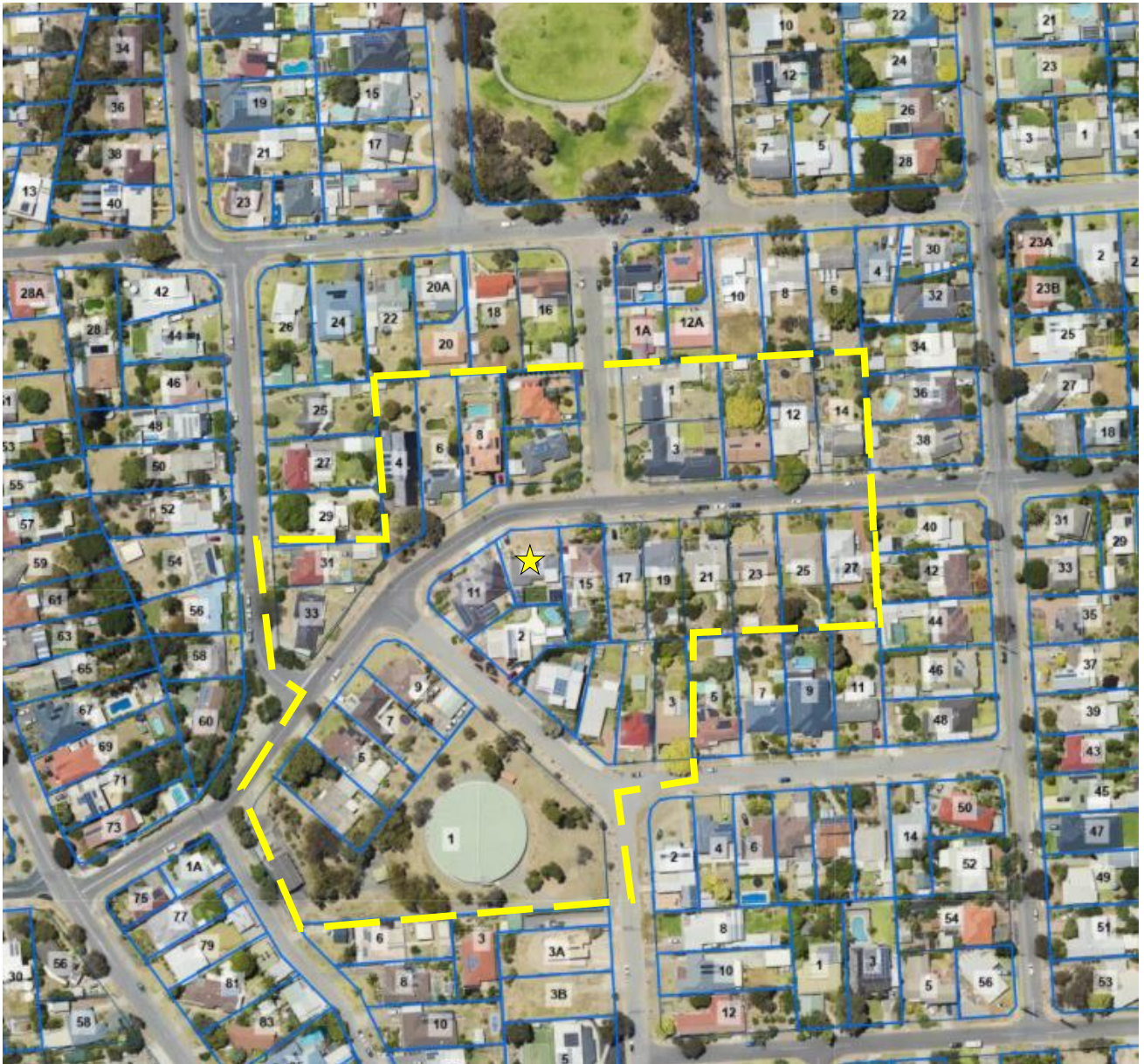
The subject land comprises a single storey detached dwelling on a large allotment, with ancillary development in the form of a verandah and outbuilding. The land rises moderately, at an approximate 1-in-8 towards the north. The land possesses no Regulated or Significant Trees. The rear yard of the site, comprising the occupants POS, has been benched and incorporates two retaining walls (cut). One wall, 1.4 metres in height, is set in 1.3 metres from the boundary, and another retaining wall 400mm in height, acts as a plinth below the 1.5 metre high boundary fence.



LOCALITY

The locality features primarily residential properties. The site is bound by residential properties to the east, south and west. Dwellings in the locality are typically single-storey detached dwellings at low densities, which are representative of the original dwelling stock. Dwellings are primarily single storey or split level in nature, however some two storey dwellings exist. The dwellings directly to the east and west are roughly at a similar ground level due to the fall towards the north exhibited within the locality. The dwelling to the south is two-storey in nature, and is at a higher ground level than the subject site.

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



PROPOSED DEVELOPMENT

The proposal seeks the construction of a 19.91m long, and up to 2.9 metre high (when measured from the top of the 1.4 metre high retaining wall) privacy screen, set in 300mm from the southern (rear) boundary.

The structure comprises posts up to 2m in height, with a metal privacy screen, in black for the remaining 900mm.



Example of the design and colouration of the proposed privacy screen.

PROCEDURAL MATTERS

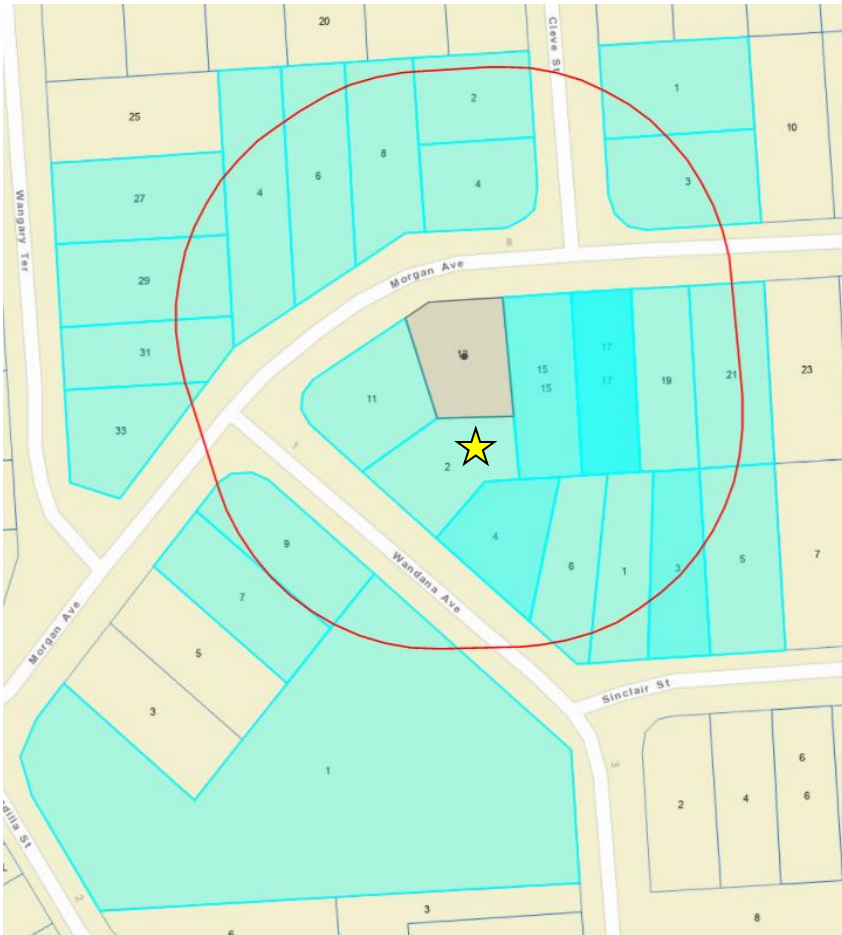
Classification

The subject application is a 'Performance Assessed Development' by virtue of the proposed development not being listed within an Accepted, Deemed to Satisfy or Restricted classification under the Planning and Design Code.

Categorisation

A 'privacy screen' is not a form of Development excluded from Public Notification in Table 5 of the applicable zone. Having regard to the size, location and height of the screen, and the manner in which the development relates to the surrounding properties, Council administration were of the view that the proposal was not of a minor nature. As such, the development was processed in accordance with the Act.

PUBLIC NOTIFICATION



Properties Notified

25

Representations

1 opposes the development

Representations received

Michael Paay of 2 Wandana Avenue oppose the development and wish to be heard.

Applicant Response

A 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.

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.

Where an element is not specified by Table 3, all Code policies apply, except where Council considers them not relevant to a particular development.

The planning assessment below identifies the relevant policies applicable to the assessment. In my view the most pertinent planning considerations relate to:

- Structure Height
- Visual Impact

Policies relating to the above planning considerations are found in the Zone, Overlays and General sections of the Code.

Zone and Overlay Provisions

Hills Neighbourhood Zone: DO1, PO 1.1, PO 4.1, PO 10.1, PO 12.1, PO 12.2

Airport Building Heights (Regulated) Overlay: DO1, PO 1.1

The proposal is located within the Hills Neighbourhood Zone, which is characterized by low-density development. The Desired Outcome of the Zone seeks "a complementary transition to adjacent natural and rural landscapes". The proposed privacy screen is not directly adjacent or within proximity to a natural or rural landscape. The privacy screen does not result in earthworks which would alter natural ground level.

The site remains residential in nature, and retains the low-rise, low density nature of the locality sought by the Zone. The screening would not be visible from the Adelaide plains due to the generally low height of the structure, paired with the obfuscation of the structure by existing buildings when viewed from the streetscape.

The proposed privacy screen can be considered an 'ancillary structure' given it is subordinate in size, scale, and use to the dwelling. PO 12.1 of the Hills Neighbourhood Zone seeks that residential ancillary buildings do not detract from the appearance of primary residential buildings on the site or on neighbouring properties through their siting and design. The siting of the privacy screen is, for all intents and purposes similar to that of a fence, and the design allows some penetration of light while not being visually intrusive to an unreasonable degree. The difference in ground level between the subject site (upon the retaining wall), and the ground level of 2 Wandana is approximately 500mm, and therefore results in the overall height of the structure at 2.9m obtaining a perceived height of 2.4m, when viewed from 2 Wandana. As

discussed further in the report, it is my opinion, the true height of 2.9 metres and perceived height of 2.4m is not considered to be of an unreasonable nature.

The privacy screen will reduce the visibility of the subject dwelling from the adjacent land, and the adjacent dwelling from the subject land. The reduction in visibility of each dwelling is not considered to be at odds with the guidelines of the P&D Code. The views of each dwelling are not considered to be of a high amenity, the views from 13 Morgan being primarily ancillary development in the form of the deck and verandah, and the views from 2 Wandana being primarily ancillary development and the roof form of 13 Morgan. To this end, the privacy screen of each dwelling will not unreasonably detract from the primary buildings due to the existing ancillary development located on each site.

Overlooking, Visual Impact and Overshadowing

Design in Urban Areas: DO1, PO 8.1, PO 9.1, PO 10.1, PO 10.2, PO 19.2

Interface between Land Uses: DO 1, PO 3.1, PO 3.2, PO 3.3

The primary purpose of the proposed privacy screen is to reduce the potential for, and extent of, overlooking from adjacent properties. It is noted that overlooking is a feature of the sloping nature of the locality, and in many instances is unavoidable. The occupiers of the subject land have sought opportunities to mitigate the potential overlooking from adjacent properties and provide and improve outcome in relation to privacy.

Currently, overlooking from 2 Wandana to the Private Open Space of the subject site has the potential to occur. It is important to consider that the provisions of the code seek to mitigate direct overlooking of habitable rooms and private open space where possible, subject to mitigated visual impact and overshadowing and the overall merits of the proposed development.

The proposed privacy screen is noted to result in some impacts upon the property to the south. The adjacent sites ground level sits at a height 500mm above the subject sites retaining. This results in the 2.9m height of the privacy screen possessing a perceived height of 2.4m when viewed from 2 Wandana.

The height of the privacy screen when viewed from 2 Wandana Avenue, at 2.4m will sit at a similar, albeit slightly greater height to the existing roof-line of the verandah which abuts the subject property, and 0.9m higher than the existing fence. Some overshadowing of the lower portion of Private Open Space is noted to occur as a result of the structures height. The overshadowing will not occur on any habitable room windows or solar photovoltaic panels.

2 Wandana Avenue has a variety of POS areas, including a pool to the east, a fire pit to the west, a deck central to the POS gaining direct access from habitable portions of the dwelling, and a deck to the south-east on the second storey of the dwelling. I consider the different POS spaces as important to the overall merits of the application, as PO 1.2 of 'Interface between Land Uses' seeks that "*Overshadowing of the primary area of private open space [...] of adjacent residential land uses in a neighbourhood type zone is minimised to maintain access to direct winter sunlight*". It is considered that in this instance, the deck is the primary area of POS, due to the deck having direct access from the habitable rooms of the dwelling, and the secondary POS areas achieving access via the deck.

The deck sits at a higher level than the remainder of the Private Open Space, and, due to the setback from the privacy screen, it is considered that the overshadowing of the deck and would be minimal at best.

Regardless of the above, the 2.4m perceived height of the privacy screen, and the resulting overshadowing impacts upon subsidiary POS areas is not considered to be unreasonable. The depth of the POS of 2 Wandana will assist in mitigating complete overshadowing. Furthermore, the generally low height and semi-pervious nature of the privacy screen will further assist in mitigating overshadowing and visual impacts.

The deck achieves a FFL higher than the height of the screen. The deck is also appropriately setback from the screen. The 2.4m height of the privacy screen will not cause impacts unreasonably greater than that of a 2.1m high fence.

To this end, I am reasonably satisfied the privacy screen appropriately mitigates overshadowing and visual impacts upon the adjacent property 2 Wandana.

View Considerations

Design in Urban Areas: DO1, PO 9.1

Interface between Land Uses: DO 1

In assessing the potential loss of views which could be considered to constitute an 'adverse effect' on adjoining properties, 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 develop on subject to the proposal being in general accordance with the Planning and Design Code.

Given that the adjacent dwelling, particularly to the south at 2 Wandana Avenue is designed to take advantage of views over the subject land, it is inevitable that any development, particularly on the boundary will have an impact upon the views currently available to 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*".

This statement and subsequent endorsement of a four-part test was conceived under the previous planning system, however, it is considered that the test remains an appropriate means of establishing and considering view loss.

The four-part test for the assessment of a development which would result in the obstruction of views of existing developments were, in short:

- 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.

2 Wandana Avenue

Step 1: Views currently available from this property range from north-west to north-east, over the subject site. The dwelling achieves views of the ocean in the form of the Gulf of St Vincent, including partial views of Glenelg. Distant views of the CBD of Adelaide are possessed to the north-west, as well as slight views of the Marion Plains and the foothills of Adelaide. Low level vegetation and existing single-storey dwelling roofs (including 1 Wandana, 13 Morgan and 15 Morgan) block a portion of views to the north from the lower of the two decks. The second storey deck to the south-east achieves much greater views with much less view loss (as discussed in Step 3).

Step 2: Views are gained primarily from the existing outdoor deck which comprises the primary POS. Access to the primary POS deck is gained from the ground floor living area of the dwelling (which sits reasonably above the rear yard natural ground level). Additional views are also gained from a two-storey deck to the south-east. Both decks possess opportunities for both sitting and standing views over the side/rear boundary (the rear boundary of 13 Morgan). To a lesser extent, views can also be achieved from the second storey balcony, and the habitable room which connects to the primary deck. The lower portion of POS is accessed via the deck, and only sky views are obtained.

Step 3: The views to be lost resulting from the privacy screen are not considered to be unreasonable. The addition of the 0.9m privacy screen across the top of the fence will in most instances retain a standing view of the features discussed in Step 1. The existing view is obstructed by some site features on both the subject site and adjoining property. Namely, the roof form of the dwelling obstructs views to the north to a greater degree than the proposed privacy screen will obstruct. In addition, structures on both properties obscure views at a standing height to some degree, which the privacy screen will not increase substantially. A greater degree of loss of views will occur at a sitting height, however it is noted that sitting views are more difficult to retain and as such are weighted less in consideration. 2 Wandana will retain views of the ocean, views of Glenelg, and views of the CBD of Adelaide from a standing position.



View to the north-west, approximate height of Privacy Screen indicated in red



Views to the south-east, approximate height of Privacy Screen indicated in red

In addition, it is noted 2 Wandana possesses a second deck, which, while a secondary form of POS not in frequent use, attractive views may still be attained from the site.



View from the secondary deck at a greater height than the primary deck

Finally, the natural ground level of the POS does not achieve any views which will be lost, due to the lower height than both decks.



*View from natural ground level from 2 Wandana, approximate height of privacy screen in red.
Home*

Step 4: The reasonableness of the development proposal has been considered in the subject report in the context of the guidelines of the Planning and Design Code.

CONCLUSION

The proposal seeks to install a privacy screen 300mm from the southern boundary on 13 Morgan Avenue, Seaview Downs.

The main considerations attributed to the development relate to the zone guidelines, and the amenity impacts upon adjoining properties in regards to visual impact, overshadowing, and view loss.

The proposed privacy screen is considered to be an ancillary structure, and reflects Zone provisions relating to the siting and design of ancillary structures.

The privacy screen will not cause unreasonable overshadowing when viewed from the adjacent property at 2 Wandana. No overshadowing will occur on habitable rooms or any solar panels resulting from the development. Minor overshadowing on secondary use POS spaces is noted, however the 2.4m height of the screening, paired with the semi-pervious nature of the screening will reasonably mitigate overshadowing upon these spaces. The deck, which sits at a higher level than the remainder of POS, will not experience overshadowing.

The privacy screen will not result in adverse unreasonable view loss, as considered using the 4 step method endorsed by Justice DeBelle. The view loss assessment indicated that no unreasonable views will be lost when viewed from 2 Wandana, and views of the coast, water, CBD and Glenelg maintained.

As a result of the above considerations, it is my view that the proposed development is not seriously at variance to the Planning and Design Code, in accordance with Section 126(1) of the Planning, Development and Infrastructure Act 2016.

It is considered that the development exhibits sufficient merit when assessed on balance against the relevant Desired Outcomes and Performance Outcomes to warrant Planning Consent subject to the conditions and notes listed below.

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 variance¹ 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: 21036525 to install a privacy screen at 13 Morgan Avenue, Seaview Downs 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. The structure must be pre-colour treated or painted in a non-reflective colour, to the satisfaction Council.

¹ 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.

Part 2 - Zones and Sub Zones

Hills Neighbourhood Zone

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.					
PO 1.1	Predominantly low density residential development with complementary non-residential uses compatible with natural landforms and a low density residential character.	<div>DTS/DPF 1.1</div> <div>Development comprises one or more of the following:</div> <div><div>(a)</div>Ancillary accommodation</div> <div><div>(b)</div>Consulting room</div> <div><div>(c)</div>Dwelling</div> <div><div>(d)</div>Office</div> <div><div>(e)</div>Open space</div> <div><div>(f)</div>Shop</div> <div><div>(g)</div>Recreation area.</div>				
PO 4.1	Buildings contribute to a low-rise suburban character and complement the height of nearby buildings.	<div>DTS/DPF 4.1</div> <div>Building height (excluding garages, carports and outbuildings) is no greater than:</div> <div><div>(a)</div>the following:</div> <table><tr><th>Maximum Building Height (Metres)</th></tr><tr><td>Maximum building height is 9m</td></tr><tr><th>Maximum Building Height (Levels)</th></tr><tr><td>Maximum building height is 2 levels</td></tr></table> <div><div>(b)</div>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.</div> <div>In relation to DTS/DPF 4.1, in instances where:</div> <div><div>(c)</div>more than one value is returned in the same field, refer to the <i>Maximum building Height (Levels) Technical and Numeric Variation</i> layer or <i>Maximum Building Height (Meters) Technical and Numeric Variation</i> layer in the SA planning database to determine the applicable value relevant to the site of the proposed development.</div> <div><div>(d)</div>only one value is returned for DTS/DPF 4.1(a) (i.e. there is one blank field), then the relevant height in metres or building levels applies with no criteria for the other.</div>	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						

PO 10.1

Development that would be prominently visible from the Adelaide plains or urban areas within regional cities and townships:

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

DTS/DPF 10.1

None are applicable.

PO 12.1

Residential ancillary buildings are sited and designed to not detract from the streetscape or appearance of primary residential buildings on the site or neighbouring properties.

DTS/DPF 12.1

Ancillary buildings:

- (a) are ancillary to a dwelling erected on the same site
- (b) have a floor area not exceeding 60m²
- (c) are not constructed, added to or altered so that any part is situated:
 - (i) in front of any part of the building line of the dwelling to which it is ancillary or
 - (ii) within 900mm of a boundary of the allotment with a secondary street (if the land has boundaries on two or more roads)
- (d) in the case of a garage or carport, the garage or carport:
 - (i) is set back at least 5.5m from the boundary of the primary street
 - (ii) when facing a primary street or secondary street, has a total door / opening not exceeding:
 - A. for dwellings of single building level - 7m in width or 50% of the site frontage, whichever is the lesser
 - B. for dwellings comprising two or more building levels at the building line fronting the same public street - 7m in width
- (e) if situated on a boundary (not being a boundary with a primary street or secondary street), do not exceed a length of 8m unless:
 - (i) a longer wall or structure exists on the adjacent site and is situated on the same allotment boundary and
 - (ii) the proposed wall or structure will be built along the same length of boundary as the existing adjacent wall or structure to the same or lesser extent
- (f) if situated on a boundary of the allotment (not being a boundary with a primary street or secondary street), all walls or structures on the boundary will not exceed 45% of the length of that boundary
- (g) will not be located within 3m of any other wall along the same boundary unless on an adjacent site on that boundary there is an existing wall of a building that would be adjacent to or about the proposed wall or structure
- (h) have a wall height or post height not exceeding 3m above natural ground level
- (i) have a roof height where no part of the roof is more than 5m above the natural ground level

	<p>(j) if clad in sheet metal, is pre-colour treated or painted in a non-reflective colour</p> <p>(k) retains a total area of soft landscaping in accordance with (i) or (ii), whichever is less:</p> <p>(i) a total area as determined by the following table:</p> <table border="1"> <thead> <tr> <th>Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m²)</th><th>Minimum percentage of site</th></tr> </thead> <tbody> <tr> <td><150</td><td>10%</td></tr> <tr> <td>150-200</td><td>15%</td></tr> <tr> <td>201-450</td><td>20%</td></tr> <tr> <td>>450</td><td>25%</td></tr> </tbody> </table> <p>(ii) the amount of existing soft landscaping prior to the development occurring.</p>	Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m ²)	Minimum percentage of site	<150	10%	150-200	15%	201-450	20%	>450	25%
Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m ²)	Minimum percentage of site										
<150	10%										
150-200	15%										
201-450	20%										
>450	25%										
<p>PO 12.2</p> <p>Ancillary buildings and structures do not impede on-site functional requirements such as private open space provision, car parking requirements or result in over-development of the site.</p>	<p>DTS/DPF 12.2</p> <p>Ancillary buildings and structures do not result in:</p> <p>(a) less private open space than specified in Design in Urban Areas Table 1 - Private Open Space</p> <p>(b) less on-site car parking than 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.</p>										

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.
<p>PO 1.1</p> <p>Building height does not pose a hazard to the operation of a certified or registered aerodrome.</p>	<p>DTS/DPF 1.1</p> <p>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.</p> <p>In instances where more than one value applies to the site, the lowest value relevant to the site of the proposed development is applicable.</p>

Design in Urban Areas

DO 1	<p>Development is:</p> <ul style="list-style-type: none"> (a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributing to the character of the locality (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.
<p>PO 8.1</p> <p>Development, including any associated driveways and access tracks, minimises the need for earthworks to limit disturbance to natural topography.</p>	<p>DTS/DPF 8.1</p> <p>Development does not involve any of the following:</p> <ul style="list-style-type: none"> (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.
<p>PO 9.1</p> <p>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.</p>	<p>DTS/DPF 9.1</p> <p>None are applicable.</p>
<p>PO 10.1</p> <p>Development mitigates direct overlooking from upper level windows to habitable rooms and private open spaces of adjoining residential uses in neighbourhood-type zones.</p>	<p>DTS/DPF 10.1</p> <p>Upper level windows facing side or rear boundaries shared with a residential use in a neighbourhood-type zone:</p> <ul style="list-style-type: none"> (a) are permanently obscured to a height of 1.5m above finished floor level and are fixed or not capable of being opened more than 125mm (b) have sill heights greater than or equal to 1.5m above finished floor level (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 1.5 m above the finished floor level.

<p>PO 10.2</p> <p>Development mitigates direct overlooking from balconies to habitable rooms and private open space of adjoining residential uses in neighbourhood type zones.</p>	<p>DTS/DPF 10.2</p> <p>One of the following is satisfied:</p> <ul style="list-style-type: none"> (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 or (b) all 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: <ul style="list-style-type: none"> (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 or (ii) 1.7m above finished floor level in all other cases
<p>PO 19.2</p> <p>Ancillary buildings and structures do not impede on-site functional requirements such as private open space provision, car parking requirements or result in over-development of the site.</p>	<p>DTS/DPF 19.2</p> <p>Ancillary buildings and structures do not result in:</p> <ul style="list-style-type: none"> (a) less private open space than specified in Design in Urban Areas Table 1 - Private Open Space (b) less on-site car parking than 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.

Interface between Land Uses

DO 1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.
<p>PO 3.1</p> <p>Overshadowing of habitable room windows of adjacent residential land uses in:</p> <ul style="list-style-type: none"> a. a neighbourhood-type zone is minimised to maintain access to direct winter sunlight b. other zones is managed to enable access to direct winter sunlight. 	<p>DTS/DPF 3.1</p> <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>

<p>PO 3.2</p> <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>	<p>DTS/DPF 3.2</p> <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. 35m² of the existing ground level open space (with at least one of the area's dimensions measuring 2.5m)</p> <p>b. for ground level communal open space, at least half of the existing ground level open space.</p>
<p>PO 3.3</p> <p>Development does not unduly reduce the generating capacity of adjacent rooftop solar energy facilities taking into account:</p> <p>(a) the form of development contemplated in the zone</p> <p>(b) the orientation of the solar energy facilities</p> <p>(c) the extent to which the solar energy facilities are already overshadowed.</p>	<p>DTS/DPF 3.3</p> <p>None are applicable.</p>

**REPORT REFERENCE: CAP060422 – 4.2
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 06 APRIL 2022**



CONFIDENTIAL REPORTS OF MANAGER DEVELOPMENT SERVICES

Reason for confidentiality

It is recommended that this Report be considered in CONFIDENCE in accordance with Clause 13(2)(a) of the Planning, Development and Infrastructure Regulations, which permits the meeting to be closed to the public for business relating to the following:

- (viii) provision of legal advice;
- (ix) information relating to actual litigation, or litigation that the assessment panel believes on reasonable grounds will take place

Recommendation

1. The Council Assessment Panel orders pursuant to Clause 13(2)(a) of the Planning, Development and Infrastructure Regulations, that the public, with the exception of the Manager of Development and Regulatory Services, Team Leader - Planning, Development Officer – Planning, and other staff so determined, be excluded from attendance at so much of the meeting as is necessary to receive, discuss and consider in confidence, information contained within the confidential reports submitted by the Assessment Manager of the Council Assessment Panel.
2. Under Clause 14 of the Planning, Development and Infrastructure Regulations, an order be made that Item 4.2 including the report, attachments and discussions having been dealt with in confidence under Clause 13(2)(a) of the Planning, Development and Infrastructure Regulations, shall be kept in confidence until a decision of the Environment, Resources and Development Court relevant to the item is made.
3. Further, that at completion of the confidential session, the meeting be re-opened to the public.

**REPORT REFERENCE: CAP060422 – 4.3
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 06 APRIL 2022**



CONFIDENTIAL REPORTS OF MANAGER DEVELOPMENT SERVICES

Reason for confidentiality

It is recommended that this Report be considered in CONFIDENCE in accordance with Clause 13(2)(a) of the Planning, Development and Infrastructure Regulations, which permits the meeting to be closed to the public for business relating to the following:

- (viii) provision of legal advice;
- (ix) information relating to actual litigation, or litigation that the assessment panel believes on reasonable grounds will take place

Recommendation

1. The Council Assessment Panel orders pursuant to Clause 13(2)(a) of the Planning, Development and Infrastructure Regulations, that the public, with the exception of the Manager of Development and Regulatory Services, Team Leader - Planning, Development Officer – Planning, and other staff so determined, be excluded from attendance at so much of the meeting as is necessary to receive, discuss and consider in confidence, information contained within the confidential reports submitted by the Assessment Manager of the Council Assessment Panel.
2. Under Clause 14 of the Planning, Development and Infrastructure Regulations, an order be made that Item 4.3 including the report, attachments and discussions having been dealt with in confidence under Clause 13(2)(a) of the Planning, Development and Infrastructure Regulations, shall be kept in confidence until a decision of the Environment, Resources and Development Court relevant to the item is made.
3. Further, that at completion of the confidential session, the meeting be re-opened to the public.

**5. APPEALS UPDATE
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 6 APRIL 2022**



5.1 APPEALS AGAINST PANEL DECISIONS

New Appeals

DA No.	Address	Appeal Lodged	Recommendation	Decision	Current Status
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Nil

On-going Appeals

DA No.	Address	Appeal Lodged	Recommendation	Decision	Current Status
21012625	10 & 12 Renown Avenue, Clovelly Park	10/11/21	Approve	Refuse	Directions hearing 11 April 2022
21012619	1 & 3 Freya Avenue, Hallett Cove	10/11/21	Approve	Refuse	Directions hearing 11 April 2022

5.2 APPEALS AGAINST DELEGATED APPLICATIONS

DA No.	Address	Appeal Lodged	Recommendation	Decision	Current Status
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Nil

**6. POLICY OBSERVATIONS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 06 APRIL 2022**



No items listed for discussion.