

**CITY OF MARION
COUNCIL ASSESSMENT PANEL MINUTES
FOR THE MEETING HELD ON
WEDNESDAY 20 NOVEMBER 2024**



1.1 OPEN MEETING

The Meeting commenced at 6.30pm

1.2 PRESENT

Michael Davis - Presiding Member
Yvonne Svensson- Independent Member
Ben Russ - Independent Member
Bryn Adams - Independent Member
Councillor Nathan Prior – Council Member (Deputy)

1.3 APOLOGIES

Matt Taylor – Council Member

1.4 IN ATTENDANCE

Alex Wright – CAP Assessment Manager – Unit Manager Planning & Development
Maddie Frew – Acting Manager - Development & Regulatory Services
Katherine Thrussell - Team Leader – Planning
Phil Mabbs - Senior Development Officer – Planning

2. GENERAL OPERATIONS

No items listed for discussion.

3. DEVELOPMENT ACT 1993 APPLICATIONS

No items listed for discussion.

4. PDI ACT APPLICATIONS

4.1 Report Reference: CAP201124 - 4.1

Application No: 23007312

Site Location: 33 Eyre Street, Seaview Downs

- Cheryl Dawes (Representor) addressed the Panel
- Graeme Growden (Representor) addressed the Panel

The Council Assessment Panel resolved that;

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).

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.

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.

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.

4.2 Report Reference: CAP201124 - 4.2

Application No: 24000349

Site Location: 1 Almond Grove, Glandore

- Tomas Januskevicius (Representor) addressed the Panel
- Jeremy Austin provided a written account of his representation
- Mr Heynen on behalf of the applicant addressed the Panel

The Council Assessment Panel resolved that;

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 variance² 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 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.

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.
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**APPEALS AGAINST PANEL DECISIONS**

Verbal updated provided/No items listed.

6. POLICY OBSERVATIONS

- The definition of Supported Accommodation does not include Home Care, which is linked to the definition of Home Care, under the *Aged Care Act*, which does not encompass other needs like disability etc.

7. OTHER BUSINESS

No items listed for discussion.

8. CONFIRMATION OF MINUTES

The minutes of this meeting held Wednesday 20 November 2024 taken as read and confirmed this twentieth day of November 2024.

9. MEETING CLOSURE

- Length of meeting: 1hr 14mins
- Number of Representatives appearing before the Panel: 3
- Number of Applicants appearing before the Panel: 1

MEETING DECLARED CLOSED AT 7:44PM



Michael Davis
Presiding Member