

**NOTICE OF
COUNCIL ASSESSMENT PANEL MEETING**

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

Wednesday 20 November 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

12 November 2024

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

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 23007312

33 EYRE STREET, SEAVIEW DOWNS

New outbuilding comprising carport and shed with earthworks, retaining, and fences

Report Reference: CAP201124 - 4.1.....3

4.2 DEVELOPMENT NO 24000349

1 ALMOND GROVE, GLANDORE SA 5037

Supported Accommodation comprising two single storey units and associated freestanding carer's living quarters

Report Reference: CAP201124 - 4.2.....27

5. APPEALS UPDATE

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 20 NOVEMBER 2024**

9. MEETING CLOSURE

**2. GENERAL OPERATING PROCEDURES
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 20 NOVEMBER 2024**



No items listed for discussion.

**3. DEVELOPMENT ACT APPLICATIONS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 20 NOVEMBER 2024**



No items listed for discussion.

**REPORT REFERENCE: CAP201124 – 4.1
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 20 NOVEMBER 2024**



Originating Officer:	Harry Stryker Development Officer - Planning
Application No:	23007312
Applicant:	Mr Justin Bren
Development Description:	New outbuilding comprising carport and shed with earthworks, retaining, and fences
Site Location:	33 Eyre Street, Seaview Downs
Zone:	Hills Neighbourhood Zone
Lodgement Date:	12 April 2024
Planning and Design Code:	Version 2024.6 04/04/2024
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 for

- Earthworks (Earthworks are not excluded from Public Notification within the Hills Neighbourhood Zone)
- Retaining walls exceeding 1.5 m (as notified) (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).

Recommendation: **That Planning Consent be GRANTED subject to Conditions**

Attachments

<i>Attachment I:</i>	<i>Original proposal plans (dated 14 March) and supporting documentation</i>
<i>Attachment II:</i>	<i>Statement of Representations</i>
<i>Attachment III:</i>	<i>Revised proposal plans (dated 28 August)</i>
<i>Attachment IV:</i>	<i>Applicant's Response to Representations</i>
<i>Appendix 1:</i>	<i>Code Rules</i>

SUBJECT LAND

The subject land is generally rectangular shaped, but with a slightly tapered rear boundary. The site has a frontage to Eyre Street and continuous width of 18.3 metres, depth of between 65.3 metres to 66.8 metres, and area of 1,210 square metres. The site is currently occupied by a dwelling with existing additions, 2 outbuildings, and a swimming pool. The subject boundaries are fenced with negligible retaining walls. There are some lower retaining walls internally on the land forming a series of terraces from the rear walls of the dwelling to the proposed rear alignment of the outbuilding where the land slopes off significantly, as shown in figures 2 and 3 below.

The site is located on the eastern side of Eyre Street. The front half of the site generally slopes down towards the northern side with a gradient of 5%, and the last half becomes progressively steeper and progressively towards the east to the adjacent natural gully with a gradient up to 28%.

There is an existing driveway located adjacent the northern side boundary. The driveway has an existing verge crossover at the street kerb and extends to about halfway towards the rear boundary.

There are no water or wastewater services located on the land, nor any Council drains.

There are no regulated trees located on the subject land. There seems to be at least 3 located on the northern adjoining site however, including 1 adjacent the southern side boundary shared with the subject land, about midway along the site boundary adjacent the small existing outbuildings on the subject land. There is also another medium to large tree on the eastern adjacent site located near to the western rear boundary shared with the subject land. Since the legislation changes to regulated tree dimensions in May 2024, the tree likely now qualifies as regulated. Since the application was lodged prior to the changes however the application is not impacted by the changes.



Figure 1: Subject land (highlighted) and 2 m contour lines (orange)



Figure 2: Image from 31 Eyre towards south showing rear terraced area at 33 Eyre, and outbuildings at 35 Eyre (background).



Figure 3: Image from 35 Eyre towards north also showing terraced area at 33 Eyre, with existing outbuilding, tanks, and internal fencing on subject site (left hand side) proposed to be removed as part of development.



Figure 4: Image from 35 Eyre east towards rear of 30 Wangary (left hand side) and 32 Wangary (centre)

LOCALITY

The locality includes the parts of Eyre Street and Wangary Terrace located between Cadell Street to the north and Gawler Street to the south. Generally, the topography of the locality slopes down towards the north with a gradient of 5%. The topography in the eastern part however slopes down steeply to a gully running generally along the rear boundaries between Eyre Street and Wangary Terrace properties. This steeper part includes the rear-most few metres of the Eyre Street properties, and generally all of the Wangary Terrace properties. Given the slope of the land, there is generally some retaining walls or battered earth or both between dwellings and around larger ancillary buildings and terraced outdoor areas.

Eyre Street fronting dwellings in the locality mostly occupy deep sites with gentle gradients. Dwellings are located near to the primary street boundaries, and many include 1 or more outbuildings. On the eastern side of Eyre Street larger outbuildings are mostly located along the top of the point at which the topography steepens. Wangary Terrace fronting dwellings in the locality on the western side of Wangary Terrace mostly occupy sites with much shorter site depth, some not much longer than the sites are wide. These sites are fairly steep, and the dwellings are mostly located at a finish level lower than the street. Few have outbuildings, but many have rear decks with verandahs to provide for outdoor space directly accessible from and at the same finish level as the dwelling.

Due to the slope of the land there is a degree of overlooking between properties, including from ground level.

Summary of main ancillary floor areas on allotments with frontages facing west to Eyre Street:

Street No.	25	27	29 / 29A	31	33 (subject)	35	37	39	41
Floor area	140 sqm + 32sqm	50 sqm	170 sqm	40 sqm	37 sqm + 20sqm	40 sqm + 34sqm	60 sqm + 24sqm	26 sqm + 25sqm	73 sqm

Ancillary buildings on allotments with frontages facing west to Eyre Street are mostly older and, by contemporary standards, incorporate modest floor areas. Some have more than 1 ancillary building however, and there are 2 properties having ancillary buildings significantly greater than 60 square metres in the order of 140 square metres and 170 square metres. The ancillary building at 29A Eyre Street also appears to include accommodation.

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



Figure 5: Locality

PROPOSED DEVELOPMENT

The proposal seeks planning consent to construct an outbuilding comprising carport and shed with associated earthworks, retaining walls, and fences.

The proposed outbuilding measures 10 metres x 12.15 metres with 3 metres wall and post heights. The outbuilding comprises a 28.5 square metres carport, 45 square metres storage shed, 36 square metres gym, and 9 square metres pool equipment enclosure, resulting in a total footprint of 121.5 square metres. The proposed cladding is Colourbond Woodland Grey.

The enclosed areas of the proposed outbuilding generally occupy an existing terraced area of low gradient. The carport and vehicle movement area extends eastward of the existing terrace however, requiring some additional fill of up to 0.9 metres. The enclosed areas also extend slightly westward of the existing terrace, requiring some additional cut of up to 0.85 metres. The overall floor area also requires some cut to level the area. The proposed driveway extension does not propose nor require any earthworks adjacent the northern adjoining possibly regulated tree.

The proposed earthworks include retaining walls between the outbuilding and southern side boundary, and along the northern boundary to retain the associated carport driveway movement area. Retaining is not proposed nor required adjacent the east or west sides of the building due to the difference in ground level and separation from structures and boundaries allowing for batter instead. The northern boundary retaining walls tapers with the slope of the land, from 0.4 metres to generally 0.8 metres fill, although the last 0.8 metre length of retaining wall increases in height more steeply to 1.2 metres height (although retains less height of fill). The southern side boundary retaining walls are stepped in height and also taper with the slope of the land. The walls external exposed height tapers between nil to generally 0.2 metres, although again the last 0.4 metre length increases in height more steeply to 0.6 metres. Internally the walls retain up to 1 metre cut.

Replacement fences 1.8 metres in height are proposed on boundary adjacent the development, including on top of the proposed retaining walls.

BACKGROUND

The proposal seeks planning consent to construct an outbuilding comprising carport and shed with associated earthworks, retaining walls, and fences.

The application was originally submitted on 14 March 2023. The submission lacked mandatory documentation and a request for documentation was sent on 20 March. The applicant was also advised that the proposed scheme was unlikely to be supported due to bulk, scale and amenity impacts. On-going correspondence between the assessing officer and the applicant continued to occur, with mandatory information outstanding and concerns with the proposal remaining.

During this process the applicant was encouraged to consider separating the building into 2 or more components or reducing the floor area to no more than 90 square metres, reorienting the carport to be a perpendicular lean to style roof, and moving its location in line with that of adjoining outbuildings.

Mandatory documentation was received 9 April 2024 and the application was lodged 9 April.

Public notification occurred from 19 April to 10 May. Five representations were received, 4 in opposition to the proposed development.

In response to concerns raised amended plans were provided to Council on 28 August. These were provided to all representors, one of whom requested additional time to consider the revised proposal which the applicant accepted. The representor provided a further response on 20 September that they remain opposed. The applicant advised Council they did not wish to make any further changes, and requested Council proceed to assessment.

The original proposal as lodged and notified (plans dated 14 March) included:

- outbuilding floor area: 153 sqm;
- width and average side setback: 15.3 m width and average 1.5 m side setback;
- wall and post heights: 3 m;
- rear setback: 1.0 m to 2.3 m;
- max retaining height (external): 1.8 m north side boundary / 1.4 m east rear boundary / 1.0 m south side boundary
- total fence height (external, 1.8 m fence on top of retaining): 3.6 m north / 3.2 m east / 2.8 m south

Current amended proposal (plans dated 28 August) now include:

- outbuilding floor area: 121.5 sqm (reduced by 31.5 sqm);
- width and average side setback: 10 m width and average 4.15 m side setback (width reduced by 5.3 m, and average side setback increased by 2.65 m;
- wall and post heights: 3 m (no change);
- rear setback: 4.7 m to 5.6 m (increased by 3.7 m);

- max retaining height (external): 1.2 m north side boundary (reduced by 0.6 m) / nil eastern side (entire 1.4 m removed) / 0.6 m south side boundary (reduced by 0.4 m)
- total fence height (external, 1.8 m fence on top of retaining): 3.0 m north (reduced by 0.6 m) / 1.8 m east (reduced by 1.4 m to minimum) / 2.4 m south (reduced by 0.4 m)

The amended proposal reduces the size of the outbuilding and moves the location closer to that of adjoining outbuildings to occupy an existing levelled area with further excavation in the form of cut rather than fill. Given the reduced height difference and degree of separation from the boundary, rear retaining is no longer proposed nor required (fill can be battered instead).

PROCEDURAL MATTERS

Classification

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

The relevant version of the Code is Version 2024.6, released 4 April 2024.

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, at lodgement, included earthworks which were not listed as being excluded from notification in the Hills Neighbourhood Zone and were not considered minor in nature as they were considered to potentially result in unreasonable impacts to neighbours.

The proposal, at lodgement, also included retaining walls exceeding a height of 1.5 m, which failed to satisfy Hills Neighbourhood Zone DTS/DPF 11.3. As such, as the retaining exceeded 1.5 m and was considered to potentially result in unreasonable impacts to neighbours, it was not excluded from Public Notification.

As such the development application was publicly notified in accordance with the Act.

It should be noted that the outbuilding is a form of development excluded from Public Notification within the Hills Neighbourhood Zone.

PUBLIC NOTIFICATION

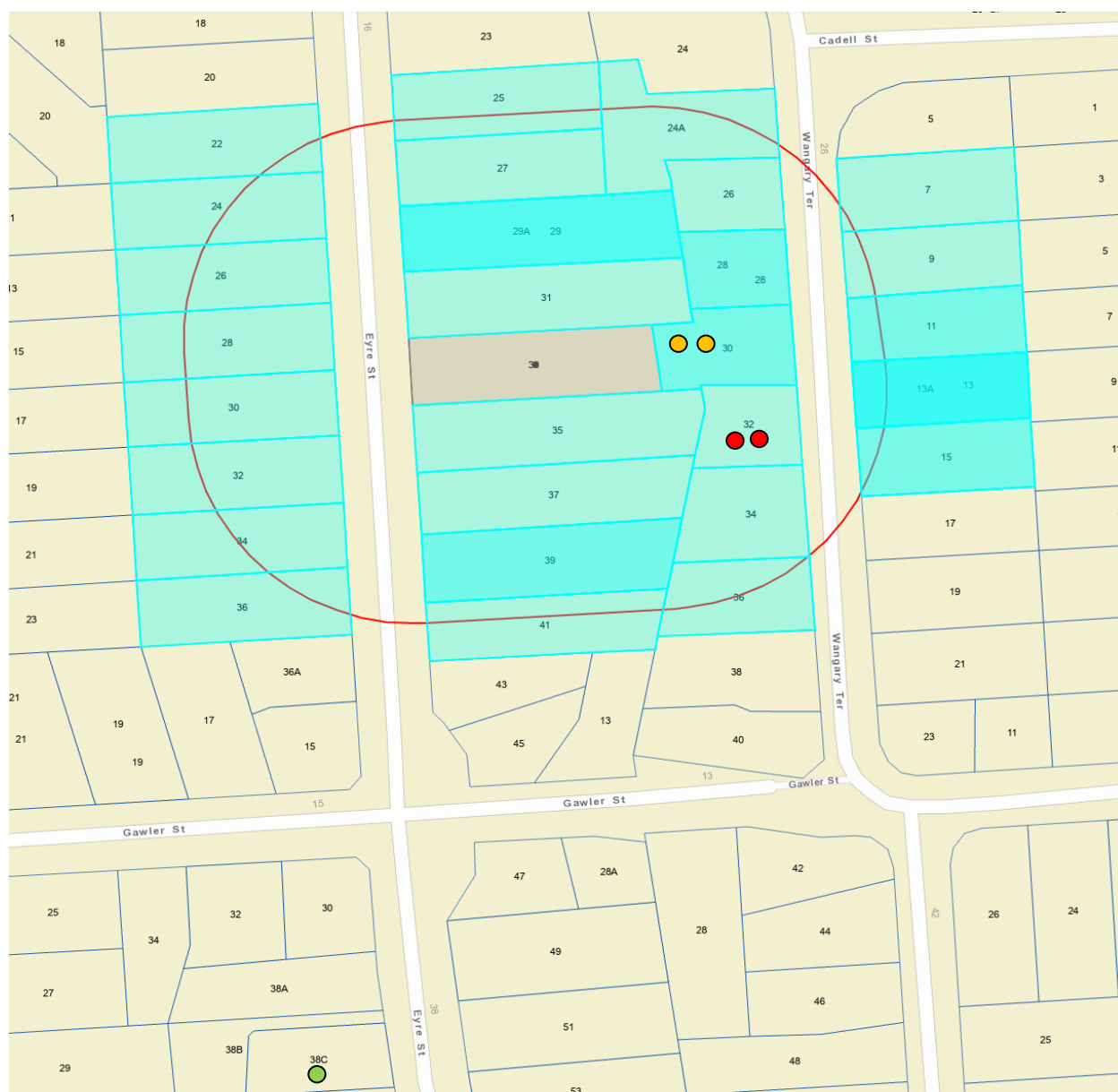


Figure 6: Map showing 60 m notification distance, subject and notified properties, and representor addresses. Supportive representors are shown in green, opposed in orange, and opposed and wish to be heard in red.

Summary of Representations

Properties Notified: 30

Representations Received: 5 (from 4 properties)

Notification Dates: Commenced 19 April, completed 10 May

No.	Name	Location	Position	Wish to be heard:
1	Dion Varnas	38 Eyre Street, Seaview Downs	Support	No
2	Cheryl Dawes	30 Wangary Terrace, Seaview Downs	Oppose	No
3	Megan Beech	30 Wangary Terrace, Seaview Downs	Oppose	No
4	Graeme Growden	32 Wangary Terrace Seaview Downs	Oppose	Yes
5	Jane Growden	32 Wangary Terrace Seaview Downs	Oppose	Yes

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. (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.

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.

There is no performance assessment pathway for earthworks. Given the common and envisaged nature of earthworks in association with other development however, relevant provisions for assessment are considered to be captured by the associated outbuilding and retaining wall applicable provisions. These include but are not limited to Zone PO 11.3, and Design in Urban Areas PO's 8.1, 8.2, 8.3, and 8.4.

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

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

ZONE CONSIDERATIONS

Hills Neighbourhood Zone

DO 1

Site coverage PO 3.1

Earthworks and retaining PO 11.3

Ancillary Buildings and Structures PO's 12.1, 12.2, 12.3

Overlay Considerations

Airport Building Heights (Regulated) Overlay - DO 1, PO 1.1

Water Resources Overlay – DO1, PO's 1.1, 1.2, 1.4, 1.5, 1.6, 1.7, 1.8

General Development Policies Considerations

Clearance from Overhead Powerlines - DO 1, PO 1.1

Design in Urban Areas

DO 1

Earthworks and sloping land PO's 8.1, 8.2, 8.3, 8.4

Fences and walls PO's 9.1, 9.2

Car parking, access and manoeuvrability PO's 23.1, 23.3, 23.4, 23.5

Infrastructure and Renewable Energy Facilities

DO 1

Wastewater Services PO 12.2

Transport, Access and Parking

Sightlines PO 2.2

Corner Cut-Offs PO 10.1

QUANTITATIVE SNAPSHOT

Existing site dimensions	
Site area	1,210 sqm
Frontage width	18.3 m
Site depth	65.3 m to 66.8 m
Site gradient	Generally 5% (1 in 20), noting rear few metres increases to 28% (1 in 3.6)

Outbuilding		
Element	Proposed	Suggested DTS/DPF*
Site coverage	25.0% (302 sqm)	50%
Floor area	121.5 sqm	60 sqm
Primary street setback	Behind dwelling	Inline or behind dwelling building line
Side setbacks	7.4 m north / 0.9 m south	None applicable
Rear setback	Between 4.7 m to 5.6 m	None applicable
Wall / post height	Between 2.1 m to 3.4 m above NGL (3 m above floor)	3 m above NGL, excluding gable ends
Roof height	Between 3 m to 3.4 m (3.45 m above floor)	5 m above NGL
Material	Colourbond Woodland Grey	Non reflective
Soft landscaping	35.2% (426 sqm)	25%
Private open space	350+ sqm	60 sqm
On site car parking	More than desired	2 spaces, 1 which is covered

Retaining and fences		
Element	Proposed	Desired
Earthworks height	0.85 m cut / 0.9 m fill 1.75 m combined	1 m cut / 1 m fill 2 m combined
Retaining wall height	Up to 1.2 m	1.5 m
Fence height	Between 1.8 m to 3 m	None applicable

*** Note: As the application is 'Performance Assessed', satisfaction of the suggested DPF is 'one way' of achieving the corresponding 'Performance Outcomes'.**

ASSESSMENT DISCUSSION

In my view the most pertinent planning considerations for this assessment relate to:

- the scale and location of the outbuilding
- combined height of the earthworks / retaining and outbuilding / fences on top

Suitability of Land Use

The land use definition of 'outbuilding' is restricted to non-habitable buildings that are ancillary and subordinate to the main building of a site. The proposed building includes a carport (28.5 sqm), shed (45 sqm), gym (36 sqm), and pool equipment enclosure (9 sqm). The floor area of each part is considered ancillary in both its use and scale to the associated dwelling. The combined structure has a roof area of 121.5 square metres, equivalent to 67% of the roof area of the associated dwelling and additions, and comprises approximately 10% of the site area. The proposed structure is sited to the rear of the subject site, well behind the associated dwelling and is provided access via the existing driveway (which passes through the dwelling's under main roof carport). Given the structures size, location and provision of access it is considered to be subordinate to the dwelling.

The earthworks, retaining walls and fences proposed are associated with the outbuilding.

Given the above, the proposed development is considered to be primarily for the construction of an outbuilding, along with ancillary earthworks, retaining and fences.

As a form of development anticipated within the Zone (i.e. residential ancillary development in a Neighbourhood Zone) and having regard to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, the proposed development is not considered to be seriously at variance to the Planning & Design Code.

Outbuilding

Hills Neighbourhood Zone DO 1, POs 3.1, 12.1, seek development that provides a complementary transition to adjacent natural and rural landscapes, and minimise earthworks to reduce visual impacts of earthworks and buildings.

As a starting point it is worth considering the intent of Hills Neighbourhood Zone PO 12.1 which seeks residential ancillary buildings be sited and designed to not detract from the streetscape or appearance of primary residential buildings on the site or neighbouring properties.

The corresponding DTS/DPF lists 10 clauses which provide guidance on 'one way' of satisfying the PO. Whilst called up as applicable assessment policies for this Zone, the 'Ancillary Buildings and Structures' module is standardised throughout the Code and does not consider the respective Zone or individual site context (i.e. the suggested numerical standards apply regardless of whether the site is a 200 square metre allotment in a Housing Diversity Neighbourhood or a 1,200 square metre allotment in the Hills Neighbourhood Zone).

The proposed floor area of 121.5 square metres is 2 times the maximum DPF guideline of 60 square metres. The difference is substantial, and so careful consideration is needed to establish if the proposal suitably satisfies the intent of the Zone POs 3.1 & 12.1.

In this instance however, the proposed floor area equates to 10% of the site area, which is considered small in scale relative to the site area. On this basis the proposed floor area is appropriate.

Other than site coverage, soft landscaping, and minimum separation between buildings, there is no policy preventing more than 1 outbuilding on an allotment. The proposed overall site coverage of 25% is half of the suggested DTS/DPF maximum of 50%, and the proposed soft landscaping of 35% is 1.4 times the suggested DTS/DPF minimum of 25%. As such, numerically, the proposed floor area does not result in adverse impacts. When considering the PO, the visual scale and impacts of the building must still be considered, however.

When viewed from the east the proposed outbuilding has a width of 10 metres, which equates to 55% of the site width. The post heights of the eastern end carport vary between 2.95 m above NGL (including 0.05 m cut) and 3.4 m (including 0.4 m fill). The highest post therefore proposes a post/wall height up to 400mm above the suggested DTS/DPF maximum. The highest post is separated from the eastern rear boundary by 4.7 metres. The combined separation to eastern adjoining dwellings is 22 metres to 28 Wangary, and 23 metres to 30 and 32 Wangary, as shown in the Figure 7 below.

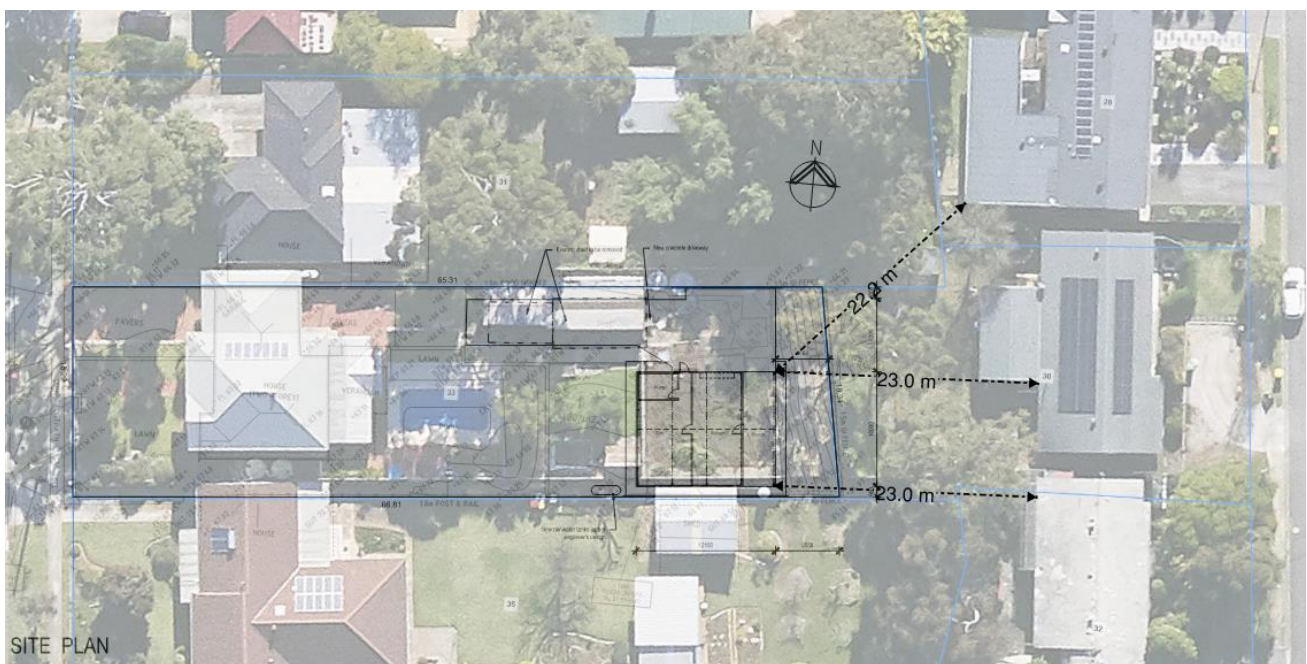


Figure 7: Site plan with aerial photo overlaid showing separation distances form proposed outbuilding to eastern adjoining dwellings

When viewed from the north the proposed outbuilding has a width of 12.15 metres. The wall and post height varies between 2.85 metres above NGL (including 0.15 m cut) and 3.4 metres (including 0.4 m fill) and therefore proposes a post/wall height up to 400mm above the

suggested DTS/DPF maximum (noting the excess wall height above NGL increases as a result of the sloping land). The building is separated from the northern side boundary by 7.4 metres.

When viewed from the south the proposed outbuilding has a width of 12.15 metres. The wall and post height varies between 2.3 metres above NGL (including 0.7 m cut) and 2.95 metres (including 0.05 m cut). The building is separated from the southern side boundary by 0.9 metres. Much of the area of the adjacent southern allotment is also occupied by an outbuilding, also separated from the boundary by approximately 0.9 metres.

Given the above, the visible extent of the building is minimised when viewed from the northern and southern adjoining land, especially so from the southern side.

Visibility of the structure from eastern adjoining land is unavoidable due to the slope of the land. The setback from the rear boundary provides for a reasonable degree of separation however, and the extent of fill is also reasonably minimal. The proposed outbuilding would not be readily visible from any street and does not cause unreasonable visual impacts or overshadowing to adjoining dwellings or areas of private open space. Furthermore, the size and location of the proposed structure, closer to the rear boundary than earlier structures is similar to that emerging in the immediate locality, including as at 25 and 29 Eyre Street (as discussed in the locality description).

Earthworks, retaining and fences

Hills Neighbourhood Zone PO 11.3 seeks retaining walls be stepped series of low walls constructed of dark, natural coloured materials and screened by landscaping. It is likely these design features are to encourage retaining walls be of a suitable design, size and scale and not result in inappropriate visual impacts.

Design in Urban Areas POs 8.1, 8.2, 8.3, and 8.4 seek driveways provide safe and convenient access while minimising disturbance to natural topography.

As discussed above, except for the vehicle movement area adjacent the shed and carport entry, the proposed driveway extension does not propose nor require any earthworks adjacent the northern adjoining boundary.

The proposed fences on top of retaining walls on the northern side boundary measure 9.6 metres in length, and between 2.2 metres to 3.0 metres in height above natural ground level (average 2.6 m). Again, the height decreases quickly however, reducing to 2.8 metres within 0.5 metres length, 2.6 metres within 0.8 metres, and 2.4 metres within 1.9 metres. The section of fence is 28 metres from the rear building line of the adjacent side adjoining dwelling, and 22 metres from the building line of the rear adjoining dwellings.

The proposed fences on top of retaining walls on the southern side boundary measure 16.8 metres in length, and between 1.8 m to 2.8 m height above natural ground level. The retaining is cut however, so generally only up to 2.1 metres is visible external to the site. The last 0.4 metre increases in external visible height however up to 2.4 metres. The section of fence is 24 metres

from the rear building line of the adjacent side adjoining dwelling, and 22 metres behind the building line of the rear adjoining dwellings.

There is no DPF specifically relating to fence height, however it is useful to consider other relevant policies. Hills Neighbourhood Zone DTS/DPF 12.1(e)&(h) allows ancillary building and structure walls on boundary up to 8 metres in length and 3 metres in height above natural ground level. It is also worth noting that generally any fence up to 2.1 m is not considered 'development', and combined fencing and retaining or privacy screens up to 2.4 metres are commonplace between residential sites in such a locality.

Given the above, the visible extent of the combined fences and retaining above ground level is not unreasonable, and given the separation distance and viewing angles from adjoining dwellings and primary areas of private open space, the visual impacts are not unreasonably adverse. Furthermore, in context of the existing urban development of the locality, the changes to natural topography are also not unreasonably adverse.

Visual and Amenity Impacts

PO 3.1 of the Hills Neighbourhood Zone seeks for 'building footprints... [to] provide sufficient space around buildings to... provide an attractive outlook'. As such, a site inspection was undertaken to assess impacts upon the outlook and amenity from 30 Wangary Terrace. This property was considered most likely to experience a changed outlook as a result of the proposed development, and a useful proxy for its side adjacent dwellings, 28 and 32 Wangary Terrace which were unoccupied at the time of inspection. The original submission included fences on top of retaining with a combined height of 3.2 metres on rear boundary, and an outbuilding post height of 5 metres above natural ground level. The impacts to the amenity of 30 Wangary Terrace was considered unacceptable due to the visual bulk/scale and mass.

The revised proposal has significantly increased the rear setback and removed the need for rear retaining walls. As discussed above, the separation between the proposed outbuilding and rear boundary is 4.7 metres, increasing to 5.6 metres on the southern side. The combined separation between the proposed outbuilding and eastern adjoining dwellings is 21 metres to 28 Wangary Terrace, 19 metres to 30 Wangary Terrace, and 23 metres to the dwelling at 32 Wangary Terrace. It is worth noting there is no recommended minimum setback for outbuildings with a wall height up to 3 metres, and the minimum recommended setback for dwellings is 4 metres for ground floors, and 6 metres for upper floors. As such, the proposed height and rear setback does not result in unreasonable visual impact to adjoining dwellings.

Due to the slope of the land, dwellings on the western side of Wangary Terrace generally have very direct views into the rear private open space of Eyre Street fronting sites. The rear boundary between the subject site and 30 Wangary terrace is located 10 metres further west and uphill of the gully. This existing fence somewhat restricts views to the surface of the subject land as shown in the images below. Views of any people, structures, or trees are still generally visible however. As such, the views affected is that of the secondary private open space of the subject Eyre Street site, and trees growing at the side adjoining 31 Eyre Street site. Neither views are iconic, and both views are already restricted.



Figure 8: Image from the alfresco deck at 30 Wangary showing trees in rear yard and dark coloured rear boundary fence shared with the subject site (bottom), outbuildings at 35 Eyre (left hand side), existing outbuilding and internal cream coloured fence at the subject 33 Eyre (centre), and large trees located at 31 Eyre (top right hand side)



Figure 9: Image from the alfresco deck at 30 Wangary towards the outbuildings at 35 Eyre and 37 Eyre. The rear fence between 32 Wangary and 35 Eyre is indicated.



Figure 10: Image from the rear fence of 32 Wangary provided by representor, showing existing outbuildings at 35 Eyre (left hand side), rear yard of 30 Wangary (lower right hand side), existing outbuilding and internal cream coloured fence at the subject 33 Eyre (upper right hand side), and large trees located at 31 Eyre (top right hand side)

Views from either the dwelling's finish floor levels or lower ground level into the subject land is already restricted, as shown in the images above. View angles from 28 and 32 Wangary Terrace are also moderately obtuse.

Given the proposed outbuilding width and location, the degree of additional view restriction is minimal to 28 Wangary Terrace, and moderate to 30 and 32 Wangary Terrace.

When assessed against the relevant provisions of the Code, the proposed size and location of the proposed building is not unreasonable as discussed above. Critically, the views that would be restricted are areas of private open space which adjoining land owners and occupiers do not have any right to view, and which the Code generally seeks to restrict.

Visual privacy

The proposed outbuilding has 2 access doors and 1 vehicle door, but no other windows or openings. One of the access doors faces the rear boundary, providing access between the shed and carport. Given the nature of the carport, the area would be used infrequently. Critically the development is 1 building level only, and the floor finish level is substantially the same as the existing ground level. As such the development would not unreasonably adversely increase overlooking. Furthermore, the Code only seeks that buildings consider overlooking for upper level windows, balconies and the like.

CONCLUSION

The proposed development seeks planning consent to construct an outbuilding comprising carport and shed with associated earthworks, retaining walls, and fences. The proposed building footprint (including northern and southern sides 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 reasonably consistent with the existing and emerging pattern of ancillary development in the locality. The soft landscaping, private open space and carparking all meet the relevant Code provisions.

While the proposed development results in an outbuilding larger than 60 square metres, 1 post height exceeding 3 metres above natural ground level, and fences on top of retaining walls, given the degree of separation from all boundaries and relative to the size of the subject site the building footprint is consistent with the character and pattern of a low-density suburban neighbourhood, and provides sufficient space around the building to limit visual impacts and to provide an attractive outlook and access to light and ventilation. The outbuilding location is not readily visible from any streets and would not adversely detract from the appearance of the subject or any adjoining dwellings.

While the proposed development represents a change to the outlook from eastern adjoining dwellings, the separation distances provide sufficient space to minimise impacts.

Assessed on its merits against the relevant provisions of the Code, I am of the opinion that the proposed outbuilding's design and location will not result in an unreasonable development and does not create an outcome which is worthy of refusal. As such, it is recommended Planning Consent be granted, subject to appropriate conditions and notes.

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 variance¹ with the Planning and Design Code; and**
- c) Resolves that, pursuant to Section 102 (1) Planning, Development and Infrastructure Act 2016, Development Application 24002489 seeking construction of a new outbuilding comprising carport and shed with earthworks, retaining, and fences at 33 Eyre Street, Seaview Downs be GRANTED Planning Consent, 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. Prior to the use and/or occupation of the structure(s), all stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details.**
- 3. 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.**
- 4. The outbuilding and fences must be pre-colour treated or painted in a non-reflective colour.**

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.

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 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>

3. 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>

4. 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.
5. 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.

6. The structure has been granted consent as a domestic outbuilding only and therefore shall not be used for human habitation or for purposes not reasonably incidental to the use of the land for residential purposes, unless a separate Development Approval is obtained.
7. Any additional excavated material not required as fill for the site must be removed immediately after excavation to prevent bogging and soil washing away.

REPORT REFERENCE: CAP201124 – 4.2
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 20 NOVEMBER 2024



Originating Officer:	Phil Mabbs Senior Urban Planner
Application No:	24000349
Applicant:	Mr Paul Cormack
Development Description:	Supported Accommodation comprising two single storey units and associated freestanding carer's living quarters
Site Location:	1 Almond Grove, Glandore SA 5037
Zone:	Established Neighbourhood Zone
Lodgement Date:	13/02/2024
Planning and Design Code:	8 Feb 2024 Version 2024.2
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 for <ul style="list-style-type: none">- Supported Accommodation Land Use is not listed as exempt pursuant to Table 5 of the Established Neighbourhood Zone.
Recommendation:	That Planning Consent be GRANTED subject to Conditions

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 is situated within an established residential streetscape of Glandore. The surrounding character is primarily comprised of infill residential development, with some examples of the original dwelling stock being on larger allotments. Original dwelling stock primarily comprises single storey detached & semi-detached dwellings. Redeveloped/infill residential stock is single storey detached dwellings on lots which follow the original grid pattern. Redeveloped dwellings are constructed as contemporary interpretations of the existing built form design elements and cladding materials.

The site contains an original dwelling and the lot maintains its original rectangular shape and has a typical front setback, with low and open front fencing and landscaping & vegetation spread throughout. Council's Aerial imaging of the site shows that the dwelling was constructed between the years of 1949 and 1959. Due to the age of the dwelling, Council has no records of any previous development on the site.

The locality is relatively flat and has no distinctive landscape features or waterways. There are no significant or regulated trees on the site or adjoining properties.



Figure 1: Subject land

LOCALITY

The immediate locality (shown in figure 2 in red) includes the dwellings and commercial buildings on Almond Grove. The wider locality (shown in figure 2 in yellow) includes the dwellings which are within 150 metres of the site. This includes dwellings which address View Road (to the west) Moldavia Street (to the east), Cross Road (to the South) and Naldera Street (to the North).

Dwellings in the surrounding locality are typically single storey with a detached or semi-detached built form (under a single roof form), are clad in brick, stone or masonry construction with low and/or transparent front fencing and well maintained landscaped front yards. Dwellings in the locality are predominantly California Bungalow style. These dwellings typically feature articulated roof forms, chimneys, and garaging and carports behind the building line. Examples of recently constructed dwellings in the locality include dwellings at 1, 5 and 10 Almond Grove and 26 Naldera Street. These dwellings have included similar roof forms, architectural detailing and features, building heights.

Dwellings in the surrounding locality are generally east or west facing, with dwellings on the northern or southern ends addressing their respective frontage, taking advantage of the solar access provided by the spacing and layout of the sites. More recent dwelling stock has been designed to follow the established layout and pattern of development, to be in keeping with the predominant forms of development in the street.

Dwellings in the immediate locality are detached or semi-detached, on Torrens titled allotments, following the original grid pattern layout. Dwellings on Almond Grove, Narkunda Street and Clarke Avenue are constructed on similar sized allotments, often with generous front setbacks, to maximise landscaping and allow for a more gentle transition between the public and private realms. The locality comprises generous levels of private open space and areas for the planting of trees and vegetation.

The land is well located in respect to daily needs shops, Public Open Space, Public transport and other public needs facilities (educational, liturgical/spiritual, medical, etc).

The Glandore Community Centre is located 60 metres to the north of the subject land, and Glandore Oval is located 300 metres to the east of the subject site. Public transport infrastructure is available from Greenhill Road and South Road to the South & East (respectively) of the site.

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



Figure 2: Locality

PROPOSED DEVELOPMENT

The application seeks to construct Supported Accommodation comprising two single storey units and associated freestanding structures for the purpose of carer's living quarters. The front/primary buildings will have mirrored floor plans and will contain a total of three (3) bedrooms, a bathroom, laundry, walk in pantry, and a common family/meals area. The proposed rear/ancillary buildings will contain a bedroom, bathroom, office and living area including kitchenette. A common walkway in the centre of the site provides access to the rear of the site(s) and direct access to the rear buildings.

The accommodations have been designed to meet the 'Improved Liveability' standards of the National Disability Insurance Scheme (NDIS) and provide for supported independent living. The plans include provision for an onsite carer to be present on the site 24 hours, who will occupy the ancillary building at the rear and will provide passive support.

The buildings are proposed to be privately held and managed by the NDIS to provide residence to eligible people who require additional assistance. A business plan has been provided by the applicant which supports this use (see supporting information).

Each supported accommodation will include the provision of two (2) on-site car parking spaces. These will be accommodated in the form of one (1) garaged undercover space and one (1) parking space directly in front of the garage on the driveway (per accommodation). The proposed accommodations are to be accessed via an existing single car width crossover (at the northern end of the frontage) and a proposed secondary single vehicle crossover (at the southern end of the frontage).

PROCEDURAL MATTERS

Classification

The subject land is in the Established Neighbourhood Zone of the Planning & Design Code (the Code) as of February 2024.

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

Supported Accommodation is not listed as an exempt land use under Table 5 Established Neighbourhood Zone and was not deemed minor as part of the verification process. Whilst Supported Accommodation is defined as residential in nature, as the proposed use includes a commercial/income generating component, the proposal was not considered minor for the purposes of public notification.

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

PUBLIC NOTIFICATION

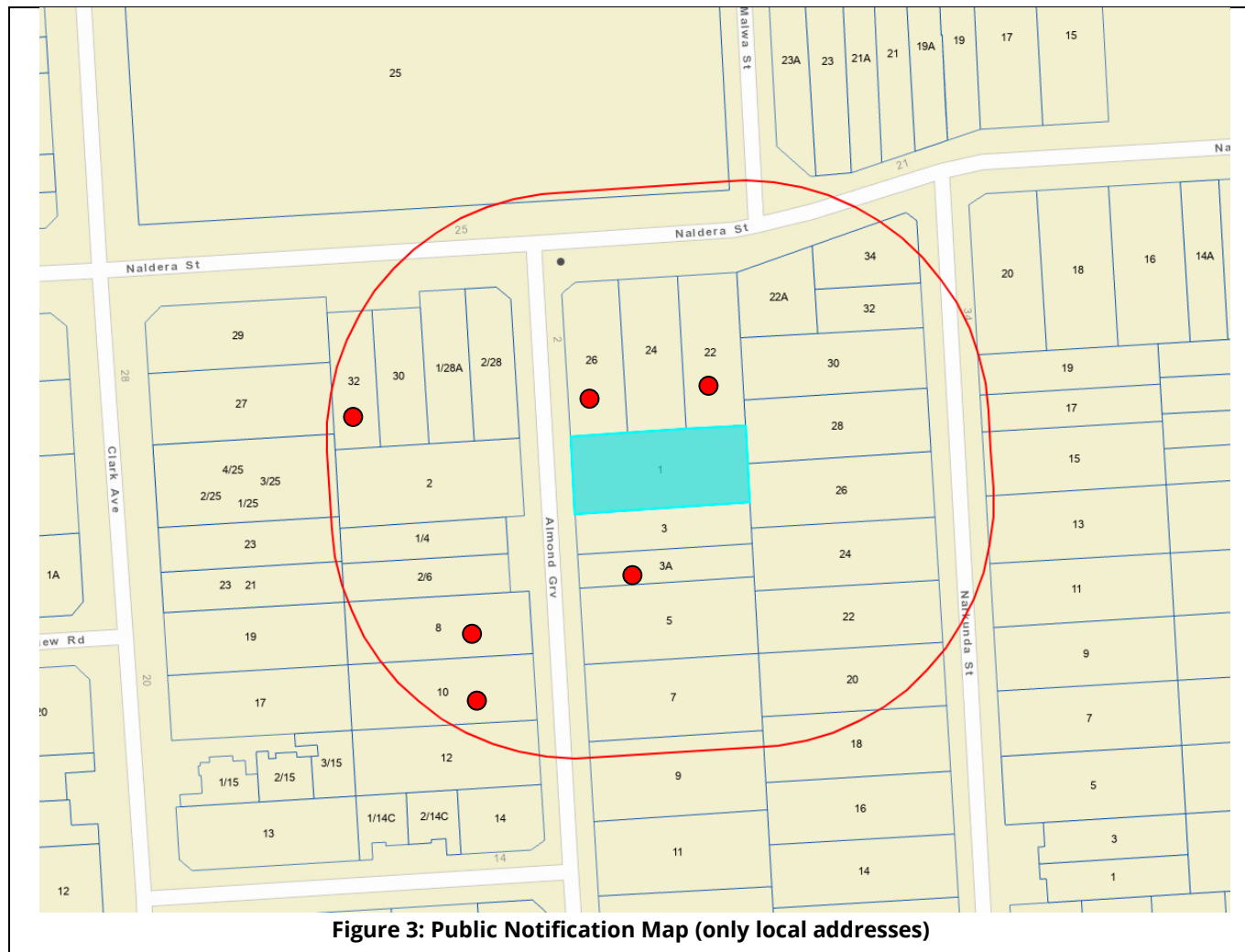


Figure 3: Public Notification Map (only local addresses)

Summary of Representations

Properties Notified: 42 (38 Title Lots)

Representations Received: 5

No.	Name	Location	Position	Wish to be heard:
1	Sarah Fynnaart	3a Almond Gr, Glandore	Support, with concerns	No
2	Tomas Januskevicius	10 Almond Gr, Glandore	Oppose	Yes
3	D Y	8 Almond Gr, Glandore	Support, with concerns	No
4	Jeremy Austin	22 Naldera St, Glandore	Oppose	Yes
5	Andrew Edwards	1/33 St Geroges Tce, TAS	Support, with concerns	No
6	Tanya Clark	26 Naldera St, Glandore	Support, with concerns	No
7	Nas Elisa	Not included	Oppose	No

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. (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.

In this instance, as Supported Accommodation is not a use listed within Zone Table 3 the proposal is considered to be 'full code assessed'.

Policies found in the Zone, Overlays and General sections of the Code considered applicable to this assessment are outlined below.

ZONE CONSIDERATIONS

Established Neighbourhood Zone: DO1, PO1.1, 2.1, 3.1, 4.1, 5.1, 7.1, 8.1, 9.1, 10.1, 10.2

OVERLAY CONSIDERATIONS

Character Area (MarC1): DO1, PO1.1, 2.1, 2.2, 2.3, 2.4, 2.5, 6.1, 6.2

Hazards (Flooding - Evidence Required): DO1, PO1.1

Stormwater Management: DO1, PO1.1

Urban Tree Canopy: DO1, PO1.1

GENERAL DEVELOPMENT POLICIES CONSIDERATIONS

Design in Urban Areas: DO1, PO8.1, 8.2, 8.3, 8.4, 8.5, 17.1, 17.2, 18.1, 20.2, 20.3, 21.1, 21.2, 22.1, 23.1, 23.3, 23.4, 23.5, 23.6, 24.1, 37.1, 37.2, 38.1, 40.2, 40.3, 40.4, 40.5

Interface between Land Uses: DO1, PO3.1, 3.2, 3.3

Transport, Access and Parking: DO1, PO5.1

Quantitative snapshot

Existing site dimensions	
Site area	823.66m ²
Frontage width	18.90m
Site depth	43.58m
Proposed Development	
Element	Proposed (per supported accommodation)
Site coverage	54%
Site area	412.58sqm
Site frontage	9.45m
Building height	1 level – 4.49m
Front setback	6m
Northern side setback	1.25m
Southern side setback	1.25m
Rear setback	16.77m
Private open space	70.8m ²
Soft landscaping	18.65% overall, 35.76% of front setback
On-site car parking	2 Spaces (1 Covered)
Stormwater	3kL (2kL retention & 1kL detention)
Urban Tree Canopy	Two (2) Small Trees
Element	Proposed (per carers quarters)
Floor area	70.72sqm
Building height	1 level – 4.8m
Front/Western setback	7.5m
Northern side setback	1m
Southern side setback	1m
Rear setback	0.929m

Assessment Discussion

The proposed development is primarily for the construction of Supported Accommodation. As a form of development anticipated within the Zone (i.e. residential development including complementary non-residential activity in a Neighbourhood Zone) and having regard to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, the proposed Supported Accommodation is an envisaged complementary use that is not considered to be seriously at variance to the Planning & Design Code.

The Established Neighbourhood Zone (the 'Zone') provides no predetermined assessment pathway for the assessment of Supported Accommodation. To support Council in undertaking an assessment of the proposal, sections of the Code (which apply to Detached Dwellings and Supported Accommodation) have been given regard as guiding policy to assess/review the design and layout of the development. Council recognises that the Supported Accommodation is not specifically bound/subject to the design requirements or policies which apply to detached dwellings or ancillary accommodation.

In my view, the most pertinent planning considerations for this assessment relate to the Character Area Overlay. The assessment considers the impacts of the proposal upon adjacent and surrounding land. Concerns were raised regarding the proposal's response to the existing and preferred character of the area. These elements of the development are considered under specific sections/clauses of the assessment criteria. The following discussion considers the development against provisions of the Planning and Design Code.

Land Use & Site Dimensions

The Established Neighbourhood Zone's (the 'Zone') Land Use & Intensity PO's envisage primarily residential and complementary land uses. The proposed supported accommodations are intended to operate commercially, in a manner which is scaled to appear as residential, providing services that complement the residential character and amenity of the neighbourhood. Whilst Supported Accommodation has not been listed DTS/DPF1.1, it is defined as a residential type use, and has scaled and designed to complement the character and amenity of the neighbourhood.

The Zone's Desired Outcome 1 seeks to promote development that creates a neighbourhood that includes a range of housing types, with new buildings sympathetic to the predominant built form character and development patterns. Desired Outcome 2 seeks to maintain the predominant streetscape character, having regard to key features such as roadside plantings, footpaths, front yards, and space between crossovers. The proposed development is considered to contribute to a range of housing types in the locality and has a built form which is sympathetic to the predominant built form character and development pattern. The proposed accommodation has incorporated brick and masonry walls, a low-scale single storey-built form, a setback garage, articulated roof form and a California Bungalow architectural style. The proposal includes a traditional style garden, gabled roof form, light colour palette and an open front setback. The front setback of the development has demonstrated regard for

the existing streetscape characteristics present in other sites on Almond Grove. Sufficient area has been provided for roadside plantings and space between crossovers.

Zone Performance Outcome PO 1.1 seeks that development should be predominantly residential with non-residential activities being supported, where they are considered compatible with the established development pattern of the neighbourhood. The immediate locality does not specifically reflect the character of the Zone. The southern end of Almond Grove has been previously developed, and is contrary to the character overlay, having two (2) sets of Row Dwellings, an Industrial/Commercial building, and Dwellings which do not reflect the predominant built form character or development patterns desired by the Character Overlay. It is noted non-residential development occurred before the establishment of the Character Zone.

From contour mapping of the site, it is considered that minimal slope exists on the site and the intended residents will not be unduly affected. The proposed accommodations have included safe and convenient access for the occupants and do not require universal design features. The accommodations have included provision of outdoor clothes drying facilities, mailboxes, waste storage and utility metres on the site, responding to the Performance Outcomes applicable to Supported Accommodation. The proposed buildings have included provision of these on-site requirements in a manner which are complementary to the character of the area and reinforces the character of the streetscape.

Zone PO2.1 seeks to encourage the development of sites which: are of a suitable size; and dimension to accommodate the anticipated dwelling form; and are compatible with the prevailing pattern of development in the locality. In determining what is being sought by the PO, the existing character is relied upon for guidance. Almond Grove, and the surrounding locality, feature multiple examples of dwellings which do not meet the desired site area and frontage dimension as set out in the desired DTS/DPF criteria for detached dwellings. These sites are discussed later in the report. In considering PO2.1, the Character Area Statement includes additional context analysis that seeks to promote "Conventional grid type pattern of streets, large allotments, predominantly detached dwellings and some examples of semi-detached dwellings in Glandore and Glengowrie." The proposed site areas and dimensions are considered to be reflective of these statements, and the site areas and dimensions are compatible with the prevailing development pattern in the area.

Aerial imagery and a site visit have determined that the proposed allotments follow the existing pattern of development in the street and surrounding locality. The most common form of infill development to occur in the locality is typically in the form of two allotments created from one allotment, where dwellings have their own individual frontage to a public road. These examples (shown in figure 4 below) include 32 Naldera Street, 3 & 3A Almond Grove, 17 & 19 Narkunda Street and 30 & 30A Clarke Avenue. These sites have similar dimensions, areas and orientations as the proposal, following the original grid pattern of development in the locality, and representing a compatible pattern of development which has been previously employed to support infill development. In considering the sites highlighted below, the proposal provides a size and dimension which is able to accommodate the anticipated dwelling form, and is compatible with the prevailing development pattern in the locality. Some scattered examples

exist of battle-axe or group dwelling developments, where multiple dwellings do not have direct access/frontage to a public road.

Given the anticipated dwelling form, being predominantly detached dwellings with some examples of semi-detached dwellings, various forms of infill development exist in the street. These primarily take the form of semi-detached units, which are internally subdivided with a single roof form across two rectangular Torrens Title allotments. The proposed Supported Accommodation follows this prevailing character of built form through the provision of increased density which is appropriately designed to respond to the prevailing development pattern in the locality.



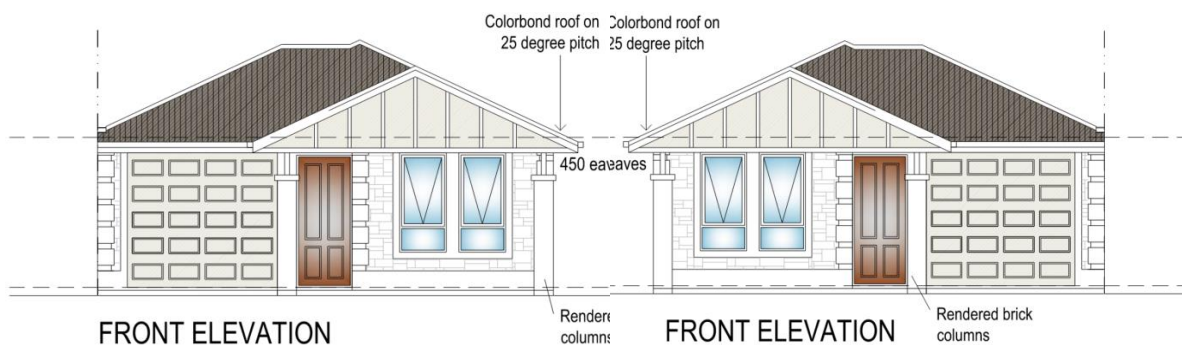
Figure 4: The pattern of infill development and land division in the locality.

Building Height

The overall height of the buildings is acceptable in the context of the zone. The buildings are considered to complement the building height of other dwellings which address Almond Grove, and the adjoining dwellings which address Naldera Street and Narkunda Street, with a maximum building height of 4.54 metres (from the floor level to the roof ridge). The preferred building heights in the zone encourages development which is no higher than nine (9) metres from the relevant ground level and to be no more than one (1) storey. The proposed development satisfies this preference.

Building Setbacks

PO 5.1 seeks to promote the construction of buildings which are consistent with the existing streetscape. The corresponding DTS/DPF 5.1 suggests for development on the subject site to have a front setback dimension which is matching to that of the existing dwelling. This would require the buildings to be setback 7.25 metres from the front property boundary. The proposal seeks consent for a front setback dimension of six (6) metres. Each garage is recessed behind the front wall, being setback 7 metres. The adjoining property to the north (that faces to Naldera Street), provides building setbacks in the order of 1.5 metres to 2 metres to Almond Grove, including an outbuilding that is built on the shared boundary abutting the subject site. The dwelling on the adjoining lot to the south is setback approximately nine (9) metres from the front boundary. The average setback of these measurements is 5.5 metres. When viewed from the north, the side boundary fencing of 26 Naldera Street will almost completely screen the site, minimising the impacts of a reduced setback. When viewed from the south, the proposed development, whilst forward of 3 Almond Grove, will be less visually obtrusive than the fencing and outbuilding on the northern boundary of the subject site. The proposed setback is responsive to the trend of redevelopment in the locality. Aerial imaging demonstrates that redeveloped/renovated dwellings tend to have reduced setbacks and include garages which are in line with the principle face of the dwelling. These dwellings are seen at 2, 5, 13 and 15 Almond Grove. The proposed garages are recessed behind the building line, being more responsive to the character of the original dwellings in the streetscape. This stepped built form will provide an appearance which is sympathetic to the street and reinforces the character attributes included in the Character Area Statement Overlay. The front setback will again be softened through the front landscaping, which further mitigates the visual impacts of the reduced front setback. The front landscaping proposed follows the pattern/layout which is evident in other sites on Almond Grove. Given the layout of the adjoining lots, the proposed development and the streetscape character, the proposed front setback is an acceptable response to the character of the area.



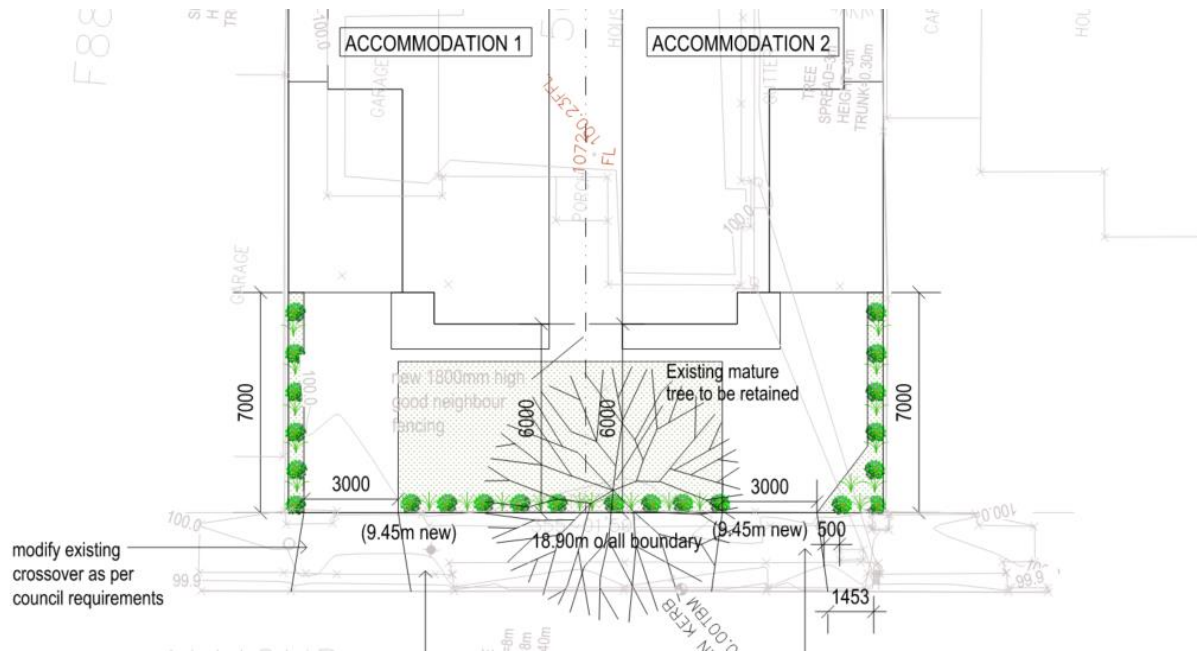


Figure 6: The proposed front setback design of the supported accommodation 'detached dwellings'



Figure 7: Views towards the subject land from the western side of Almond Grove



Figure 8 (left): An image looking south, taken from Almond Grove, on the western side of 26 Naldera Street and Figure 9 (right): An image looking north, taken from Almond Grove, in front of 3A Almond Grove.

Design and Appearance

The proposed buildings have provided a built form and façade which are considered to appropriately respond to the character of the streetscape and the surrounding locality. As previously discussed, and shown in the images, the built form is considered to be sympathetic in form, height, and roof pitch. The proposed development is considered to provide an

acceptable outcome and will not result in an obtrusive design which is dominating. The proposal is considered to provide an acceptable outcome.

Character

The DO of the Character Area Overlay seeks to promote development that is contextually responsive and is an adaptive reuse of the streetscape characteristics expressed in the associated Character Area Statements. The proposed supported accommodation and carers quarters have been designed to take into account the character of the area and the types and densities of residential dwellings that are established and sought under the zone. The development provides a density which is responsive to the street and surrounding locality. The development adjoins and is adjacent to sites which have matching allotment dimensions, as shown in Figure 4. The buildings provide a design which is a contemporary interpretation of older dwellings in the locality and meet the on-site livability requirements to support a diverse range of living requirements and family structures.

Character Area Overlay PO 1.1 seeks development that has considered and expresses the valued attributes highlighted in the Character Area Statement. These attributes include predominantly detached dwellings, California Bungalow (amongst others) architectural style, single storey built form, articulated roof forms, brick and/or masonry external walls, low height front fencing, projecting detailing & built form features and garages behind the main face. The proposed development is considered to appropriately respond to the character by amalgamating the higher levels of density, which are within the streetscape, and incorporating the built form and layout design criteria. The Character Statement does not include representative buildings which specifically demonstrate the type of development which is suited in the street and therefore it is considered that all dwellings within the streetscape provide context and guidance for future development. The proposed development retains the grid type pattern of the streets and will result in the construction of buildings which follow the existing pattern of building separation. The proposed dwellings will be single storey in built form and will have multiple points of visual complexity and architectural detail. These visual and architectural elements include projecting porches, setback garages (behind the building line), the inclusion of timber frame windows, colorbond roofing, single storey built form, and traditional front landscaping.

POs 2.1 and 2.5 seek to ensure that development provides a built form which is in keeping with the desired character of the area. The Character Area Statement has identified the valued character attributes which are promoted in the area and the proposed buildings have incorporated the existing built form style of dwellings in Almond Grove, as well as design elements that are listed in the Character Area statement. These include elements relating to architectural style, height, materials, fencing, and public realm integration. The proposal has included many of the design and built form elements into the proposal such as a single storey-low scale bungalow built form, a detached dwelling design, mixed cladding façade, articulated roof forms and traditional gardens. The proposal includes no front fencing, which responds to the streetscape character, which has an established character of low scale and visually transparent front fencing.

It is considered that, whilst the proposed development seeks to construct two supported accommodation buildings, they appear to the street as detached dwellings and provided with a design outcome that appropriately responds to the Character Statement. The Character Statement discusses some examples of semi-detached dwellings in Glandore and Glengowrie, though speaks more to the construction of detached dwellings. Whilst the proposal seeks to conduct infill development in a way that is not evident in the street, it has undertaken this development in a manner which is a more responsive design than other existing semi-detached dwellings within the streetscape. As previously discussed, the proposal represents a contemporary response to the existing character and provides an acceptable outcome. The setbacks, heights and materials proposed are in keeping with the area and are considered to be complementary to the existing street and the desired character attributes.

In regard to PO's 6.1 and 6.2, the proposed driveway and front landscaping accord with the character desired in the statement. The proposed development will include the combination of lawn, shrubs and canopy trees in the front setback. The proposed landscaping incorporates a shrub line on all boundaries of the front setback, adjacent to the driveway and front boundary of the site. The proposal landscaping plan provides for a sympathetic design which is open to the street and provides an acceptable contribution to the streetscape.



Figure 10 (collection of aerial image and street images): The surrounding locality of Almond Grove and dwellings within the immediate locality, referenced in accordance with the relevant arrow.

Stormwater Management

The applicant has provided a Stormwater Management Plan which appropriately captures any additional stormwater runoff which will result from the development. The landowner will be required to maintain this system and ensure that the development does not result in stormwater from the site draining into adjoining lots.

CONCLUSION

The proposed development seeks planning consent for the construction of a two supported accommodation buildings and associated carers accommodations. The proposed building footprints (including front, northern, side and rear setbacks) are consistent with the character and pattern of a low-density suburban neighbourhood as sought by the Established Neighbourhood Zone and private open space is of a suitable size in accordance with Design in Urban Areas PO 21.1. The amount of open space and on-site car parking provided satisfies the requirements of the Code.

It is noted that the Zone does not specify minimum standards with respect to site areas or frontage for Supported Accommodation. The design of the buildings has provided an acceptable response to the character of the streetscape, whilst meeting the needs of the future staff and occupants. The built form provides a design which integrates and respects the character described in the character area statement and surrounding locality. As previously discussed, there are multiple other developments in the locality which have been constructed which are not reflective of the desired character traits as discussed in the character area statement. The proposal adequately satisfies DO1 of the Character Area Overlay, which seeks for development to respond to the context of the area and be an adaptive reuse of the valued streetscape characteristics and development pattern. While the proposed building width is not consistent with that of the detached dwellings in the surrounding locality, it nonetheless remains complementary to the built form of those dwellings and is consistent with examples of semi-detached dwellings.

In my view, the most significant impact of the proposal relates to the visual impact arising from the frontage to Almond Grove and when viewed from the opposite allotment at 2 Almond Grove. It is noted that the design of the accommodations has been selected to follow the pattern of development/division in the street. The accommodations will have a front setback which is 1.6 metres forward of the existing dwelling and 2.75 metres forward of 3 Almond Grove. It is considered that the impacts of the development on the streetscape will be mitigated by the established trees planted within the front gardens of adjoining sites and street tree plantings throughout Almond Grove, particularly when viewing the site from the south. When viewing the site from the north, the minimal setback of the outbuilding and the secondary frontage boundary fencing of 26 Naldera Street results in a pronounced continuous built form, which reduces the impact on the streetscape and will effectively screen the buildings from being seen from the north. In considering how the proposal responds to the streetscape of Almond Grove, the combination of the built form, building separation, landscaping and front setback provide for an outcome which is an acceptable response to the existing and preferred character of the locality and has reasonably incorporated the character attributes sought by the Character Area Overlay.

The proposal satisfies Design in Urban Areas PO 20.2, which seeks for dwelling elevations facing public streets to make a positive contribution to the streetscape and, given that the buildings satisfy the building height requirements, they are not 'larger buildings' and PO 20.3 is not relevant. In regard to Design in Urban Areas DTS/DPF20.2, the proposed design incorporates built form and cladding materials from the character area overlay into the design. Given that the

proposal is Code Assessed and development is informed by the desired built form of the Zone and Character Area Overlay, the proposed Supported Accommodation has provided an acceptable response to these POs and demonstrates a design response which is not unacceptable and is guided by the applicable policy and character of the locality.

The proposal follows the existing trend of development in the locality and is an acceptable response to the character area statement. The site is well located in regard to economic centres, public open space, and transport and daily need infrastructure/facilities. The proposed Supported Accommodations and ancillary buildings/quarters have provided acceptable design responses to ensure the development has an appropriate width, site coverage and soft landscaping. Whilst these elements of the proposal would be considered shortfalls to the detached dwelling policy, Supported Accommodation does not have any specific policies which apply under the Code. It is considered that these policies provide guidance for development and are not prescriptive. Given the general satisfaction of the applicable policy, and the incorporation of design elements which have been observed in the surrounding dwellings, there is sufficient precedence to justify the proposal. The development is considered to appropriately satisfy the majority of applicable provisions of the Code and is of a scale and design that will contribute positively to the character of the locality, being compatible with the existing and emerging pattern of development.

Following consideration of matters pertinent to the application, I am ultimately of the view that the proposal tips the scale in favour of granting 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 variance¹ with the Planning and Design Code; and**
- c) Resolves that, pursuant to Section 102 (1) Planning, Development and Infrastructure Act 2016, Development Application 24000349 seeking construction for Supported Accommodation comprising two single storey units and associated freestanding structures for the purpose of admin & carer living quarters be GRANTED Planning Consent, 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. Prior to the use and/or occupation of the structure(s), all stormwater from buildings and paved areas shall be disposed of in accordance with the approved plans and details.**
- 3. Landscaping shall be planted and maintained in accordance with the plans and details forming part of the development authorisation.**
- 4. 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.**

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.

5. Any form of development on the property boundary (such as mortar joints on any face brickwork, blueboard material or similar, render etc) shall be finished in a professional manner and to the same standard as the remainder of the subject dwelling.
6. 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.

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 > 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
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. Any existing driveway crossovers that become redundant as a result of a development must be reinstated to match the existing kerb profile along the road frontage of the property.
6. 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.
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. 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.

9. The applicant is reminded that Development Approval is required for any retaining wall over one metre in height, any masonry fence over one metre in height, any non-masonry fence (eg colorbond, wood paling, brush etc) over 2.1 metres in height, and any retaining wall with a fence on top with a total height over 2.1 metres in height (measured from the lower of the two adjacent ground levels).
10. 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>.

11. If excavating, it is recommended you contact *Before You Dig Australia (BYDA)* (www.byda.com.au) to keep people safe and help protect underground infrastructure.

**5. APPEALS UPDATE
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 20 NOVEMBER 2024**



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 20 NOVEMBER 2024



No items listed for discussion.

7. OTHER BUSINESS
CITY OF MARION
COUNCIL ASSESSMENT PANEL AGENDA
FOR MEETING TO BE HELD ON
WEDNESDAY 20 NOVEMBER 2024



No items listed for discussion