



AGENDA

FOR COUNCIL ASSESSMENT PANEL MEETING TO BE HELD ON

29 AUGUST 2023 AT 6.30 PM

**IN LITTLE PARA CONFERENCE ROOMS, SALISBURY COMMUNITY HUB, 34
CHURCH STREET, SALISBURY**

MEMBERS

Mr T Mosel (Presiding Member)
Mr R Bateup
Ms C Gill
Mr B Brug
Mr M Atkinson

REQUIRED STAFF

General Manager City Development, Ms M English
Manager Development Services, Mr C Zafiroopoulos (Assessment
Manager)
Team Leader Planning, Mr C Carrey
Development Officer Planning, Mr B Ferguson

APOLOGIES

LEAVE OF ABSENCE

ADOPTED MINUTES FROM PREVIOUS MEETING

Presentation of the Minutes of the Council Assessment Panel Meeting held on 25 July 2023.

DECLARATIONS OF CONFLICTS OF INTEREST

REPORTS

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CLOSE

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**MINUTES OF COUNCIL ASSESSMENT PANEL MEETING HELD IN LITTLE PARA
CONFERENCE ROOMS, SALISBURY COMMUNITY HUB, 34 CHURCH STREET,
SALISBURY ON**

25 JULY 2023

MEMBERS PRESENT

Mr T Mosel (Presiding Member)
Mr R Bateup
Ms C Gill
Mr B Brug
Mr M Atkinson

STAFF

Assessment Manager, Mr C Zafiropoulos
General Manager City Development, Ms M English
Acting Team Leader Planning, Ms K Thrussell
Development Officer Planning, Mr S Ondeyo
Development Officer Planning, Mr B Ferguson
Development, Officer Planning, Ms K Brown
Team Leader Business Services, Ms H Crossley

The meeting commenced at 6.30pm.

The Presiding Member welcomed the members, staff and the gallery to the meeting.

APOLOGIES

Nil.

LEAVE OF ABSENCE

Nil

ADOPTED MINUTES FROM PREVIOUS MEETING

The Minutes of the Council Assessment Panel Meeting held on 27 June 2023, be taken as read and confirmed.

DECLARATIONS OF CONFLICTS OF INTEREST

Ms M English, General Manager City Development, declared a conflict of interest in relation to Item 8.1.1 due to being related to the Planning Consultant for the applicant, and advised that she would leave the meeting when the Item 8.1.1 is being considered by the Panel.

Ms M English left the meeting at 6.36 pm.

REPORTS

Development Applications

8.1.1 23013367

Change in Use from Detached Dwelling to Office with associated Carparking, Freestanding Internally Illuminated Sign and Landscaping. at 493 Bridge Rd, Para Hills SA 5096 for Mr John Outhred and Mr Brijesh Mishra.

REPRESENTORS

Mr G Spintao spoke on behalf of his representation.

APPLICANT

Mr J Outhred spoke on behalf of the applicant.

Mr R Bateup moved, Ms C Gill seconded, and the Council Assessment Panel resolved that:

- A. The proposed development is not considered to be seriously at variance with the Planning and Design Code.
- B. Pursuant to 107 of the *Planning, Development and Infrastructure Act 2016*, Planning Consent is **GRANTED** to application No 23013367 for Change in Use from Detached Dwelling to Office with associated Carparking, Freestanding Internally Illuminated Sign and Landscaping, in accordance with the plans and details submitted with the application and subject to the following Reserved Matters and Conditions:

Reserved Matters:

The following matter/s shall be submitted for further assessment and approval by the Assessment Manager, as delegate of the Council Assessment Panel, as Reserved Matters under Section 102(5) of the *Planning, Development and Infrastructure Act 2016*:

1. Civil and Siteworks Plan, prepared by a qualified and experienced stormwater engineer, for all civil and stormwater works, which shall address all of the following:

- a) Finished floor levels for all buildings and hardstand surfaces; and
 - b) Cut/fill details; and
 - c) Retaining walls, kerbing or ramps, their design and grades; and
 - d) Pavement design details and gradients; and
 - e) Car parking dimensions, aisle widths, circulation movements and associated pavement markings and signage; and
2. Final landscaping plan, prepared by a qualified and experienced landscape architect or horticulturalist, which shall include all of the following:
- a) Final locations for all landscaped areas, including designated areas for trees, shrubs and groundcovers; and
 - b) Designated species to be used, noting should comprise species contained in the City of Salisbury Landscape Plan; and
 - c) Shade trees within the car parking areas; and
 - d) Pot sizes, confirming the tree planting shall comprise advanced growth species at time of planting; and
 - e) Maintenance methods including irrigation, barriers and protection from vehicles and pedestrians.

Development Plan Consent Conditions

1. The development shall be carried out in accordance with the details submitted with the application and the following stamped approved plans and documents, except where otherwise varied by the conditions herein:

Drawing No.	Plan Type	Date	Prepared By
23.4.1930.01	Floor & Site Plan	May 2023	Elvio Ferrera
2312/053	Planning Report	9 May 2023	John Outhred
2312/073	Response to representation	6 July 2023	John Outhred

2. Except where otherwise approved, the freestanding sides of the verandah shall not be enclosed with any solid material.
3. Except where otherwise approved, the freestanding sides of any alfresco, verandah or pergola shall not be enclosed with any solid material.
4. The The invert, crossover and driveway shall be constructed, prior to commencement of use, in accordance with Council's Vehicle Crossover Standard Detail, Drawing SD-12, SD-13 and SD-14.
5. All driveway, car parking and manoeuvring areas designated on the Civil Plan approved under reserved matter 1 shall be constructed with brick, paving or concrete. The driveway and car parking area shall be established, prior to grant of the Certificate of Occupancy and shall be maintained at all times thereafter to the reasonable satisfaction of Council.

6. The designated landscaping areas shall be planted with shade trees, shrubs and ground covers in accordance with the Approved Landscaping Plan approved under Reserved Matter 2. All landscaping shall be completed within 3 months from grant of the Certificate of Occupancy and shall be maintained at all times thereafter to the reasonable satisfaction of Council (including the replacement of diseased or dying plants and the removal of weeds and pest plants).
7. Except where otherwise Approved, the landscaping shall be maintained in good health and condition at all times thereafter.

Conditions of the Commissioner for Highways

8. The development shall be in accordance with the Elvio Ferrara Floor and Site Plan, Drawing No 23.4.1940.01.
9. Stormwater run-off shall be collected on-site and discharged without impacting the adjacent road network. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's cost.
10. The illuminated signage shall be permitted to use LED lighting for internal illumination of a light box only.
11. The illuminated signage shall be limited to a low level of illumination so as to minimise distraction to motorists ($\leq 150\text{cd/m}^2$).
12. The signage shall not contain any element that flashes, scrolls, moves or changes, or imitates a traffic control device.

Advice Notes

1. Building Consent and Development Approval must be obtained within 24 months from the date of this Notification, unless this period has been extended by the Council. Work cannot commence until a Development Approval is obtained.
2. This Development Approval does not constitute land owner's approval. The following applies to any works on Council land:
 - a) Any person making alteration to Council land including erecting or installing a structure (pipes, wires, cables, fixtures, fittings), storing building materials, erecting temporary fencing, altering the kerb, gutter, footpath or crossover etc. in, on, under or over Council land, is subject to a permit from Council pursuant to Section 221 of the *Local Government Act 1999*.
 - b) Service infrastructure should be located as far as practicable away from street trees, in order to protect the root zone and to prevent future damage to the infrastructure from root expansion.
 - c) Residents and businesses are encouraged to develop and maintain the verge area between their property boundary and the kerb. However, some types of development such as irrigation, tree planting and

- landscaping may be restricted in some areas and therefore permission should be first sought from Council before commencing any works;
- d) It is the developers/owner's responsibility to ensure that damage does not occur to verge infrastructure during construction. Council regularly inspects the condition of verge infrastructure during construction and where damage is observed, Council may recover the costs from the owner for reinstatement of any damage to the footpath, kerb or gutter and may also impose a substantial penalty for any willful damage.
3. The Council approved plans should be available at all times while performing the building work.
 4. It is your responsibility to ensure that any building work is correctly sited with respect to the property boundaries of the site and it is strongly recommended that a boundary survey be undertaken before any work commences to ensure the building work is accommodated within the designated footprint and achieves the designated boundary setbacks.
 5. You will need to obtain your permission from your neighbour should you wish to access their property to carry out construction work adjacent the boundary or if you wish to erect common boundary fencing or boundary retaining walls, pursuant to the *Fences Act 1975*. To find out more, please visit: <https://lsc.sa.gov.au/resources/fencesandthelawbooklet.pdf>
 6. The applicant is reminded that demolition and construction is required to be carried out so that it complies with the mandatory construction noise provisions of Part 6, Division 1 of the *Environment Protection (Noise) Policy 2007* and the provisions of the *Local Nuisance and Litter Control Act 2016*. Under the *Local Nuisance and Litter Control Act 2016*, construction noise is declared to constitute a local nuisance as follows:

The noise has travelled from the location of the construction activity to neighbouring premises –

- *On any Sunday or public holiday;*
 - *After 7pm or before 7am on any other day.*
7. Pursuant to Section 139 of the *Planning, Development and Infrastructure Act 2016*, a person undertaking activity that affects stability of land or premises must serve notice in the prescribed form to the owner of the affected site. For the purposes of Section 139, work of the following nature is prescribed as building work which is to be treated for the purposes of that section as building work that affects the stability of other land or premises, namely:
 - (a) An excavation which intersects a notational plane extending downwards at a slope of 1 vertical to 21 horizontal from a point 600mm below natural ground level at a boundary with an adjoining site;
 - (b) An excavation which intersects any notional plane extending downwards at a slope of 1 vertical to 2 horizontal from a point at natural ground level at any boundary between 2 sites (not being a boundary with the site of the

excavation), where the boundary is within a distance equal to twice the depth of the excavation;

- (c) Any fill which is within 600mm of an adjoining site, other than where the fill is not greater than 200mm in depth (or height) and is for landscaping, gardening or other similar purposes.

To find out more, please visit:

<https://lawhandbook.sa.gov.au/ch28s02s06s03.php>

8. The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practicable measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause environmental harm.

In addition, the applicant is responsible for ensuring the development (including demolition, civil works and construction activities) do not cause a 'local nuisance' under the Local Nuisance and Litter Control Act 2016

Accordingly, your site planning activities should consider:

- providing a stabilised entry/exit point to the site for all construction and trade vehicles, including contained wash down area for vehicles and equipment
- appropriately located stockpiles and storage materials
- a suitable and designated area for brick cutting and concrete works
- a contained area for paint and plastering waste and wash waters
- appropriate location of noisy equipment so as to avoid unreasonable impacts to neighbours
- dust control measures such as use of a water cart and/or covering stockpiles

Note: EPA information sheets, guidelines documents, codes of practice, technical bulletins etc. can be accessed on the following web site: <http://www.epa.sa.gov.au>.

Ms M English returned to the meeting at 7.16 pm.

8.1.2**22039606**

Transport Depot with Associated Office (Unit 3) at 14 Barndioota Road Salisbury Plain, SA 5109 for Anna Parente.

REPRESENTORS

Representors were previously heard by the Panel at the meeting held on 23 May 2023.

APPLICANT

Mr D Iuliano was present but was not requested to respond to questions from the Panel.

Mr R Bateup moved, and the Council Assessment Panel resolved that:

- A. The proposed development is not considered to be seriously at variance with the Planning and Design Code.
- B. Pursuant to Section 107 of the Planning, Development and Infrastructure Act 2016, Planning Consent is GRANTED to application number 22039606 for Transport Depot with associated office (Unit 3) in accordance with the plans and details submitted with the application and subject to the following Reserve Matters and Conditions:

Reserved Matters:

The following matter/s shall be submitted for further assessment and approval by the Assessment Manager, as delegate of the Council Assessment Panel, as Reserved Matters under Section 102(5) of the *Planning, Development and Infrastructure Act 2016*:

1. Final landscaping plan, prepared by a qualified and experienced landscape architect or horticulturalist, which shall include all of the following:
 - a) Final locations for all landscaped areas, including designated areas for trees, shrubs and groundcovers; and
 - b) Designated species to be used, within the swale and perimeter boundaries, noting these should comprise species contained in the City of Salisbury Landscape Plan; and
 - c) Shade trees within the car parking areas;
 - d) Pot sizes, confirming the tree planting shall comprise advanced growth species at time of planting; and
 - e) Maintenance methods including irrigation, barriers and protection from vehicles and pedestrians.

Planning Consent Conditions

1. The development shall be carried out in accordance with the details submitted with the application and the following stamped approved plans and documents, except where otherwise varied by the conditions herein:

Drawing No.	Plan Type	Date	Prepared By
BAR4495-2 C101 Rev 2	Plan – Site (Tenancy Arrangement)	12/07/2023	Dean Iuliano
BAR4495-2 C102 Rev 2	Plan – Truck Parking	12/07/2023	Dean Iuliano
BAR4495-2 C103 Rev 3	Sectional Details - Swale	12/07/2023	Dean Iuliano

2. All driveways, car parking and manoeuvring areas shall be constructed by 30 November 2023, in accordance with the Plans approved under Planning Condition 1, and shall be maintained at all times thereafter to the reasonable satisfaction of Council.
3. The swale and stormwater infrastructure shall be constructed by 30 November 2023, in accordance with the plans approved under Planning Condition 1, and shall be maintained at all times thereafter to the reasonable satisfaction of Council.
4. The car parking layout including car park spaces, aisle widths and manoeuvring area shall be designed and constructed to comply with AS 2890.1-2009 – Off-Street Car Parking, Part 1, Austroads “Guide to Traffic Engineering Practice Part 11 – Parking”, AS 2890.2 – Facilities for Commercial Vehicles and AS 2890.6 – 2009 – Parking Facilities – Part 6: Off-street parking for people with disabilities.
5. The designated landscaping areas shall be planted with shade trees, shrubs and ground covers in accordance with the Approved Landscaping Plan approved under Reserved Matter 1. All landscaping shall be completed by 30 November 2023 and shall be maintained at all times thereafter to the reasonable satisfaction of Council (including the replacement of diseased or dying plants and the removal of weeds and pest plants).
6. All loading and unloading of vehicles and manoeuvring of vehicles in connection with the approved land use shall be carried out entirely within the site at all times.
7. Except where otherwise approved, no materials, goods or containers shall be stored in the designated car parking area or driveways at any time.
8. The developer shall employ measures to eliminate dust emission from the site so as not to cause nuisance to adjacent or nearby properties at any time.

Advice 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. It is your responsibility to ensure that any building work is correctly sited with respect to the property boundaries of the site and it is strongly recommended that a boundary survey be undertaken before any work commences to ensure the building work is accommodated within the designated footprint and achieves the designated boundary setbacks.
3. You will need to obtain your permission from your neighbour should you wish to access their property to carry out construction work adjacent the boundary or if you wish to erect common boundary fencing or boundary retaining walls, pursuant to the *Fences Act 1975*. To find out more, please visit:
<https://lsc.sa.gov.au/resources/fencesandthelawbooklet.pdf>
4. The applicant is reminded that demolition and construction is required to be carried out so that it complies with the mandatory construction noise provisions of Part 6, Division 1 of the *Environment Protection (Noise) Policy 2007* and the provisions of the *Local Nuisance and Litter Control Act 2016*. Under the *Local Nuisance and Litter Control Act 2016*, construction noise is declared to constitute a local nuisance as follows:

The noise has travelled from the location of the construction activity to neighbouring premises –

- *On any Sunday or public holiday;*
 - *After 7pm or before 7am on any other day.*
5. Pursuant to Section 139 of the *Planning, Development and Infrastructure Act 2016*, a person undertaking activity that affects stability of land or premises must serve notice in the prescribed form to the owner of the affected site. For the purposes of Section 139, work of the following nature is prescribed as building work which is to be treated for the purposes of that section as building work that affects the stability of other land or premises, namely:
 - (a) An excavation which intersects a notational plane extending downwards at a slope of 1 vertical to 21 horizontal from a point 600mm below natural ground level at a boundary with an adjoining site;
 - (b) An excavation which intersects any notional plane extending downwards at a slope of 1 vertical to 2 horizontal from a point at natural ground level at any boundary between 2 sites (not being a boundary with the site of the excavation), where the boundary is within a distance equal to twice the depth of the excavation;

-
- (c) Any fill which is within 600mm of an adjoining site, other than where the fill is not greater than 200mm in depth (or height) and is for landscaping, gardening or other similar purposes.

To find out more, please visit:

<https://lawhandbook.sa.gov.au/ch28s02s06s03.php>

6. The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practicable measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause environmental harm.

In addition, the applicant is responsible for ensuring the development (including demolition, civil works and construction activities) do not cause a 'local nuisance' under the Local Nuisance and Litter Control Act 2016

Accordingly, your site planning activities should consider:

- providing a stabilised entry/exit point to the site for all construction and trade vehicles, including contained wash down area for vehicles and equipment
- appropriately located stockpiles and storage materials
- a suitable and designated area for brick cutting and concrete works
- a contained area for paint and plastering waste and wash waters
- appropriate location of noisy equipment so as to avoid unreasonable impacts to neighbours
- dust control measures such as use of a water cart and/or covering stockpiles

Note: EPA information sheets, guidelines documents, codes of practice, technical bulletins etc. can be accessed on the following web site: <http://www.epa.sa.gov.au>.

8.3.1 Applicant Appeal to Environment, Resources and Development Court, Development Holdings Pty Ltd v City of Salisbury Assessment Panel (ERD-23-000053) - Development Application 23002678

QUESTIONS OF APPELLANT

No questions were asked by the Panel of the appellants, Mr T Game and Mr R Gagetti (via Phone) in relation to the compromise proposal.

ORDER TO EXCLUDE THE PUBLIC

Mr M Atkinson moved, Ms C Gill seconded, and the Council Assessment Panel resolved to:

Exclude the public from the CAP proceedings for consideration of item 8.3.1 on the Agenda of the CAP meeting 25 July 2023 on the basis of regulation 13(2)(viii) & (ix) of the *Planning, Development and Infrastructure (General) Regulations 2017*.

The meeting moved into confidence at 7.37 pm.

All public left the meeting at 7.37pm.

8.3.1 Applicant Appeal to Environment, Resources and Development Court, Development Holdings Pty Ltd v City of Salisbury Assessment Panel (ERD-23-000053) - Development Application 23002678

Mr B Brug moved and the Council Assessment Panel resolved that:

1. Pursuant to regulation 13(2)(viii) & (ix) of the Planning, Development and Infrastructure (General) Regulations 2017, the Council Assessment Panel determines, this matter be considered in confidence on grounds that it relates to legal advice and information to an appeal against the decision of the Council Assessment Panel to the Environment, Resources and Development Court that may prejudice the Court hearing.
2. Approves that the report, attachments and discussion for this item will remain confidential and not available for public inspection until the finalisation of the court action and potential subsequent appeals, with the exception of legal professional privilege that will remain confidential.
3. Decline the compromise offer by Development Holdings Pty Ltd at the conciliation conference before the ERD Court (Action No. 23-000053).

The meeting moved out of confidence at 7.59 pm.

OTHER BUSINESS

8.2.1 Status of Current Appeal Matters and Deferred Items

Mr B Brug moved, and the Council Assessment Panel resolved that the information was received.

8.2.2 Assessment Manager Quarterly Report - April to June 2023

Ms C Gill moved, and the Council Assessment Panel resolved that the information was received and noted.

8.2.3 Policy Issues Arising from Consideration of Development Applications

Nil

8.2.4 Future Meetings & Agenda Items

Next meeting scheduled for Tuesday 29 August 2023.

ADOPTION OF MINUTES

Mr R Bateup moved, and the Council Assessment Panel resolved that the Minutes of the Council Assessment Panel Meeting be taken and read as confirmed.

The meeting closed at 8.21pm.

PRESIDING MEMBER: Mr T Mosel

DATE: 25 July 2023
(refer to email approving minutes registered in the City of Salisbury's Record Management System - Document Number 7873555.)

ITEM	8.2.1
	COUNCIL ASSESSMENT PANEL
DATE	29 August 2023
HEADING	Review of Assessment Manager Decision - DA 22035526, 24 O'Grady Drive, Para Hills SA 5096
AUTHOR	Chris Carrey, Team Leader Planning, City Development
SUMMARY	The report seeks the Panel's Review of the Assessment Manager's Decision to Refuse Planning Consent and Land Division Consent to development application 22035526.

RECOMMENDATION

1. The Panel determines to either affirm, vary or set aside the Assessment Manager's decision and substitute with its own decision to development application no. 22035526, for '*Land Division (1 into 2) Conventional. Retain existing dwelling. Carport*' at 24 O'Grady Drive, Para Hills SA 5096.

ATTACHMENTS

This document should be read in conjunction with the following attachments:

1. Attachment 1 - Application to Panel and Submission to Panel
2. Attachment 2 - Application Documents
3. Attachment 3 - Assessment Report
4. Attachment 4 - Decision Notice Form
5. Attachment 5 - Code Rules at Assessment Start

1. BACKGROUND

- 1.1. On 20 July 2023 the Council Assessment Manager Refused Planning Consent and Land Division Consent to development application no. 22035526, for '*Land Division (1 into 2) Conventional. Retain existing dwelling. Carport*' at 24 O'Grady Drive, Para Hills SA 5096.
- 1.2. On 24 July 2023 the Applicant made an application to the Assessment Panel to review the Assessment Manager decision under Section 202(1)(b)(i)(A) of the *Planning, Development and Infrastructure Act, 2016*. On 1 August 2023 the Applicant provided a detailed submission in support of the review (refer Attachment 1).

2. REPORT

- 2.1. Pursuant to section 202(1)(b)(i)(A) of the *Planning, Development and Infrastructure Act 2016*, applicants have the right to apply to a Council Assessment Panel for a review of an Assessment Manager's decision relating to a Prescribed Matter.
- 2.2. The Panel has adopted a policy to guide consideration of such reviews. The Panel's current policy (dated 28 April 2021) provides that:
- 2.2.1. The Panel will consider the Prescribed Matter afresh;
 - 2.2.2. Information, materials and submissions which were not before the Assessment Manager at the time of the decision will not be considered by the Panel;
 - 2.2.3. Except for the supporting submission provided in Attachment 1, the Panel will not receive submissions or addresses from any party;
 - 2.2.4. The Presiding Member may permit Panel Members to ask questions or seek clarification from the Applicant and/or Assessment Manager, in his discretion; and
 - 2.2.5. Pursuant to Regulation 13(2)(b) of the *Planning, Development and Infrastructure (General) Regulations, 2017*, the Panel will exclude the public and staff involved in the prescribed matter from attendance during deliberation.
- 2.3. Amendments to the *Planning, Development and Infrastructure Regulations 2017* in May 2023, now provide that where an Applicant has sought an Assessment Panel review of an Assessment Manager decision, they must be given an opportunity to provide a submission on the review and be provided with opportunity to appear and make submissions at the Panel meeting. (Refer to separate report on the Policy in this Agenda).
- 2.4. Upon review of the matter, the Panel may:
- 2.4.1. Resolve to defer its decision if it considers it requires additional time or information to make its decision; or
 - 2.4.2. Affirm the Assessment Manager's decision; or
 - 2.4.3. Vary the Assessment Manager's decision; or
 - 2.4.4. Set aside the Assessment Manager's decision and substitute with its own decision.
- 2.5. Provided in the attachments are details of the prescribed matter for review by the applicant (Attachment 1), details of the development application (Attachment 2), reasons for the Assessment Manager's decision in the assessment report (Attachment 3).
- 2.6. A copy of the decision notice is provided in Attachment 4 and the relevant Planning and Design Code extract is provided in Attachment 5.

2.7. The following draft resolutions are provided for the Panel's consideration.

Affirm the decision of the Assessment Manager

The Council Assessment Panel resolves to affirm the decision of the Assessment Manager to refuse planning consent and land division consent to development application no. 22035526, for '*Land Division (1 into 2) Conventional. Retain existing dwelling. Carport*' at 24 O'Grady Drive, Para Hills SA 5096.

The proposed development is contrary to the following provisions of the Planning and Design Code:

a) *General Development Policies - Land Division PO 8.2*

Reason: The proposed battle-axe handle and driveway does not sufficiently allow safe and convenient movement.

b) *General Development Policies - Land Division DTS/DPF 8.4(b)*

Reason: The proposed battle-axe handle and driveway will not achieve the minimum soft landscaping dimension of 1m is provided between the driveway and site boundary.

c) *General Development Policies - Land Division PO 8.1*

Reason: The proposed battle-axe allotment does not respond to the prevailing pattern of development in the locality.

d) *General Development Policies - Design in Urban Areas PO 31.2*

Reason: The orientation of the existing dwelling and siting of the proposed battle-axe driveway will negatively impact upon the amenity, outlook and privacy of occupants of the existing dwelling.

e) *General Development Policies - Land Division PO 1.1*

Reason: In not achieving the relevant policy relating to the battle-axe handle, amenity and privacy, it is not considered the allotments are suitable for their intended use.

These departures signify the site is not suitable for a battle-axe style development as proposed. The design proposing a right of way and no fencing will have a negative impact on the amenity and privacy of existing and future residents. The driveway handle will not allow for adequate safe movement while also creating a negative visual impact when viewed from the street.

Vary the decision of the Assessment Manager

2.8. The Council Assessment Panel resolves to vary the decision of the Assessment Manager to refuse planning consent and land division consent to development application no. 22035526, for '*Land Division (1 into 2) Conventional. Retain existing dwelling. Carport*' at 24 O'Grady Drive, Para Hills SA 5096.

A. That the application is at variance with the Planning and Design Code and does not warrant planning consent for the following reasons:

[Reasons to be added by CAP]

Set aside the decision of the Assessment Manager

2.9. The Council Assessment Panel resolves to set aside the decision of the Assessment Manager to refuse planning consent and land division consent to development application no. 22035526, for '*Land Division (1 into 2) Conventional. Retain existing dwelling. Carport*' at 24 O'Grady Drive, Para Hills SA 5096. and substitute the following decision.

- A. The proposed development is not considered to be seriously at variance with the Planning and Design Code.
- B. That Planning Consent is GRANTED in accordance with the plans and details submitted with the application and subject to the following Conditions:

[conditions to be added by CAP]

Attachment 1

Application to Assessment Panel for Review and Supporting Submission

APPLICATION TO ASSESSMENT PANEL¹

Decision Review Request

Prescribed form pursuant to section 203(1) for review of a decision of an Assessment Manager under section 202(1)(b)(i)(A) of the *Planning, Development and Infrastructure Act 2016* (Act)

Applicant details:	Name: Kathryn Ann Hodges [REDACTED] [REDACTED] [REDACTED]
Development Application Number:	22035526
Subject Land:	24 O'Grady Dr Para Hills 5096 <i>[street number, street name, suburb, postcode]</i> <i>[lot number, plan number, certificate of title number, volume and folio]</i>
Date of decision of the Assessment Manager:	20 July 2023
Decision (prescribed matter²) for review by Assessment Panel:	Refusal
Reason for review:	On balance the proposal meets the desired outcomes and performance outcomes of the Planning and Design Code. <i>[Briefly state the facts, circumstances and other relevant matters upon which this application is based. Attach additional pages as necessary]</i>
Do you wish to be heard by the Assessment Panel?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Date:	24/07/2023
Signature:	<input checked="" type="checkbox"/> <i>If being lodged electronically please tick to indicate agreement to this declaration.</i>

¹ This application must be made through the relevant facility on the SA planning portal. To the extent that the SA planning portal does not have the necessary facilities to lodge this form, the application may be lodged—

- (i) by email, using the main email address of the relevant assessment panel; or
- (ii) by delivering the application to the principal office or address of the relevant assessment panel.

² **Prescribed matter**, in relation to an application for a development authorisation, means—

- (a) any assessment, request, decision, direction or act of the Assessment Manager under the Act that is relevant to any aspect of the determination of the application; or
- (b) a decision to refuse to grant the authorisation; or
- (c) the imposition of conditions in relation to the authorisation; or
- (d) subject to any exclusion prescribed by the regulations, any other assessment, request, decision, direction or act of the assessment manager under the Act in relation to the authorisation.

This form constitutes the form of an application to an assessment panel under section 202(1)(b)(i)(A) of the *Planning, Development and Infrastructure Act 2016*, determined by the Minister for Planning and Local Government, pursuant to regulation 116 of the *Planning, Development and Infrastructure (General) Regulations 2017*. Last amended: 31 July 2020



Government of South Australia
Attorney-General's Department



28 July 2023

Attn: Assessment Manager
City of Salisbury
PO Box 8
SALISBURY SA 5108

Subject: Review of Assessment Managers Decision
DA No: 22035526
Development: Land Division (1 into 2) Conventional. Retain existing dwelling. Carport
Site: 24 O'Grady Drive Para Hills

Dear Sir/Madam,

I have been engaged by the applicant to review the determination of Council's Assessment Manager to refuse DA 22035526. The proposal consists of a 1 into 2 Conventional Land Division, retention of existing dwelling and construction of new carport. The division is to be in hammerhead/battle-axe arrangement so that retention of the existing dwelling is possible.

In review of the Decision Notification Form (DNF) and stamped plans as issued by Council on 20 July 2023, I note there are a total of five reasons for refusal. These reasons are as follows:

- a) General Development Policies - Land Division PO 8.2
Reason: The proposed battle-axe handle and driveway does not sufficiently allow safe and convenient movement.
- b) General Development Policies - Land Division DTS/DPF 8.4(b)
Reason: The proposed battle-axe handle and driveway will not achieve the minimum soft landscaping dimension of 1m is provided between the driveway and site boundary.
- c) General Development Policies - Land Division PO 8.1
Reason: The proposed battle-axe allotment does not respond to the prevailing pattern of development in the locality.
- d) General Development Policies - Design in Urban Areas PO 31.2
Reason: The orientation of the existing dwelling and siting of the proposed battle-axe driveway will negatively impact upon the amenity, outlook and privacy of occupants of the existing dwelling.
- e) General Development Policies - Land Division PO 1.1
Reason: In not achieving the relevant policy relating to the battle-axe handle, amenity and privacy, it is not considered the allotments are suitable for their intended use.

1 George Street, Parkside SA 5063

0477 485 844

approved@certifiedpd.au



The refusal reasons also concluded that the above departures signify the site is not suitable for battle-axe development, that the design proposing right of way with no fencing will negatively impact on amenity and privacy, and that the driveway handle will not allow safe and adequate movement and also result in a negative visual impact from the street.

Through careful review of the refusal reasons and each PO and DPF listed within I can provide the following assessment of each reason for refusal:

a) Whilst the handle of the battle-axe allotment (102) is not 4m in width as per the requirement of DPF 8.2, the proposal meets PO 8.2 which requires that safe and convenient movement is achieved by the development. Whilst our client has opted for a unique solution, predominately due to building rules requirements for the existing dwelling, the proposal does in fact provide safe and convenient movement. A driveway surface area of 3m is standard in providing sufficient width for a B85 or even B99 vehicle to pass. By adding a right for foot traffic over portion A within lot 101, the ability to use the handle of lot 102 is exactly the same as if the handle was 4 metres wide.

b) Although soft landscaping is not provided on the outer boundary of lot 102's handle, our client has provided 1.15m of soft landscaping on the outside of lot 101 which will be unfenced and will be visible from the street to ensure that amenity/aesthetic of the driveway handle is acceptable. Although this may not meet the specific requirement of DPF 8.2(b), it clearly meets the intent of PO 8.4 which requires that battle-axe driveways incorporate landscaping to improve appearance. Importantly, in this case vegetation on the western side of the handle will improve amenity for the residents of the dwelling within lot 101 which is much closer to the driveway of lot 102 compared to that of the dwelling at 26 O'Grady Drive.

c) Whilst the proposal is a battle-axe land division which does not meet the DPF 8.1 requirement for no battle-axe development, it can be considered a reasonable development within the context of the locality. The existing streetscape will generally be retained through the proposal to retain the existing dwelling. A well vegetated battle-axe allotment will then ensure that the battle-axe development appropriately responds to the existing neighbourhood context which is the intent of PO 8.1. Perhaps most important is to recognise that the proposal also meets DO 1 which seeks to allow housing development which supports a range of needs. Battle-axe development provides a need within the community and is often used as rental accommodation or as a first home buyers stepping stone into the property market. Battle-axe development contributes to the General Neighbourhood Zone just as much as a detached dwelling, or terrace dwelling. Simply not accepting a battle-axe development due to the fact it is a battle-axe development is not a satisfactory reason for refusal where all other elements of the code are suitably met.

d) PO 31.2 seeks to ensure that new buildings are orientated and sited to ensure that amenity, outlook and privacy of occupants and neighbours is protected. In this case the existing house is not proposed to be altered in any way. This means that a window from the Meals area of the existing dwelling on lot 101 will look into the landscaping strip and through to the driveway handle of lot 102. Whilst anyone passing along the driveway of lot 102 would be able to see into the window of the meals area, this can be likened to any window facing a public road. The concern of visual privacy was not indicated during the assessment by the officer, as such we did not amend our design to reduce any concerns. In review of this concern, our client would be very happy to install obscured glazing to the kitchen window in order to further satisfy this PO. It should also be noted that once mature, vegetation will provide a further visual buffer which will essentially eliminate any privacy concerns.

e) The land division is suitable in meeting PO 1.1. The existing dwelling is wholly contained within allotment 101 and meets the building code requirement to be 900mm off the allotment boundary. Allotment 102 can suitably house a new dwelling and allows vehicle manoeuvring through to the rear via its driveway handle.

Overall the proposal is sufficient in retaining an existing dwelling for continued use as residential accommodation. It will also create the opportunity for a new dwelling at the rear which will not detract from the locality and present a new opportunity for an affordable housing option for renters and lower income buyers. This clearly meets the intent of DO 1. The new allotment will importantly be located close to services such as the nearby shopping centre and bus routes which will ensure that the new site is well connected to meet the needs of any future resident.

Whilst it is acknowledged that the solution to the building code fire separation issue along the handle is unique, it is clear that it achieves the intent of the policies while also ensuring the existing house does not need to be modified or demolished. Retaining a quality dwelling instead of opting for the easier pathway of demolition also ensures we can achieve a much more environmentally sustainable result.

By installing obscure glazing to the window, our proposal will go above and beyond the privacy goals of the code. This also ensures that both allotments can operate independently of each other, and although the small easement will be owned by lot 101, upkeep of the landscaping can be achieved by lot 102. The overall impact to neighbouring properties, the locality and the streetscape is not negative.

The proposal is therefore worthy of support and the decision of the assessment manager to refuse the proposal should be overturned. On balance the proposal is a reasonable and expected development and will provide much needed accommodation options going forward which meet the intent of the zone. If you require anything further please don't hesitate to contact me on via phone on 0477 485 844 or email at approved@certifiedpd.au.

Kind Regards,



Dylan Furnell
Director + Principal Planner
Certified Planning and Development

Attachment 2

Proposal Plans and Supporting Documentation



Product Register Search (CT 6106/604)
 Date/Time 29/09/2022 02:25PM
 Customer Reference
 Order ID 20220929007350



The Registrar-General certifies that this Title Register Search displays the records maintained in the Register Book and other notations at the time of searching.



Certificate of Title - Volume 6106 Folio 604

Parent Title(s) CT 5647/641, CT 5994/793

Creating Dealing(s) RTD 11849858

Title Issued 14/02/2013 Edition 2 Edition Issued 19/10/2017

Estate Type

FEE SIMPLE

Registered Proprietor

KATHRYN ANN HODGES
 OF PO BOX 1032 RESEARCH VIC 3095

Description of Land

ALLOTMENT 404 DEPOSITED PLAN 90616
 IN THE AREA NAMED PARA HILLS
 HUNDRED OF YATALA

Easements

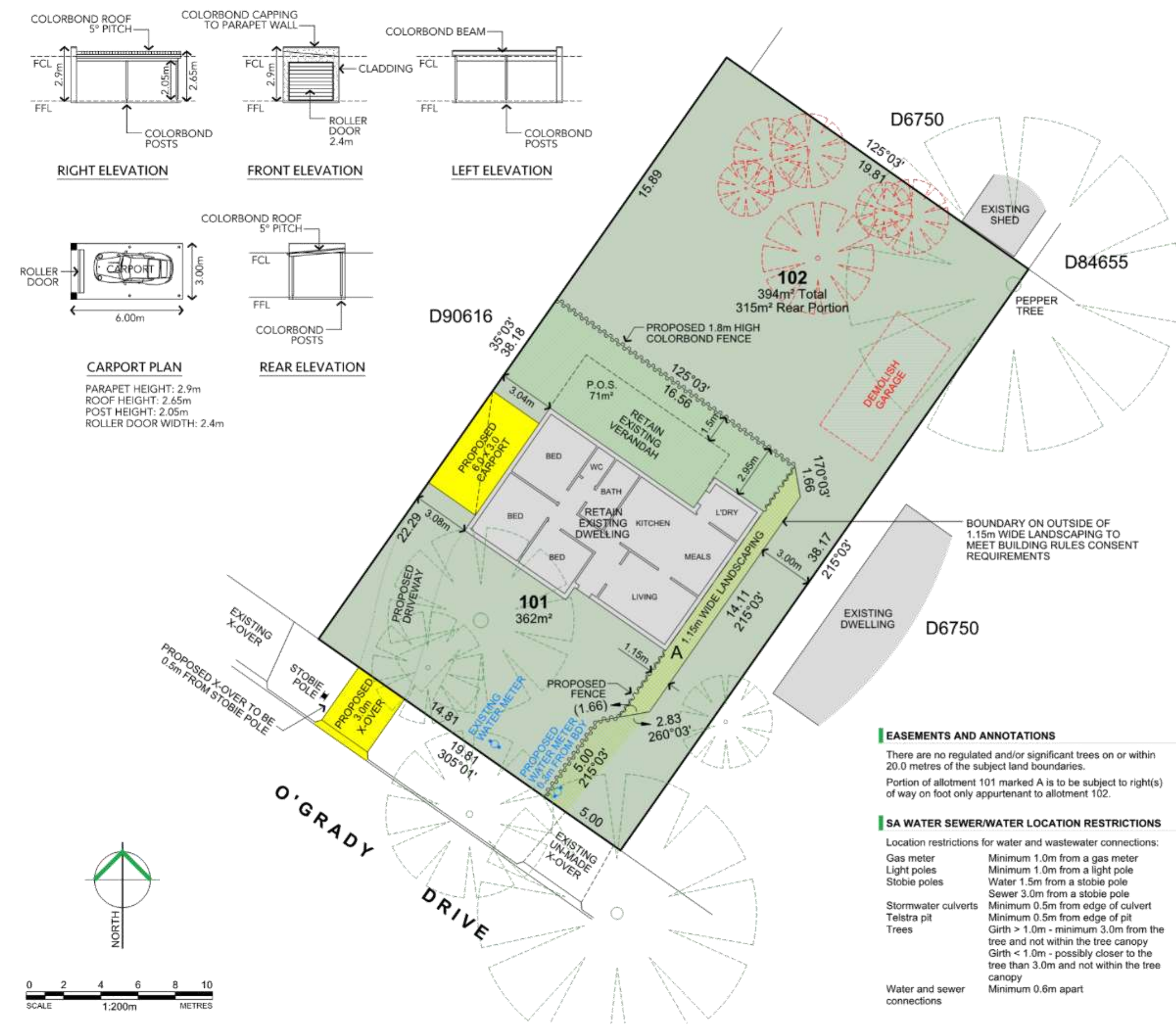
NIL

Schedule of Dealings

Dealing Number	Description
12834272	MORTGAGE TO AUSTRALIA & NEW ZEALAND BANKING GROUP LTD. (ACN: 005 357 522)

Notations

Dealings Affecting Title	NIL
Priority Notices	NIL
Notations on Plan	NIL
Registrar-General's Notes	NIL
Administrative Interests	NIL



LAND DIVISION APPLICATION

361 / D560 / 22

CITY OF SALISBURY

Total area of site: 756m²
Area of reserve: 0m²
No. existing lots: 1
No. proposed lots: 2
No. additional lots: 1

SUBJECT LAND

Allotment 404 in D90616

Site Address: 24 O'GRADY DRIVE
Suburb: PARA HILLS
Hundred: YATALA
Title(s): CT 6106 / 604

ANNOTATIONS

All measurements in metres unless shown otherwise. Do not scale drawing. Original sheet size is A3. All measurements are subject to survey and final plan of division. Always check the current certificate(s) of title for any easement(s) and annotation(s) that affect the within land.

Council is to provide street numbering on the Decision Notification Form to allow new electricity and telecommunication connections to be established as per NBN Co and SA Power Networks.



Owner/client (the developer) is to register their development with NBN Co at nbnco.com.au. Penalties may apply for failure to register your development.



Where existing structures are to be demolished, the developer is to apply to Council for demolition approval. Prior to demolition of a dwelling the electricity and gas services must be abolished. It is recommend to use the Dial Before You Dig service to check all service locations.

Where existing private internal sewer drains and/or water pipes cross proposed boundaries, the developer is to alter the drains and/or pipes such that they do not cross boundaries. As-constructed diagram by a licensed plumber is to be submitted to Office of the Technical Regulator.



Connection contact details
Zaina Stacey Administration
Phone: 08 8379 7979
Email: planning@zainastacey.com

EASEMENTS AND ANNOTATIONS

There are no regulated and/or significant trees on or within 20.0 metres of the subject land boundaries.
Portion of allotment 101 marked A is to be subject to right(s) of way on foot only appurtenant to allotment 102.

SA WATER SEWER/WATER LOCATION RESTRICTIONS

Location restrictions for water and wastewater connections:
Gas meter Minimum 1.0m from a gas meter
Light poles Minimum 1.0m from a light pole
Stobie poles Water 1.5m from a stobie pole
Sewer 3.0m from a stobie pole
Stormwater culverts Minimum 0.5m from edge of culvert
Telstra pit Minimum 0.5m from edge of pit
Trees Girth > 1.0m - minimum 3.0m from the tree and not within the tree canopy
Girth < 1.0m - possibly closer to the tree than 3.0m and not within the tree canopy
Water and sewer connections Minimum 0.6m apart

PLAN VERSIONS

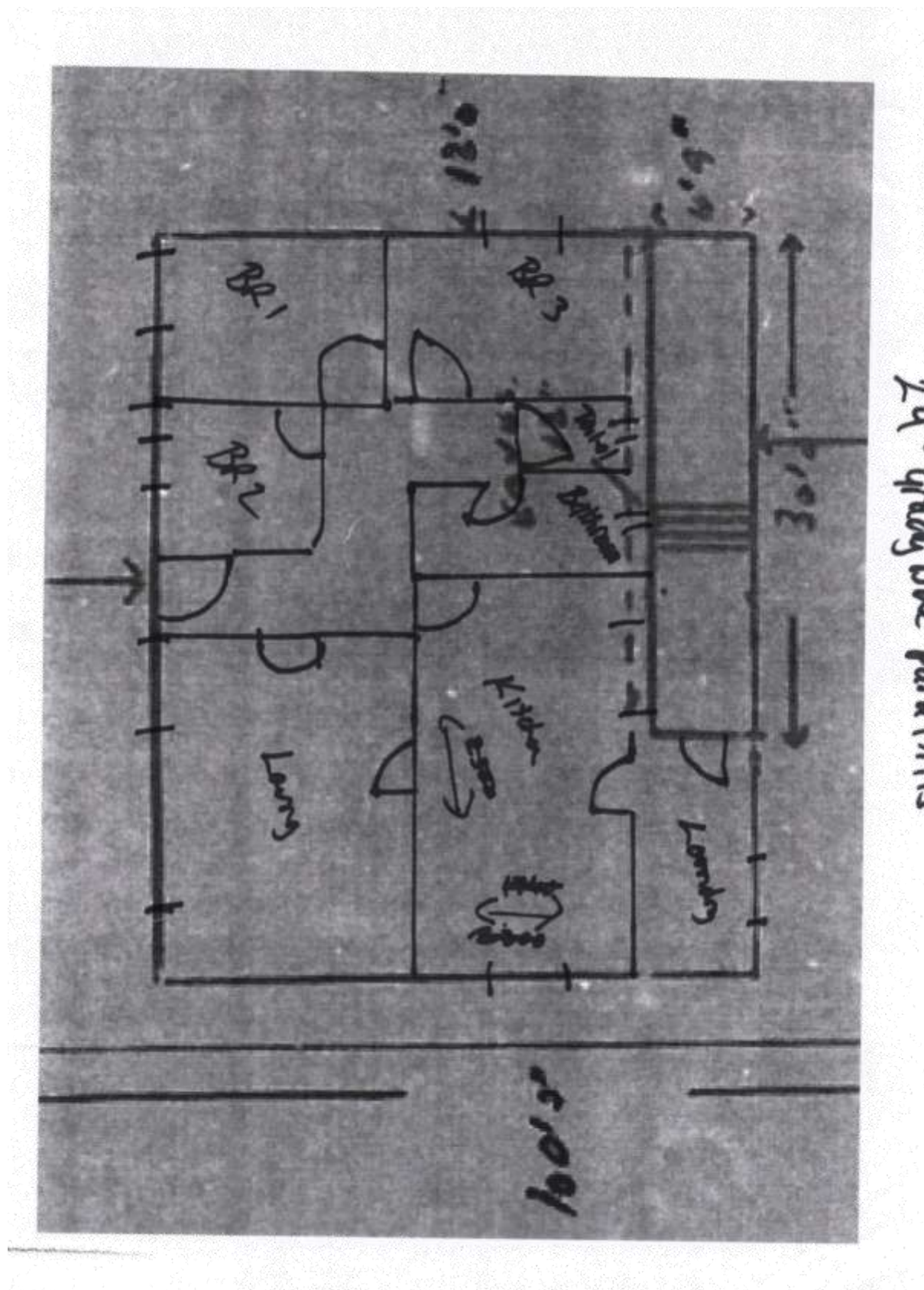
	DRAFTER: DMS
17/10/2022	Issued for planning consent
A 31/10/2022	Various amendments per Council RFI
B 20/03/2023	Existing dwelling internal floor plan added and proposed boundary amended
C 22/06/2023	Landscaping and boundaries amended

zaina stacey.

P 08 8379 7979
E planning@zainastacey.com

PROJECT: 22289





Attachment 3

Assessment Manager – Planning Assessment Report

ASSESSMENT REPORT

DEVELOPMENT NO.:	22035526
APPLICANT:	Zaina Stacey Development Consultants
NATURE OF DEVELOPMENT:	Land Division (1 into 2) Conventional. Retain existing dwelling. Carport
ZONING INFORMATION:	Zones: <ul style="list-style-type: none"> • General Neighbourhood Overlays: <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Affordable Housing • Building Near Airfields • Defence Aviation Area • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy
LODGEMENT DATE:	27 Mar 2023
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Salisbury
PLANNING & DESIGN CODE VERSION:	Planning and Design Code - 16 March 2023 - Version 2023.4

DETAILED DESCRIPTION OF PROPOSAL:

DA number	22035526
Nature of development	Land division 1 into 2 (battle axe) Carport
Location	24 O'grady Dr Para Hills
Site area	765m ²

- Land division

	Lot 101	Lot 102
Site area	362m ²	315m ² (including handle – 394m ²)
Proposed frontage	14.81m	5m
Shape (ie. regular/ irregular)	Regular	Battle-axe

- Existing dwelling and carport

Site Area	362m ²
Building Area	Proposed carport: 18m ²

	Total: 176m ²
Site Coverage	49%
Building Height	N/A - Existing
Building Style	N/A - Existing
Materials and Colours	N/A - Existing
Carport Post Height	2.05m
Carport Total Height	2.9m (parapet wall)
Carport Building Style	Flat roof carport
Carport Materials and Colours	Posts: metal – no colour provided Roof: Colorbond – no colour provided Parapet wall: Concrete – no colour provided
Boundary Length	6m
Any other elements e.g. retaining wall / fence?	N/A

The proposed development is a land division in the form of a battle-axe configuration. This involves the retention of the existing single storey dwelling that is of older stock on the front allotment. Demolition of an existing garage will be required and relocation of the existing car parking, along with construction of a new driveway and access point to the western side of the existing dwelling. This involves the construction of a carport which forms part of this application and as an element on its own is classified as Accepted Development.

The total site area to be divided is 765m² with a 19.81m frontage to O'Grady Drive. The front allotment (lot 101) retains the existing dwelling and is proposed to be 362m² with a 14.81 metre frontage, while the rear allotment (lot 102) is proposed to be 315m² (or 394m² including handle) and has a 5 metre frontage to O'Grady Drive.

Lot 101 retains 71m² of POS and adequate soft landscaping. It is to be provided with two car parks, one of which will be undercover. In regards to setbacks, the eastern boundary adjoining the battle axe driveway is proposed to be 1.15m from the dwelling wall. A right of way on foot only appurtenant to allotment 102 is proposed between the dwelling wall and the boundary. This is proposed to be wholly landscaped and no fencing is proposed on the driveway side of this area. The rear boundary setback is proposed to be reduced to a minimum of 2.95 metres for approximately 20% of the rear boundary before extending to 4.94 metres.

The developable area of lot 102 has dimensions of 19.81m x 15.89m. The handle of the battle extends for approximately 22 metres. The 5 metre wide frontage extends in from the primary street boundary for 5 metres before reducing to 3 metres in width for the remainder of the handle.

New fencing is proposed between the allotments from the front boundary to the existing dwelling building line and will partially involve fencing wholly on the lot 101 allotment restricting direct access to residents of lot 101 to access the right of way section in order to conduct maintenance.

LOCATION OF DEVELOPMENT:

Location reference: 24 O'GRADY DR PARA HILLS SA 5096

Title ref.: CT 6106/604

Plan Parcel: D90616 AL404

Council: CITY OF SALISBURY

The site is located at 24 O'Grady Drive Para Hills (figure 1). The locality (figure 2) has an existing character that is low density residential in nature with a mix of old and new housing stock. The allotment, located in the General Neighbourhood Zone is typified by typical medium allotment sizes ranging from 600m² – 800m² with some narrow infill style allotments as an emerging trend. The broader locality is consistent with these forms of development while also containing an activity centre 150m east of the development site which includes Para Hills Shopping Centre and Para Hills Community Hub, while a bus route runs along Kesters Road with access approximately 200m away.



Figure 1: Contextual Map

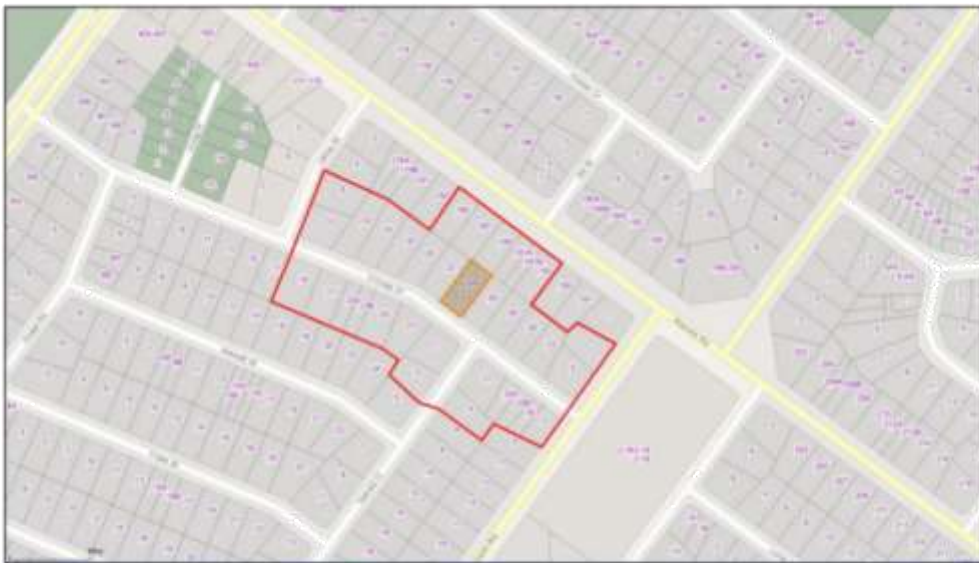


Figure 2: Locality Map



Figure 3: Allotment frontage



Figure 4: Allotment frontage near approximate location of new driveway

KEY ISSUES

The key issues for assessment of this proposal are as follows:

- Retention of existing dwelling
- Suitability of allotment
- Battle-axe handle
- Amenity concerns

The proposal has satisfactorily addressed the key issues as follows:

- Retention of existing dwelling

The proposed development involves the retention of the existing single storey dwelling that is of older stock. The proposed division would require the relocation of the existing car parking to the western side of the dwelling. The existing dwelling is proposed to retain the majority of relevant DPF provisions with the exception of the required rear setback. This is reduced to 2.95 metres for approximately 20% of the rear boundary before extending to 4.94 metres. This reduced setback is located adjacent the proposed battle-axe allotment handle and is considered to have minimal impact on the proposed amenity of any prospective dwelling due to this location being a potential garage, or turnaround location.

- Suitability of allotment

The proposed battle-axe allotment is suitable in site area and dimensionally for a residential use. Contextually, the locality is low density residential with some infill intruding. The rear portion is 315m² and maintains dimensions of 15.89m x 19.81m exclusive of the handle.

The proposal has not satisfactorily addressed the key issues as follows:

- Battle-axe handle

While dimensionally, the developable portion of the battle-axe allotment is suitable for the intended purpose, the handle of the battle-axe development has a minimum width of 3 metres. This has an additional 1.15 metre right of way including landscaping abutting the existing dwelling, of which the eave of the existing dwelling extends 450mm over this right of way.

- o Having sought advice from Council's Development Engineer, a driveway width of 3 metres fails to comply with Australian Standard AS 2890.1:2004 (Clause 2.6.1 and 2.5.2). While this standard allows for a minimum driveway width of 3 metres to service a single dwelling, the standard requires an additional 300mm on each side of the driveway to account for a hard structure such as solid fence (or dwelling wall), which are considered to be 'barriers' given they each have a height exceeding 150mm. On this basis, a minimum driveway width of 3.6 metres would be required to satisfy this standard for a functional driveway, excluding the requirement for landscaping. In addition, a fence on the outer side of the right of way would not constitute development. Subsequently, the driveway has the potential to be located hard against fences which will not achieve Land Division PO 8.2 in allowing for safe and convenient movement.

<p><i>PO 8.2</i></p> <p>Battle-axe development designed to allow safe and convenient movement.</p>	<p><i>DTS/DPF 8.2</i></p> <p>The handle of a battle-axe development:</p> <ol style="list-style-type: none"> 1. has a minimum width of 4m <p>or</p> <ol style="list-style-type: none"> 2. where more than 3 allotments are proposed, a minimum width of 5.5m.
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- o The proposed handle will be fenced on one side and has the potential to be lined by fencing on both sides and the reduced width represents a significant departure from the Planning and Design Code guidelines. The proposal will be at odds with the desired spacious landscape character and will result in various streetscape consequences and impact on resident amenity. Such features do not allow for the expected landscaping on such development and accordingly will have a negative impact to amenity and appearance expected to be provided with a battle-axe 'handle', while also having a negative visual impact when viewed from the street. This does not achieve Land Division DTS/DPF 8.4(b).

<i>PO 8.4</i> Battle-axe or common driveways incorporate landscaping and permeability to improve appearance and assist in stormwater management.	<i>DTS/DPF 8.4</i> Battle-axe or common driveways satisfy (a) and (b): a. are constructed of a minimum of 50% permeable or porous material b. where the driveway is located directly adjacent the side or rear boundary of the site, soft landscaping with a minimum dimension of 1m is provided between the driveway and site boundary (excluding along the perimeter of a passing point).
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- Neighbourhood context

The locality is developed exclusively with dwellings, principally detached dwellings on allotments that address the street. While it is considered that a battle-axe style division would not be an unreasonable type of development within the General Neighbourhood Zone generally, the prevailing pattern of infill development in the immediate locality is a more 'standard' 1 into 2 land division with both allotments addressing the street such as 23A and 23B O'Grady St. The proposed development, in not achieving other relevant POs could not be considered to have responded to the existing neighbourhood context as per Land Division PO 8.1.

<i>PO 8.1</i> Battle-axe development appropriately responds to the existing neighbourhood context.	<i>DTS/DPF 8.1</i> Allotments are not in the form of a battle-axe arrangement
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- Amenity concerns

The location of the driveway for the battle-axe allotment adjoins the meals / living area of the existing dwelling including a large window. The intent of the right of way is understood to be that fencing is not proposed separating the driveway, landscaping and existing dwelling. This is considered to compromise the amenity of the occupants of the existing dwelling as a result of potential vehicle noise, and privacy / overlooking from the driveway. Accordingly, it is considered not to have achieved Design in Urban Areas PO 31.2.

<i>PO 31.2</i> The orientation and siting of buildings minimises impacts on the amenity, outlook and privacy of occupants and neighbours.	<i>DTS/DPF 31.2</i> None are applicable.
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The detailed assessment is contained in the Appendix of this report.

ASSESSMENT SUMMARY

While it is noted the developable area of lot 102 would be suitable for a residential use, the constricted handle of the allotment raised concerns that depart from a number of the provisions of the Planning and Design Code. These relate to functionality, safe movement, streetscape and visual amenity, residential amenity and privacy. In particular, the battle-axe handle is of a width that does not achieve the minimum requirements, subsequently impacting the ability to provide adequate safe movement. In addition, the design does not allow adequate landscaping adjoining the external boundary of the allotment creating a negative visual impact when viewed from the street. The attempt at addressing this via a right of way results in the driveway handle adjoining living spaces of the existing dwelling and negatively impacting the amenity and privacy of existing and future residents.

It is acknowledged during the assessment process, several amendments were made in an attempt to address Council's concerns. However, the configuration of the allotment combined with the intent to retain the existing dwelling resulted in none achieving a satisfactory outcome, or when amended raised other concerns, in turn highlighting the allotment is not suitable for such a development.

Given the nature and extent of the departures from the Planning and Design Code, the proposed development does not warrant Planning Consent.

RECOMMENDATION

Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*, and having undertaken an assessment of the application against the Planning and Design Code, the application is not seriously at variance with the provisions of the Planning and Design Code.

However, when assessed against the relevant provisions of the Planning and Design Code and having regard to the context of the locality and the nature of the proposed development, the proposal does not sufficiently accord with the relevant provisions of the Code. Therefore, the proposed development does not warrant Planning Consent.

Based on an assessment against the relevant provisions of the Planning and Design Code, it is recommended that Planning Consent is **REFUSED** for application 22035526 for the following reasons:

The proposed development is contrary to the following provisions of the Planning and Design Code:

- a. General Development Policies - Land Division PO 8.2

Reason: The proposed battle-axe handle and driveway does not sufficiently allow safe and convenient movement.

- b. General Development Policies - Land Division DTS/DPF 8.4(b)

Reason: The proposed battle-axe handle and driveway will not achieve the minimum soft landscaping dimension of 1m is provided between the driveway and site boundary.

- c. General Development Policies - Land Division PO 8.1

Reason: The proposed battle-axe allotment does not respond to the prevailing pattern of development in the locality.

d. General Development Policies - Design in Urban Areas PO 31.2

Reason: The orientation of the existing dwelling and siting of the proposed battle-axe driveway will negatively impact upon the amenity, outlook and privacy of occupants of the existing dwelling.

e. General Development Policies - Land Division PO 1.1

Reason: In not achieving the relevant policy relating to the battle-axe handle, amenity and privacy, it is not considered the allotments are suitable for their intended use.

These departures signify the site is not suitable for a battle-axe style development as proposed. The design proposing a right of way and no fencing will have a negative impact on the amenity and privacy of existing and future residents. The driveway handle will not allow for adequate safe movement while also creating a negative visual impact when viewed from the street.

OFFICER MAKING RECOMMENDATION

Name	Brian Ferguson
Title	Development Officer - Planning
Date	20/07/2023

DECISION AUTHORITY

Relevant Authority	Assessment Manager at City of Salisbury
Consent	Planning Consent
Date	20/07/2023

CONSENT TYPE REQUIRED:

Planning and Land Division Consent

CATEGORY OF DEVELOPMENT:

- PER ELEMENT:**

Land division: Code Assessed - Performance Assessed
 Carport or garage
 Carport: Accepted
 Land division

- OVERALL APPLICATION CATEGORY:**

Code Assessed - Performance Assessed

- REASON**

P&D Code

PUBLIC NOTIFICATION

No

- REASON**

The following table identifies, pursuant to section 107(6) of the *Planning, Development and Infrastructure Act 2016*, classes of performance assessed development that are excluded from notification. The table also identifies any exemptions to the placement of notices when notification is required.

Class of Development	Exceptions
3. Any development involving any of the following (or of any combination of any of the following): c. Dwelling	Except development that: <ol style="list-style-type: none"> does not satisfy General Neighbourhood Zone DTS/DPF 4.1 or involves a building wall (or structure) that is proposed to be situated on (or abut) an allotment boundary (not being a boundary with a primary street or secondary street or an excluded boundary) and: <ol style="list-style-type: none"> the length of the proposed wall (or structure) exceeds 11.5m (other than where the proposed wall abuts an existing wall or structure of greater length on the adjoining allotment) or the height of the proposed wall (or post height) exceeds 3m measured from the top of footings (other than where the proposed wall (or post) abuts an existing wall or structure of greater height on the adjoining allotment).

5. Any development involving any of the following: (b) Land division	None specified
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The proposed carport has a length on boundary of 6m which is less than the maximum dimension of 11.5m quoted above and a post height 2.9m which is less than the maximum dimension of 3m quoted above. The proposed carport also satisfies General Neighbourhood Zone DTS/DPF 4.1.

Land division is an exempt form of development for the purposes of notification.

Accordingly, the application was not subject to public notification.

AGENCY REFERRALS

- SPC Planning Services
Advice: No objection, with comments. Conditions attached.
- South Australian Water Corporation
Advice: No objection, with comments. Conditions attached

INTERNAL REFERRALS

- Development Engineering - Conner Coates – meeting 14 June 2023
Meeting in relation to Australian Standard AS 2890.1:2004 (Clause 2.6.1 and 2.5.2). Connor explained the previous advice given on this standard is still relevant and applicable in this circumstance.

PLANNING & DESIGN CODE POLICIES

As per Code extracts:

- CodeRules-Landdivision-Valuation440723101__code_performance-AssessmentStart-5176790.pdf
- CodeRules-Carport-Valuation440723101__accepted-AssessmentStart-5176798.pdf

PLANNING ASSESSMENT

INFORMATION REQUIREMENTS

Details Required	Provided
Standard Requirements	
Land Division Plan <ul style="list-style-type: none"> - All allotments, roads, streets, thoroughfares and reserves into which the land is proposed to be divided, marked with distinctive numbers, names or symbols; - Measurements and areas of the proposed allotments and reserves; - Names, widths and alignments of abutting and existing roads, streets and thoroughfares and existing roads, streets or thoroughfares intersecting or forming a junction therewith; - Former subdivisional and section boundaries and number of those subdivisions and sections all shown by broken lines; 	✓

<ul style="list-style-type: none"> - North point and scale of plan; - Names of each owner of land and agent; - References to the volumes and folios of all certificates of title relating to the land proposed to be divided; - Heading which contains a description of the land being divided by reference to any relevant Lands Titles Registration Office or General Registry Office plan showing the block or allotment number, section number and name of the Hundred; - The name of the area assigned pursuant to the <i>Geographical Names Act 1991</i>; - Position of any buildings intended to be retained on the land and the approximate position of any buildings which are to be demolished or removed; - All existing registered easements; - All relevant topographic features; - The location and gradient of any driveway or proposed driveway and if relevant, its location in relation to an existing or proposed vehicle access point under Section 221 of the <i>Local Government Act 1999</i>; - The location of any regulated tree on the site or on adjoining land, including details of the species of tree and trunk circumference. 	
Site Contamination (where application proposes change in the use of land to a more sensitive use or in the case of land division, the application proposes a sensitive use) <ul style="list-style-type: none"> - Applicant Declaration form; and - Preliminary site investigation report; and - Copy of the Certificate of Title; and - Site contamination audit report prepared in relation to the land. 	N/A
Certificate of Title	✓

OTHER CONSIDERATIONS

	Response	Additional Comments
Easements / easements required	Nil identified on Deposited Plan	
Easement anomaly / unprotected asset	Nil identified on Geocortex	
LMA / Encumbrance	None	
Powerline clearance / conflict	Declaration completed on the Portal	
Corner cut-off required	No	
Street trees impacted by division	None	
Conflict with street infrastructure	Stobie pole	Possible conflict with stobie pole and new proposed driveway. Initial indications are a 500mm clearance.
Driveway access (existing driveways or new driveway required)	One modified access proposed, one new access proposed	
Buildings to be demolished/cleared/fire rating issues to allotments	Shed to be demolished	
Stormwater Management – drains to street?	Drainage not shown	The slope of the land is towards the northwest. To be addressed via note should the application be approved

Planning Assessment	Deemed to Satisfy Requirement	Assessment	
		Met	Comment only when not met
1. Reflects Site boundaries of approved development			
Reflects the site boundaries illustrated and approved in an existing development authorisation under the <i>Development Act 1993</i> or <i>Planning, Development and Infrastructure Act 2016</i> where the allotments are used or are proposed to be used solely for residential purposes.		N/A	
2. Combined Land Division application with deemed to satisfy dwellings			
Is proposed as part of a combined land division application with deemed-to-satisfy dwellings on the proposed allotments		N/A	
3. Satisfies all of the following:			
1. No more than 5 additional allotments are created;		✓	1 additional allotment
2. Each proposed allotment has a minimum site area of 300m ² and frontage of 9m;		Not met	Battle-axe allotment has 5m frontage. Achieves battle-axe DPF requirement
3. Each proposed allotment has a slope less than 12.5% (1-in-8);		✓	Approximately 1 in 19
4. There are no Regulated Trees on or within 20m of the subject land, with the distance measured from the base of the trunk of the tree (or the nearest trunk of the tree) to the subject land;		✓	
5. The division does not involve creation of a public road;		✓	
6. Vehicle access from a public road can be provided to all proposed allotments which satisfies Design in Urban Areas DTS/DPF 23.3, 23.4 and 23.6, and would be located wholly on one side of the allotment, or located no more than 1m from the side boundary alignment;		✓	
7. No allotments are in a battle-axe configuration;		Not met	Battle-axe proposed
8. Each proposed allotment is of a size and dimension capable of containing a rectangle 9m in width and 15m in depth.		✓	

PERFORMANCE ASSESSMENT

	Response	Additional Comments
General Neighbourhood Zone		
<i>Allotments/sites created for residential purposes are of suitable size and dimension to accommodate the anticipated dwelling form and remain compatible with the pattern of</i>	✓	Battle-axe allotment – Proposed allotment is suitable for a residential use. Contextually, the locality is low density residential with some infill intruding. It is located 150m from the nearest activity centre in Para Hill Shipping Centre and approximately 250m from Para Hills Community Centre.

<i>development in a low-rise and predominantly low-density neighbourhood, with higher densities closer to public open space, public transport stations and activity centres.</i>		
<i>Development creating new allotments/sites in conjunction with retention of an existing dwelling ensures the site of the existing dwelling remains fit for purpose.</i>	✓	Refer dwelling checklist
<i>Land division results in sites that are accessible and suitable for their intended purpose.</i>	Not met	The proposed battle-axe allotment is suitable in site area and dimensionally for a residential use. Contextually, the locality is low density residential with some infill intruding. The rear portion is 315m ² and maintains dimensions of 15.89m x 19.81m exclusive of the handle.
General Policies – Land Division		
<i>Allotments suitable for their intended use</i>	✓	Allotment is 19.81m x 15.89m or 314.78m ² . This is considered appropriate for residential. However, stormwater management will need to be addressed in notes should Planning Consent be granted
<i>Land division pattern that minimises earthworks / retaining</i>	✓	Considered satisfactory
<i>Allotments facing public open space / streets maximised</i>	Not met	Battle-axe development
<i>Land division integrated with site features, adjacent land uses, transport network and infrastructure</i>	✓	
<i>Access to an all-weather public road</i>	✓	
<i>Land division for residential purposes facilitates solar access through allotment orientation</i>	✓	
General Policies – Land Division (Battle-Axe Development)		
<i>Battle-axe development appropriately responds to the existing neighbourhood context</i>	<i>Allotments are not in the form of a battle-axe arrangement.</i>	Not met Allotment is in the form of a battle-axe. The locality is developed exclusively with dwellings, principally detached dwellings on allotments that address the street. While it is considered that a battle-axe style division would not be an unreasonable type of development within the General Neighbourhood Zone generally, the prevailing pattern of infill

			development in the immediate locality is a more 'standard' 1 into 2 land division with both allotments addressing the street such as 23A and 23B O'Grady St. The proposed development, in not achieving other relevant POs could not be considered to have responded to the existing neighbourhood context as per Land Division PO 8.1 - Battle-axe development appropriately responds to the existing neighbourhood context.
<i>Battle-axe development designed to allow safe and convenient movement</i>	<i>The handle of a battle-axe development:</i> <ul style="list-style-type: none"> - <i>Minimum width of 4m; or</i> - <i>> 3 lots, minimum width of 5.5m.</i> 	<i>Not met</i>	<p>Minimum standalone handle provided of 3m with 1.15m right of way including landscaping abutting existing dwelling side of boundary, of which the eave of the existing dwelling extends 450mm over this right of way.</p> <p>A driveway width of 3 metres fails to comply with Australian Standard AS 2890.1:2004 (Clause 2.6.1 and 2.5.2). While this standard allows for a minimum driveway width of 3 metres to service a single dwelling, there should also be an additional 300mm on each side of the driveway to account for a hard structure such as solid fence (or dwelling wall), which are considered to be 'barriers' given they each have a height exceeding 150mm. On this basis, a minimum driveway width of 3.6 metres would be required to satisfy this standard for a functional driveway, excluding the requirement for landscaping. In addition, a fence on the outer side of the right of way would not constitute development. Subsequently, the driveway has the potential to be located hard against fences which will not achieve Land Division PO 8.2 in allowing for safe and convenient movement.</p>

<i>Battle-axe allotments and/or common land are of a suitable size and dimension to allow passenger vehicles to enter and exit and manoeuvre within the site in a safe and convenient manner.</i>	<i>Battle-axe development allows a B85 passenger vehicle to enter and exit parking spaces in no more than a three-point turn manoeuvre.</i>	✓	No dwelling shown.
<i>Battle-axe or common driveways incorporate landscaping and permeability to improve appearance and assist in stormwater management.</i>	<i>Battle-axe or common driveways satisfy (a) and (b):</i> <ul style="list-style-type: none"> - <i>Are constructed of at least 50% permeable or porous material;</i> - <i>Where the driveway is located directly adjacent the side or rear boundary of the site, soft landscaping with a minimum dimension of 1m is provided between the driveway and site boundary.</i> 	Not met	No 1m strip provided The proposed development will result in the driveway abutting fencing on the eastern side boundary. Such features do not allow for the expected landscaping, amenity and appearance expected to be provided with a battle-axe 'handle', while also having a negative visual impact when viewed from the street and and subsequently does not achieve Land Division DPF 8.4(b) - Battle-axe or common driveways, where the driveway is located directly adjacent the side or rear boundary of the site, soft landscaping with a minimum dimension of 1m is provided between the driveway and site boundary.

Existing Dwelling / Proposed Carport**OVERLAYS**

<i>Overlay</i>	<i>Referral Body</i>	<i>Referral/Overlay Trigger</i>	<i>Overlay Requirements</i>	<i>Met/Applicable</i>
Aircraft Noise	Nil	- Sensitive use within the overlay	- Development not located within ANEF value of 30 or more	Met
Airport Building Heights (Regulated)	Parafield Airport	- Development within Area A or > 15m in height	- Development not located within Area A or otherwise < 15m	Met

			maximum height	
Future Local Road Widening, Future Road Widening	Commissioner of Highways	- That within or that encroaches within Future Road Widening Area (other than where DTS criteria is met)	<ul style="list-style-type: none"> - Building work is wholly outside the 6m Consent Area, the C type requirement or strip requirement under the Metropolitan Adelaide Road Widening Plan - Building work is located wholly outside land within the front setback prescribed by the Overlay 	N/A
Hazards (Flooding), (Flooding – General), (Flooding – Evidence Required)	Nil	- Development within the Overlay	<ul style="list-style-type: none"> - Buildings are 300mm above height of a 1% AEP flood event - Filling does not exceed 300mm above existing ground level and is not more than 5m wide - Development located outside of the 5% AEP principal flow path 	N/A
Limited Dwelling	Nil	- New dwelling within Overlay	- New dwelling replaces an existing dwelling within the same lot	N/A
Regulated and Significant Tree	Nil	- Development involving Tree	- Conservation of Regulated	No Trees

		Damaging Activity	and Significant Trees and mitigate tree loss	
State Heritage Place	Heritage SA	- Residential development materially affected context of Place	- Development maintains heritage and cultural values of State Heritage Place	N/A
Stormwater Management	Nil	- Residential development	- Connect to rainwater tank, 60% of roof area - Connect to one toilet and either laundry or hot water service - Minimum total capacity in accord with Table 1 - Detention includes 20-25mm diameter orifice	✓
Urban Transport Routes, Major Urban Transport Routes	Commissioner of Highways	- New access - Change in nature of movement through access	- No more than 1 access - Vehicles enter/exit in a forward direction - Driveway width between 3m and 4m (at site boundary)	N/A
Urban Tree Canopy	Nil	- Residential development	- $< 450\text{m}^2 = 1$ small tree - $450\text{m}^2\text{--}800\text{m}^2 = 1$ medium or 2 small trees - $> 800\text{m}^2 = 1$ large tree, 2 medium trees	N/A

			or 4 small trees	
Site Contamination	EPA	- Change in the use of land to a more sensitive use	- Purpose of Referral – To provide direction to the relevant authority on whether they must consider the advice of either a site contamination consultant or site contamination auditor regarding site suitability	N/A

OTHER CONSIDERATIONS

	Response	Additional Comments
Easements	Nil identified on Deposited Plan	
Easement Anomaly / Unprotected Asset	Nil identified on Geocortex	
LMA / Encumbrance	N/A	
Powerline clearance / conflict	Declaration completed on the Portal	

DEEMED TO SATISFY ASSESSMENT

Planning Assessment	Deemed to Satisfy Requirement	Assessment	
		Me t	Comment only when not met
Site / Allotment Area			
Site area	300m ²	✓	362m ²
Site / Allotment Frontage			
Frontage	9m	✓	14.81m
Site Coverage			
	Does not exceed 60%	✓	49%
Building Height			
No greater than	2 building levels and 9m	✓	Dwelling is an existing single storey Carport: <ul style="list-style-type: none">• Parapet wall – 2.9m

			<ul style="list-style-type: none">• Roof – 2.65m
Wall height	< 7m (except in case of a gable end)	✓	Dwelling is an existing single storey Carport post: 2.05m
Primary Street Setback			
Existing buildings on both adjacent sites	No more than 1m in front of average setback to the building line	N/A	Dwelling already existing
Only one existing building on adjoining site	No more than 1m in front of the setback of that building		
No existing buildings on adjoining sites	Not less than 5m where no building exists on an adjoining site		
Secondary Street Setback			
At least 900mm		N/A	
OR			
If dwelling on any adjoining allotment is closer to secondary street than 900mm, the distance of that dwelling			
Side Boundary Walls			
Boundary wall adjoins or abuts a boundary wall of a building on adjoining land for the same or lesser length		✓	Dwelling (abutting proposed handle driveway): <ul style="list-style-type: none">• Length: Approx 8.5m – N/A%• Height: Approx. 2.7m Carport: <ul style="list-style-type: none">• Length: 6m – 26.92%• Height:<ul style="list-style-type: none">○ Parapet wall – 2.9m○ Roof – 2.65m
Side boundary wall does not exceed 3m in height, 11.5m in length, does not exceed 45% of length of boundary, encroach within 3m of any other existing or proposed boundary wall on the subject site			
Side Boundary Setback			
Wall height up to 3m	At least 900mm	✓	Eastern – Dwelling wall on boundary Western – Carport on boundary
Wall height above 3m	At least 900mm plus 1/3 of wall height above 3m	N/A	
Wall height above 3m facing a southern side boundary	At least 1900mm plus 1/3 of wall height above 3m	N/A	
Rear Boundary Setback			

Site is less than 301m ²	<ul style="list-style-type: none"> - Ground floor – 3m - Any other floor – 5m 	N/A	
Site is 301m ² or more	<ul style="list-style-type: none"> - Ground Floor – 4m - Any other floor – 6m 	No t m e t	<p>2.95m (for approx. 3.6m) Extending to 4.9m elsewhere.</p> <p>This reduced setback is located adjacent the proposed battle-axe allotment handle and is considered to have minimal on the proposed amenity of any prospective dwelling due to this location being a potential garage, or turnaround location. Considered appropriate.</p>
Excavation and Filling			
	≤1m of vertical cut	?	Site slopes from east to west. No cut and or fill provided. Applicant to be advised that filling of the site will not be appropriate.
	≤1m of vertical fill	?	Site slopes from east to west. No cut and or fill provided. Applicant to be advised that filling of the site will not be appropriate.
	≤2m of combined vertical cut and fill	?	Site slopes from east to west. No cut and or fill provided. Applicant to be advised that filling of the site will not be appropriate.
Driveways and Access Tracks			
Do not have a gradient exceeding 25% (1 in 4) at any point	Are constructed with an all-weather trafficable surface	✓	<p>Site is relatively flat north to south. Driveway is approximately 1:127.</p> <p>Surface to be conditioned as part of land division</p>
Overlooking / Visual Privacy			
Upper level windows facing side or rear boundaries shared with a residential use in a neighbourhood type zone:	<ul style="list-style-type: none"> - Permanently obscured to a height of 1.5m above FFL - Are fixed or not capable of being opened by more than 125mm - Have sill heights greater than or equal to 1.5m above FFL - Incorporate screening with a maximum of 25% openings, permanently fixed no more than 500mm from the 	N/A	

<p>window surface and sited adjacent to any part of window less than 1.5m above FFL</p> <p>One of the following is satisfied:</p> <ul style="list-style-type: none"> - The longest side of the balcony or terrace will façade a public road, public road reserve or public reserve that is at least 15m wide in all places faced by the balcony or terrace <p>OR</p> <ul style="list-style-type: none"> - All sides of balconies or terraces on upper building levels are permanently obscured by screening with a maximum 25% transparency / openings fixed to a minimum height of: <ol style="list-style-type: none"> 1. 1.5m above FFL where the balcony is at least 15m from the nearest habitable window of a dwelling on adjacent land <p>OR</p> <ol style="list-style-type: none"> 2. 1.7m above FFL in all other cases. 	N/A	
Front Elevations and Passive Surveillance		
<p>Has at least 1 window facing primary street from a habitable room that has a minimum internal room dimension of 2.4m</p> <p>Has an aggregate window area of at least 2m² facing the primary street</p> <p>Dwellings with a frontage to a public street have an entry door visible from the primary street boundary</p>	N/A	Dwelling already existing
Outlook and Amenity		
<p>Living room incorporates a window with an external outlook of the street frontage, private open space, public open space or waterfront areas.</p>	N/A	Dwelling already existing
External Appearance		
<p>Each dwelling includes at least 3 of the following design features facing a primary street and at least 2 design features where facing any other public road or common driveway:</p> <ol style="list-style-type: none"> 1. Minimum 30% of building wall is setback 300mm from building line 2. Porch or portico projects at least 1m from building wall 3. Balcony projects from building wall 4. Verandah projects at least 1m from building wall 5. Eaves of minimum 400mm width extend along width of façade 6. Minimum 30% of window of upper level projects forward of lower level primary building line by at least 300mm 7. Minimum of two different materials or finishes, with maximum of 80% of building elevation in a single material or finish 	N/A	Dwelling already existing
Private Open Space (Dwelling Site Area in m²)		

<302m ² ≥301m ²	Maintains private open space as follows: 24m ² 60m ² Includes 16m ² directly accessible from a living room with a minimum dimension 3m	✓	Approximately 71m ²
Soft Landscaping			
<150m ² 150m ² -200m ² 201m ² -450m ² >450m ²	Achieves soft landscaping as follows: 700mm minimum dimension (10%) (15%) (20%) (25%) At least 30% of any land between primary street boundary and primary building line	✓	Required: 71.8% - 20% Provided: Approx. 130m ² – 36.2%
Residential Car Parking			
Dwelling with 1 bedroom	1 space per dwelling	N/A	
Dwelling with 2 or more bedrooms	2 spaces per dwelling, 1 of which is to be covered	✓	2 available, 1 undercover
Single width car parking spaces	<ul style="list-style-type: none"> < length of 5.4m < width of 3m < garage door width 2.4m 	✓	L – 6m W – 3m GD – 2.4m
Double width car parking spaces	<ul style="list-style-type: none"> < length of 5.4m < width of 5.4m < garage door width 2.4m per space 	N/A	
Uncovered parking spaces have:	<ul style="list-style-type: none"> Minimum length of 5.4m Minimum width of 2.4m Minimum width between centre line of space and any fence, wall or obstruction of 1.5m 	✓	
Garages and Carports			
No part of garage or carport in front of any part of building line		✓	Met
Setback > 5.5m from primary street		✓	10.28m

Garage door / opening width < 7m and not exceeding 50% of site frontage unless dwelling has two or more building levels at the building line fronting the same public street			2.4m – 16.2%
Access for allotments less than 10m in width	Width of driveway is between 3m and 3.2m measured at the property boundary Is the only access point to the site	N/A	
Access for allotments in excess of 10m wide	Width of driveway is maximum of 5m at the property boundary Is the only access point provided to the site; OR Width of driveway is between 3m and 3.2m measured at the property boundary No more than two access points are provided on site Separated by no less than 1m	✓	3m
Crossover location	a. Is proposed via lawfully existing or authorised access point or access point for which consent has been granted as part of application for division of land; b. Where newly proposed, achieves the following: i. 0.5m from street furniture, street pole, infrastructure services pit or stormwater or utility infrastructure; ii. 2m from base of trunk of a street tree; iii. 6m from tangent point of an intersection of 2 or more roads; iv. Outside marked lines or infrastructure dedicating pedestrian crossing.	✓	(a) N/A (b)(i) – Met. 500mm from stobie pole (b)(ii) – Met (b)(iii) – Met (b)(iv) – Met
Driveway grade	Gradient from place of access on the boundary to the finished floor level of the garage or carport is not steeper than 1 in 4 on average	?	No contours provided

Driveway geometry	Aligned relative to the street so there is no more than 20-degree deviation from 90 degrees between centreline of any dedicated car parking space	Not met	69.9°. Considered a minor deviation from the DPF
Access from alley, lane or right of way	At least 6.2m wide along the boundary of the allotment / site	N/A	
On-street parking is retained in accordance with	Minimum 0.33 on-street spaces per dwelling Minimum car park length of 5.4m or 6m (for intermediate space between two other parking spaces or end obstruction)	✓	9.79m remaining in front of allotment
Waste Storage			
Where the dwelling is built to both side boundaries, a waste bin is provided behind the building line of each dwelling that:			
<ul style="list-style-type: none"> - Has minimum area of 2m² with minimum dimension of 900mm (separate from designated car parking or POS); - Has continuous unobstructed path of travel with minimum width of 800mm between waste bin storage area and the street. 		N/A	
Design of Transportable Buildings			
Are not transportable			
Sub-floor space between building and ground level is clad in material and finish consistent with the building		N/A	
Battle-Axe Development			
Not in a form of a battle-axe arrangement		Not met	Battle-axe proposed – refer land division checklist
Corner Cut-Offs			
Building work is outside land shown as Corner Cut-Off Area		✓	

Attachment 4
Decision Notification Form



DECISION NOTIFICATION FORM

Section 126(1) of the Planning, Development and Infrastructure Act 2016

TO THE APPLICANT(S):

Name: Zaina Stacey Development Consultants
Postal address: PO Box 1000 Torrens Park SA 5062
Email: planning@zainastacey.com

IN REGARD TO:

Development application no.: 22035526	Lodged on: 27 Mar 2023
Nature of proposed development: Land Division (1 into 2) Conventional. Retain existing dwelling. Carport	

LOCATION OF PROPOSED DEVELOPMENT:

Location reference: 24 O'GRADY DR PARA HILLS SA 5096		
Title ref.: CT 6106/604	Plan Parcel: D90616 AL404	Council: CITY OF SALISBURY

DECISION:

Decision type	Decision (granted/refused)	Decision date	No. of conditions	No. of reserved matters	Entity responsible for decision (relevant authority)
Planning Consent	Refused	20 Jul 2023			Assessment Manager at City of Salisbury
Land Division Consent	Refused	20 Jul 2023			Assessment Manager at City of Salisbury
Building Consent					To be Determined
Development Approval - Planning Consent; Land Division Consent; Building Consent					City of Salisbury

FROM THE RELEVANT AUTHORITY: Assessment Manager - Section 96 - Performance Assessed at City of Salisbury
Date: 20 Jul 2023

REFUSAL REASONS

Planning Consent

Based on an assessment against the relevant provisions of the Planning and Design Code, it is recommended that Planning Consent is **REFUSED** for application 22035526 for the following reasons:

The proposed development is contrary to the following provisions of the Planning and Design Code:

This form constitutes the form of a decision notification under section 126(1) of the Planning, Development and Infrastructure Act 2016, as determined by the Minister for Planning for the Purposes of regulation 57(1) of the Planning, Development and Infrastructure (General) Regulations 2017. Published: 7 July 2022.



Government of South Australia
Department for Trade and Investment

a) General Development Policies - Land Division PO 8.2

Reason: The proposed battle-axe handle and driveway does not sufficiently allow safe and convenient movement.

b) General Development Policies - Land Division DTS/DPF 8.4(b)

Reason: The proposed battle-axe handle and driveway will not achieve the minimum soft landscaping dimension of 1m is provided between the driveway and site boundary.

c) General Development Policies - Land Division PO 8.1

Reason: The proposed battle-axe allotment does not respond to the prevailing pattern of development in the locality.

d) General Development Policies - Design in Urban Areas PO 31.2

Reason: The orientation of the existing dwelling and siting of the proposed battle-axe driveway will negatively impact upon the amenity, outlook and privacy of occupants of the existing dwelling.

e) General Development Policies - Land Division PO 1.1

Reason: In not achieving the relevant policy relating to the battle-axe handle, amenity and privacy, it is not considered the allotments are suitable for their intended use.

These departures signify the site is not suitable for a battle-axe style development as proposed. The design proposing a right of way and no fencing will have a negative impact on the amenity and privacy of existing and future residents. The driveway handle will not allow for adequate safe movement while also creating a negative visual impact when viewed from the street.

ADVISORY NOTES**Planning Consent**

None

Land Division Consent

None

CONTACT DETAILS OF CONSENT AUTHORITIES

Name: City of Salisbury	Type of consent: Planning and Land Division
Telephone: 08 8406 8222	Email: development@salisbury.sa.gov.au
Postal address: PO Box 8, Salisbury SA 5108	

Attachment 5

*Extract of Planning and Design Code at Assessment
Start (Portal Generated)*

Policy24

P&D Code (in effect) Version 2023.4 16/03/2023

24 O'GRADY DR PARA HILLS SA 5096

Address:

Click to view a detailed interactive [SAPPA](#) in SAILIS

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

Property Zoning Details

Zone

General Neighbourhood

Overlay

Airport Building Heights (Regulated) (All structures over 15 metres)

Affordable Housing

Building Near Airfields

Defence Aviation Area (All structures over 90 metres)

Prescribed Wells Area

Regulated and Significant Tree

Stormwater Management

Urban Tree Canopy

Selected Development(s)

Land division

This development may be subject to multiple assessment pathways. Please review the document below to determine which pathway may be applicable based on the proposed development compliances to standards.

If no assessment pathway is shown this mean the proposed development will default to performance assessed. Please contact your local council in this instance. Refer to Part 1 - Rules of Interpretation - Determination of Classes of Development

Property Policy Information for above selection

Land division - Code Assessed - Performance Assessed

Part 2 - Zones and Sub Zones

General Neighbourhood Zone

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Assessment Provisions (AP)

Desired Outcome (DO)

Desired Outcome	
DO 1	Low-rise, low and medium-density housing that supports a range of needs and lifestyles located within easy reach of services and facilities. Employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising residential amenity.

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

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature		
Land Use and Intensity			
PO 1.1 Predominantly residential development with complementary non-residential uses that support an active, convenient, and walkable neighbourhood.	DTS/DPF 1.1 Development comprises one or more of the following: (a) Ancillary accommodation (b) Community facility (c) Consulting room (d) Dwelling (e) Educational establishment (f) Office (g) Place of Worship (h) Pre-school (i) Recreation area (j) Residential flat building (k) Retirement facility (l) Shop (m) Student accommodation (n) Supported accommodation		
Site Dimensions and Land Division			
PO 2.1 Allotments/sites created for residential purposes are of suitable size and dimension to accommodate the anticipated dwelling form and remain compatible with the pattern of development in a low-rise and predominantly low-density neighbourhood, with higher densities closer to public open space, public transport stations and activity centres.	DTS/DPF 2.1 Development will not result in more than 1 dwelling on an existing allotment or Allotments/sites for residential purposes accord with the following:		
	Dwelling Type	Minimum site/allotment area per dwelling	Minimum site/allotment frontage

Policy24		P&D Code (in effect) Version 2023.4 16/03/2023	
	Detached dwelling (not in a terrace arrangement)	300m ² (exclusive of any battle-axe allotment 'handle')	9m where not on a battle-axe site 5m where on a battle-axe site
	Semi-detached dwelling	300m ²	9m
	Row dwelling (or detached dwelling in a terrace arrangement)	250m ²	7m (averaged)
	Group dwelling	300m ² (average, including common areas)	15m (total)
	Dwelling within a residential flat building	300m ² (average, including common areas)	15m (total)
PO 2.2 Development creating new allotments/sites in conjunction with retention of an existing dwelling ensures the site of the existing dwelling remains fit for purpose.	<p>DTS/DPF 2.2</p> <p>Where the site of a dwelling does not comprise an entire allotment:</p> <ul style="list-style-type: none"> (a) the balance of the allotment accords with site area and frontage requirements specified in General Neighbourhood Zone DTS/DPF 2.1 (b) if there is an existing dwelling on the allotment that will remain on the allotment after completion of the development, it will not contravene: <ul style="list-style-type: none"> (i) Private open space requirements specified in Design in Urban Areas Table 1 - Private Open Space (ii) off-street vehicular parking exists in accordance with the rate(s) specified in Transport, Access and Parking Table 1 - General Off-Street Car Parking Requirements or Table 2 - Off-Street Car Parking Requirements in Designated Areas to the nearest whole number. 		
PO 2.3 Land division results in sites that are accessible and suitable for their intended purpose.	<p>DTS/DPF 2.3</p> <p>Division of land satisfies (a), (b) or (c):</p> <ul style="list-style-type: none"> (a) reflects the site boundaries illustrated and approved in an existing development authorisation under the Development Act 1993 or Planning, Development and Infrastructure Act 2016 where the allotments are used or are proposed to be used solely for residential purposes (b) is proposed as part of a combined land division application with deemed-to-satisfy dwellings on the proposed allotments (c) satisfies all of the following: <ul style="list-style-type: none"> (i) No more than 5 additional allotments are created (ii) Each proposed allotment has a minimum site area of 300m² and frontage of 9m (iii) Each proposed allotment has a slope less than 12.5% (1-in-8) 		

Policy24	P&D Code (in effect) Version 2023.4 16/03/2023
	<ul style="list-style-type: none"> (iv) There are no regulated trees on or within 20m of the subject land, with the distance measured from the base of the trunk of the tree (or the nearest trunk of the tree) to the subject land (v) The division does not involve creation of a public road (vi) Vehicle access from a public road can be provided to all proposed allotments which satisfies Design in Urban Areas DTS/DPF 23.3, 23.4 and 23.6, and would be located wholly on one side of the allotment, or located no more than 1m from the side boundary alignment (vii) No allotments are in a battle-axe configuration and (viii) Each proposed allotment is of a size and dimension capable of containing a rectangle 9m in width and 15m in depth.

Table 5 - Procedural Matters (PM) - Notification

The following table identifies, pursuant to section 107(6) of the *Planning, Development and Infrastructure Act 2016*, classes of performance assessed development that are excluded from notification. The table also identifies any exemptions to the placement of notices when notification is required.

Interpretation

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

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

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

Class of Development (Column A)	Exceptions (Column B)
1. Development which, in the opinion of the relevant authority, is of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development.	None specified.
2. All development undertaken by: <ul style="list-style-type: none"> (a) the South Australian Housing Trust either individually or jointly with other persons or bodies or (b) a provider registered under the Community Housing National Law participating in a program relating to the renewal of housing endorsed by the South Australian Housing Trust. 	Except development involving any of the following: <ul style="list-style-type: none"> 1. residential flat building(s) of 3 or more building levels 2. the demolition of a State or Local Heritage Place 3. the demolition of a building (except an ancillary building) in a Historic Area Overlay.

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<p>3. Any development involving any of the following (or of any combination of any of the following):</p> <ul style="list-style-type: none"> (a) air handling unit, air conditioning system or exhaust fan (b) ancillary accommodation (c) building work on railway land (d) carport (e) deck (f) dwelling (g) dwelling addition (h) fence (i) outbuilding (j) pergola (k) private bushfire shelter (l) residential flat building (m) retaining wall (n) retirement facility (o) shade sail (p) solar photovoltaic panels (roof mounted) (q) student accommodation (r) supported accommodation (s) swimming pool or spa pool (t) verandah (u) water tank. 	<p>Except development that:</p> <ul style="list-style-type: none"> 1. does not satisfy General Neighbourhood Zone DTS/DPF 4.1 or 2. involves a building wall (or structure) that is proposed to be situated on (or abut) an allotment boundary (not being a boundary with a primary street or secondary street or an excluded boundary) and: <ul style="list-style-type: none"> (a) the length of the proposed wall (or structure) exceeds 11.5m (other than where the proposed wall abuts an existing wall or structure of greater length on the adjoining allotment) or (b) the height of the proposed wall (or post height) exceeds 3m measured from the top of footings (other than where the proposed wall (or post) abuts an existing wall or structure of greater height on the adjoining allotment).
<p>4. Any development involving any of the following (or of any combination of any of the following):</p> <ul style="list-style-type: none"> (a) consulting room (b) office (c) shop. 	<p>Except development that:</p> <ul style="list-style-type: none"> 1. does not satisfy any of the following: <ul style="list-style-type: none"> (a) General Neighbourhood Zone DTS/DPF 1.4 (b) General Neighbourhood Zone DTS/DPF 4.1 or 2. involves a building wall (or structure) that is proposed to be situated on (or abut) an allotment boundary (not being a boundary with a primary street or secondary street or an excluded boundary) and: <ul style="list-style-type: none"> (a) the length of the proposed wall (or structure) exceeds 11.5m (other than where the proposed wall abuts an existing wall or structure of greater length on the adjoining allotment) or (b) the height of the proposed wall (or post height) exceeds 3m measured from the top of footings (other than where the proposed wall (or post) abuts an existing wall or structure of greater height on the adjoining allotment).
<p>5. Any development involving any of the following (or of any combination of any of the following):</p> <ul style="list-style-type: none"> (a) internal building works (b) land division (c) recreation area (d) replacement building 	<p>None specified.</p>

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(e) temporary accommodation in an area affected by bushfire (f) tree damaging activity.		
6. Alteration of or addition to any development involving the following (or of any combination of any of the following): (a) community facility (b) educational establishment (c) pre-school.		Except development that does not satisfy General Neighbourhood Zone DTS/DPF 1.5.
7. Demolition.		Except any of the following: 1. the demolition of a State or Local Heritage Place 2. the demolition of a building (except an ancillary building) in a Historic Area Overlay.
Placement of Notices - Exemptions for Performance Assessed Development		
None specified.		
Placement of Notices - Exemptions for Restricted Development		
None specified.		

Part 3 - Overlays

Affordable Housing Overlay

Assessment Provisions (AP)

Desired Outcome (DO)

Desired Outcome	
DO 1	Affordable housing is integrated with residential and mixed use development.
DO 2	Affordable housing caters for a variety of household structures.

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

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Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Land Division	
PO 1.1 Development comprising 20 or more dwellings / allotments incorporates affordable housing.	DTS/DPF 1.1 Development results in 0-19 additional allotments / dwellings.
PO 1.2 Development comprising 20 or more dwellings or residential allotments provides housing suited to a range of incomes including households with low to moderate incomes.	DTS/DPF 1.2 Development comprising 20 or more dwellings / or residential allotments includes a minimum of 15% affordable housing except where: (a) it can be demonstrated that any shortfall in affordable housing has been provided in a previous stage of development or (b) it can be demonstrated that any shortfall in affordable housing will be accommodated in a subsequent stage or stages of development.
PO 1.3 Affordable housing is distributed throughout the development to avoid an overconcentration.	DTS/DPF 1.3 None are applicable.
Affordable Housing Incentives	
PO 3.1 To support the provision of affordable housing, minimum allotment sizes may be reduced below the minimum allotment size specified in a zone while providing allotments of a suitable size and dimension to accommodate dwellings with a high standard of occupant amenity.	DTS/DPF 3.1 The minimum site area specified for a dwelling can be reduced by up to 20%, or the maximum density per hectare increased by up to 20%, where it is to be used to accommodate affordable housing except where the development is located within the Character Area Overlay or Historic Area Overlay.

Procedural Matters (PM) - Referrals

The following table identifies classes of development / activities that require referral in this Overlay and the applicable referral body. It sets out the purpose of the referral as well as the relevant statutory reference from Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

Class of Development / Activity	Referral Body	Purpose of Referral	Statutory Reference
Development for the purposes of the provision of affordable housing (applying the criteria determined under regulation 4 of the <i>South Australian Housing Trust Regulations 2010</i>).	Minister responsible for administering the <i>South Australian Housing Trust Act 1995</i> .	To provide direction on the conditions required to secure the provision of dwellings or allotments for	Development of a class to which Schedule 9 clause 3 item 20 of the Planning, Development

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		affordable housing.	and Infrastructure (General) Regulations 2017 applies.

Part 4 - General Development Policies

Land Division

Assessment Provisions (AP)

Desired Outcome (DO)

Desired Outcome	
DO 1	<p>Land division:</p> <ul style="list-style-type: none"> (a) creates allotments with the appropriate dimensions and shape for their intended use (b) allows efficient provision of new infrastructure and the optimum use of underutilised infrastructure (c) integrates and allocates adequate and suitable land for the preservation of site features of value, including significant vegetation, watercourses, water bodies and other environmental features (d) facilitates solar access through allotment orientation (e) creates a compact urban form that supports active travel, walkability and the use of public transport (f) avoids areas of high natural hazard risk.

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

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
All land division	
Allotment configuration:	
PO 1.1 Land division creates allotments suitable for their intended use.	<p>DTS/DPF 1.1</p> <p>Division of land satisfies (a) or (b):</p> <ul style="list-style-type: none"> (a) reflects the site boundaries illustrated and approved in an operative or existing development authorisation for residential development under the <i>Development Act 1993</i> or <i>Planning, Development and Infrastructure Act 2016</i> where the allotments are used or are proposed to be used solely for residential purposes (b) is proposed as part of a combined land division application with deemed-to-satisfy dwellings on the proposed allotments.
PO 1.2	DTS/DPF 1.2

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Land division considers the physical characteristics of the land, preservation of environmental and cultural features of value and the prevailing context of the locality.		None are applicable.	
Design and Layout			
PO 2.1	Land division results in a pattern of development that minimises the likelihood of future earthworks and retaining walls.	DTS/DPF 2.1	None are applicable.
PO 2.2	Land division enables the appropriate management of interface impacts between potentially conflicting land uses and/or zones.	DTS/DPF 2.2	None are applicable.
PO 2.3	Land division maximises the number of allotments that face public open space and public streets.	DTS/DPF 2.3	None are applicable.
PO 2.4	Land division is integrated with site features, adjacent land uses, the existing transport network and available infrastructure.	DTS/DPF 2.4	None are applicable.
PO 2.5	Development and infrastructure is provided and staged in a manner that supports an orderly and economic provision of land, infrastructure and services.	DTS/DPF 2.5	None are applicable.
PO 2.6	Land division results in watercourses being retained within open space and development taking place on land not subject to flooding.	DTS/DPF 2.6	None are applicable.
PO 2.7	Land division results in legible street patterns connected to the surrounding street network.	DTS/DPF 2.7	None are applicable.
Roads and Access			
PO 3.1	Land division provides allotments with access to an all-weather public road.	DTS/DPF 3.1	None are applicable.
PO 3.2	Street patterns and intersections are designed to enable the safe and efficient movement of pedestrian, cycle and vehicular traffic.	DTS/DPF 3.2	None are applicable.
PO 3.3	Land division does not impede access to publicly owned open space and/or recreation facilities.	DTS/DPF 3.3	None are applicable.

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Policy24		P&D Code (in effect) Version 2023.4 16/03/2023
PO 3.4	Road reserves provide for safe and convenient movement and parking of projected volumes of vehicles and allow for the efficient movement of service and emergency vehicles.	DTS/DPF 3.4 None are applicable.
PO 3.5	Road reserves are designed to accommodate pedestrian and cycling infrastructure, street tree planting, landscaping and street furniture.	DTS/DPF 3.5 None are applicable.
PO 3.6	Road reserves accommodate stormwater drainage and public utilities.	DTS/DPF 3.6 None are applicable.
PO 3.7	Road reserves provide unobstructed vehicular access and egress to and from individual allotments and sites.	DTS/DPF 3.7 None are applicable.
PO 3.8	Street patterns and intersections are designed to enable the safe and efficient movement of pedestrian, cycle and vehicular traffic.	DTS/DPF 3.8 None are applicable.
PO 3.9	Roads, open space and thoroughfares provide safe and convenient linkages to the surrounding open space and transport network.	DTS/DPF 3.9 None are applicable.
PO 3.10	Public streets are designed to enable tree planting to provide shade and enhance the amenity of streetscapes.	DTS/DPF 3.10 None are applicable.
Infrastructure		
PO 4.1	Land division incorporates public utility services within road reserves or dedicated easements.	DTS/DPF 4.1 None are applicable.
PO 4.2	Waste water, sewage and other effluent is capable of being disposed of from each allotment without risk to public health or the environment.	DTS/DPF 4.2 Each allotment can be connected to: (a) a waste water treatment plant that has the hydraulic volume and pollutant load treatment and disposal capacity for the maximum predicted wastewater volume generated by subsequent development of the proposed allotment or (b) a form of on-site waste water treatment and disposal that meets relevant public health and environmental standards.
PO 4.3	Septic tank effluent drainage fields and other waste water disposal areas are maintained to ensure the effective	DTS/DPF 4.3 Development is not built on, or encroaches within, an area that is or will be, required for a sewerage system or waste control

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operation of waste systems and minimise risks to human health and the environment.		system.	
PO 4.4	Constructed wetland systems, including associated detention and retention basins, are sited and designed to ensure public health and safety is protected, including by minimising potential public health risks arising from the breeding of mosquitoes.	DTS/DPF 4.4	None are applicable.
PO 4.5	Constructed wetland systems, including associated detention and retention basins, are sited and designed to allow sediments to settle prior to discharge into watercourses or the marine environment.	DTS/DPF 4.5	None are applicable.
PO 4.6	Constructed wetland systems, including associated detention and retention basins, are sited and designed to function as a landscape feature.	DTS/DPF 4.6	None are applicable.
Minor Land Division (Under 20 Allotments)			
Open Space			
PO 5.1	Land division proposing an additional allotment under 1 hectare provides or supports the provision of open space.	DTS/DPF 5.1	None are applicable.
Solar Orientation			
PO 6.1	Land division for residential purposes facilitates solar access through allotment orientation.	DTS/DPF 6.1	None are applicable.
Water Sensitive Design			
PO 7.1	Land division creating a new road or common driveway includes stormwater management systems that minimise the discharge of sediment, suspended solids, organic matter, nutrients, bacteria, litter and other contaminants to the stormwater system, watercourses or other water bodies.	DTS/DPF 7.1	None are applicable.
PO 7.2	Land division designed to mitigate peak flows and manage the rate and duration of stormwater discharges from the site to ensure that the development does not increase the peak flows in downstream systems.	DTS/DPF 7.2	None are applicable.
Battle-Axe Development			
PO 8.1	Battle-axe development appropriately responds to the existing neighbourhood context.	DTS/DPF 8.1	Allotments are not in the form of a battle-axe arrangement.
PO 8.2		DTS/DPF 8.2	

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Battle-axe development designed to allow safe and convenient movement.		The handle of a battle-axe development: <ul style="list-style-type: none"> (a) has a minimum width of 4m or (b) where more than 3 allotments are proposed, a minimum width of 5.5m. 	
PO 8.3	Battle-axe allotments and/or common land are of a suitable size and dimension to allow passenger vehicles to enter and exit and manoeuvre within the site in a safe and convenient manner.	DTS/DPF 8.3	Battle-axe development allows a B85 passenger vehicle to enter and exit parking spaces in no more than a three-point turn manoeuvre.
PO 8.4	Battle-axe or common driveways incorporate landscaping and permeability to improve appearance and assist in stormwater management.	DTS/DPF 8.4	Battle-axe or common driveways satisfy (a) and (b): <ul style="list-style-type: none"> (a) are constructed of a minimum of 50% permeable or porous material (b) where the driveway is located directly adjacent the side or rear boundary of the site, soft landscaping with a minimum dimension of 1m is provided between the driveway and site boundary (excluding along the perimeter of a passing point).
Major Land Division (20+ Allotments)			
Open Space			
PO 9.1	Land division allocates or retains evenly distributed, high quality areas of open space to improve residential amenity and provide urban heat amelioration.	DTS/DPF 9.1	None are applicable.
PO 9.2	Land allocated for open space is suitable for its intended active and passive recreational use considering gradient and potential for inundation.	DTS/DPF 9.2	None are applicable.
PO 9.3	Land allocated for active recreation has dimensions capable of accommodating a range of active recreational activities.	DTS/DPF 9.3	None are applicable.
Water Sensitive Design			
PO 10.1	Land division creating 20 or more residential allotments includes a stormwater management system designed to mitigate peak flows and manage the rate and duration of stormwater discharges from the site to ensure that the development does not increase the peak flows in downstream systems.	DTS/DPF 10.1	None are applicable.
PO 10.2	Land division creating 20 or more non-residential allotments includes a stormwater management system designed to mitigate peak flows and manage the rate and duration of stormwater discharges from the site to ensure that the development does not increase the peak flows in downstream	DTS/DPF 10.2	None are applicable.

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systems.			
PO 10.3	Land division creating 20 or more allotments includes stormwater management systems that minimise the discharge of sediment, suspended solids, organic matter, nutrients, bacteria, litter and other contaminants to the stormwater system, watercourses or other water bodies.	DTS/DPF 10.3	None are applicable.
Solar Orientation			
PO 11.1	Land division creating 20 or more allotments for residential purposes facilitates solar access through allotment orientation and allotment dimensions.	DTS/DPF 11.1	None are applicable.


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Address: 24 O'GRADY DR PARA HILLS SA 5096

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Property Zoning Details

Zone General Neighbourhood

Overlay

- Airport Building Heights (Regulated) (All structures over 15 metres)
- Affordable Housing
- Building Near Airfields
- Defence Aviation Area (All structures over 90 metres)
- Prescribed Wells Area
- Regulated and Significant Tree
- Stormwater Management
- Urban Tree Canopy

Selected Development(s)

Carport

This development may be subject to multiple assessment pathways. Please review the document below to determine which pathway may be applicable based on the proposed development compliances to standards.
If no assessment pathway is shown this mean the proposed development will default to performance assessed. Please contact your local council in this instance. Refer to Part 1 - Rules of Interpretation - Determination of Classes of Development

Property Policy Information for above selection

Carport - Accepted Development

Part 2 - Zones and Sub Zones

General Neighbourhood Zone

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Table 1 - Accepted Development Classification

The following table identifies Classes of Development that are classified as Accepted Development subject to meeting the Accepted Development Classification Criteria

Class of Development	Accepted Development Classification Criteria
<p>Carport Except where any of the following apply:</p> <ul style="list-style-type: none"> • Future Local Road Widening Overlay • Future Road Widening Overlay • Historic Area Overlay • Local Heritage Place Overlay • State Heritage Area Overlay • State Heritage Place Overlay 	<ol style="list-style-type: none"> 1. The development will not be contrary to the regulations prescribed for the purposes of section 86 of the <i>Electricity Act 1996</i> 2. The development will not be built, or encroach, on an area that is, or will be, required for a sewerage system or waste control system. 3. It is ancillary to a dwelling erected on the site. 4. Primary street setback - at least 5.5m from the primary street boundary and as far back as the building line of the building to which it is ancillary. 5. Total floor area - does not exceed 40m². 6. Post height - does not exceed 3m measured from natural ground level (and not including a gable end). 7. Building height - does not exceed 5m. 8. If situated on or abutting a boundary (not being a boundary with a primary street) - a length not exceeding 11m unless: <ol style="list-style-type: none"> (a) a longer wall or structure exists on the adjacent site and is situated on the same allotment boundary; and (b) the proposed wall or structure will be built along the same length of boundary as the existing adjacent wall or structure to the same or lesser extent. 9. If the carport abuts or is situated on the boundary of the allotment (not being a boundary with a primary street): <ol style="list-style-type: none"> (a) it will not result in all relevant walls or structures located along the boundary exceeding 45% of the length of the boundary; and (b) it will not be located within 3m of any other wall along the same boundary unless on an adjacent site on that boundary there is an existing wall of a building that would be adjacent to or abut the proposed wall or structure. 10. Site coverage does not exceed 60%. 11. Door opening for vehicle access facing a street frontage - does not exceed, in total, 7m in width or 50% of the width of the allotment frontage (whichever lesser) 12. The carport is located so that vehicle access: <ol style="list-style-type: none"> (a) is provided via a lawfully existing or authorised driveway or access point or an access point for which consent has been granted as part of an application for the division of land; or (b) is not obtained from a State Maintained Road, and will use a driveway that:

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	<ul style="list-style-type: none"> (i) is not located within 6 metres of an intersection of 2 or more roads or a pedestrian actuated crossing; (ii) will not interfere with an item of street furniture (including directional signs, lighting, seating and weather shelters), other infrastructure, or a tree; (iii) is located so that the gradient from the place of access on the boundary of the allotment to the finished floor level at the front of the carport when the work is completed is not steeper than 1:4 on average (iv) is aligned relative to the street so that there is no more than a 20 degree deviation from 90 degrees between the centreline of the driveway at the public road boundary and the centre of the front of the covered car parking space for which it provides vehicle access (v) if located so as to provide access from an alley, lane or right of way - the alley, lane or right of way is at least 6.2m wide along the boundary of the allotment / site. <p>13. If any part involves cladding in sheet metal-will have cladding which is pre-colour treated or painted in a non-reflective colour.</p> <p>14. Does not involve the clearance of native vegetation</p> <p>15. Retains a total area of soft landscaping in accordance with (a) or (b), whichever is less:</p> <p>(a) a total area as determined by the following table:</p> <table border="1"> <thead> <tr> <th>Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m²)</th><th>Minimum percentage of site</th></tr> </thead> <tbody> <tr> <td><150</td><td>10%</td></tr> <tr> <td>150-200</td><td>15%</td></tr> <tr> <td>201-450</td><td>20%</td></tr> <tr> <td>>450</td><td>25%</td></tr> </tbody> </table> <p>(b) the amount of existing soft landscaping prior to the development occurring.</p>	Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m ²)	Minimum percentage of site	<150	10%	150-200	15%	201-450	20%	>450	25%
Dwelling site area (or in the case of residential flat building or group dwelling(s), average site area) (m ²)	Minimum percentage of site										
<150	10%										
150-200	15%										
201-450	20%										
>450	25%										

ITEM 8.2.2

COUNCIL ASSESSMENT PANEL

DATE 29 August 2023

HEADING Review of Assessment Manager Decision Policy

AUTHOR Chris Zafiropoulos, Assessment Manager, City Development

SUMMARY This report provides the Panel information in relation to regulations changes that require a change to the Panel's *Policy for the review of a decision of the Assessment Manager*.

RECOMMENDATION

That Council Assessment Panel:

1. Endorse the *Council Assessment Panel Policy for the review of a decision of the Assessment Manager* provided in Attachment 1.

ATTACHMENTS

This document should be read in conjunction with the following attachments:

1. Council Assessment Panel Policy for the review of a decision of the Assessment Manager

1. BACKGROUND

- 1.1 The *Planning, Development and Infrastructure Act 2016* provides that where the application is made to an Assessment Manager, a person who has applied for the development authorisation may apply to the Assessment Panel for a review of a prescribed matter (essentially any decision of the manager).
- 1.2 The Panel is required to have a policy for review of a decision of the Assessment Manager.
- 1.3 The Panel last considered the Policy at its meeting on 28 April 2021 where it made slight amendments in relation to clause 3(d) in relation to the submission of information and clause 10 in relation to receiving submissions or addresses from any party.
- 1.4 There is a need to amend the policy to reflect recent changes to *Planning, Development and Infrastructure (General) Regulations 2017*.

2. REPORT

- 2.1 In response to concerns raised by the development community around inconsistency with how Assessment Panels were managing reviews of Assessment Manager decisions, the State Government has adjusted regulations associated with the review of an Assessment Manager's decision process.
- 2.2 The updated regulations include Regulation 116 which states:

116—Rights of review and appeal

(1) For the purposes of section 203(1) of the Act, an application under section 202(1)(b)(i)(A) must be made in a form determined by the Minister and published on the SA planning portal.

(2) An applicant to an assessment panel for a review of a prescribed matter must be given an opportunity to provide the assessment panel with the applicant's submissions in relation to the review (and, if the assessment panel determines to hold a hearing, must be given written notice of the date of the hearing and an opportunity to appear and make submissions at the hearing in person).

2.3 The extract provided above has removed the Panel's discretion in relation to hearing from an applicant for review and now requires this opportunity to be provided.

2.4 The regulation change requires the Panel to change its policy in clause 7 that requires the Assessment Manager to inform the applicant of their right to appear before the Panel and Clause 10 that provides the Panel will hear the applicant.

3. CONCLUSION / PROPOSAL

3.1 It is recommended that the amended *Policy for the review of a decision of the Assessment Manager* contained in Attachment 1 be endorsed to alignment with the regulations.



COUNCIL ASSESSMENT PANEL

Policy for the review of a decision of the Assessment Manager

28-April-2021-29 August 2023

LEGISLATIVE FRAMEWORK

1. This Policy applies in addition to the statutory requirements for the review by the Council Assessment Panel/Regional Assessment Panel (Panel) of A decision of an Assessment Manager as set out in Part 16, Division 1 of the Planning, Development and Infrastructure Act 2016 (Act).

COMMENCING A REVIEW

2. An application for review must relate to a prescribed matter, as defined in Section 201 of the Act, for which an Assessment Manager was the relevant authority.
3. An application for review must be:
 - a. made using the Application to Assessment Panel for Assessment Manager's Decision Review (the Form);
 - b. lodged in a manner identified on the Form; and
 - c. lodged within one month of the applicant receiving notice of the Prescribed Matter, unless the Presiding Member in his or her discretion grants an extension of time; and
 - d. applicant may provide a written submission in support of his or her application for review.
4. In determining whether to grant an extension of time, the Presiding Member may consider:
 - a. the reason for the delay;
 - b. the length of the delay;
 - c. whether any rights or interests of other parties would be affected by allowing the review to be commenced out of time;
 - d. the interests of justice;
 - e. whether the applicant has, or is within time to, appeal the prescribed matter to the ERD Court; and
 - f. any other matters the Presiding Member considers relevant.

MATERIALS FOR REVIEW HEARING

5. The Assessment Manager shall collate for the Panel:
 - a. all materials which were before the Assessment Manager (or delegate) at the time of the decision on the Prescribed Matter, including but not limited to:
 - i. application documents, reports, submissions, plans, specifications or other documents submitted by the applicant;
 - ii. internal and/or external referral responses; and
 - b. any report from Council staff or an external planning consultant written for the Assessment Manager;
 - c. any assessment checklist used by the Assessment Manager or delegate when making the decision on the Prescribed Matter;
 - d. any other information requested by the Presiding Member.
6. The Assessment Manager (or delegate) must prepare a report to the Panel setting out the details of the relevant development application, the prescribed matter the subject of the

review and the reasons for the Assessment Manager (or delegate's) decision on the Prescribed Matter.

REVIEW HEARING

7. The Assessment Manager must advise the applicant of the time and date of the Panel meeting at which the review application will be heard and inform the applicant of their right to appear and make submissions in person to the Panel at the hearing.
8. On review, the Panel will consider the Prescribed Matter afresh.
9. Information, materials and submissions which were not before the Assessment Manager at the time of the decision on the Prescribed Matter will not be considered by the Panel.
10. The Panel will hear from the applicant (or the applicant's representative) where he or she has elected to be heard. Except where provided in clause 3(d), the Panel will not receive submissions or addresses from any party.
11. The Presiding Member may permit Panel members to ask questions or seek clarification from the applicant and/or the Assessment Manager, in his or her discretion.
12. The Assessment Manager must be present at the Panel meeting to respond to any questions or requests for clarification from the Panel.
13. Where the decision on the Prescribed Matter was made by a delegate of the Assessment Manager, the delegate may appear in place of the Assessment Manager.
14. The Presiding Member will invite all Panel Members to speak on any matter relevant to the review.
15. The Panel may resolve to defer its decision if it considers it requires additional time or information to make its decision.
16. Pursuant to regulation 13(2)(b) of the *Planning, Development and Infrastructure (General) Regulations 2017* the Panel will exclude the public and staff involved in the prescribed matter from attendance during the deliberation of the matter under this policy.

OUTCOME ON REVIEW HEARING

17. The Panel may, on a review:
 - a. affirm the Assessment Manager's decision on the Prescribed Matter;
 - b. vary the Assessment Manager's decision on the Prescribed Matter; or
 - c. set aside the Assessment Manager's decision on the Prescribed Matter and substitute its own decision.
18. An applicant should be advised in writing of the Panel's decision by the Assessment Manager.

ITEM	8.2.3
	COUNCIL ASSESSMENT PANEL
DATE	29 August 2023
HEADING	Annual Report of the Council Assessment Panel for 2022/23
AUTHOR	Chris Zafiropoulos, Assessment Manager, City Development
CITY PLAN LINKS	3.4 Our urban growth is well planned and our centres are active 4.2 We deliver quality outcomes that meet the needs of our community
SUMMARY	The Council Assessment Panel Operating Procedures require the preparation of an Annual Report to Council via the Policy and Planning Committee. A draft report is provided for the Panel's consideration and endorsement.

RECOMMENDATION

1. That the draft Council Assessment Panel Annual Report for 2022/23 be adopted.

ATTACHMENTS

This document should be read in conjunction with the following attachments:

1. Draft Annual Report

1. BACKGROUND

- 1.1 The General Operating Procedures require the Panel to provide an Annual Report to Council via the appropriate standing committee.
- 1.2 The Panel may provide advice to Council on trends, issues and other matters relating to planning and development that have become apparent or arisen through the assessment of applications under the *Planning, Development and Infrastructure Act 2016*.

2. REPORT

- 2.1 The draft report is provided in Attachment 1 for the Panel's consideration and adoption. The draft report provides for commentary from the Presiding Member, which has been included in the draft report.

3. CONCLUSION / PROPOSAL

- 3.1 That the Panel adopts the Annual Report for 2022/23.



2022/23
Annual Report
of the
Salisbury Council Assessment Panel

August 2023

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DRAFT

BACKGROUND

- 1.1 Council is required to establish a Council Assessment Panel (CAP) to assess and determine development applications assigned to the Panel under the *Planning, Development and Infrastructure Act 2016* (the Act).
- 1.2 The Panel has established in its General Operating Procedures a process to provide Council an annual report via the appropriate Standing Committee. This report provides an outline of the performance of the Panel and advice to Council on trends and issues.
- 1.3 The Panel endorsed this report at its meeting held August 2023.

REPORT***Overview of the Panel***

- 1.4 In accordance with the Act, Council has appointed five members to the Panel comprising four independent members and one elected member. A deputy elected member has also been appointed for this term.

Mr Terry Mosel	Presiding Member
Mr R Bateup	Independent Member
Ms C Gill	Independent Member
Mr M Atkinson	Independent Member
Mr B Brug	Elected Member
Ms Shiralee Reardon	Deputy Elected Member

- 1.5 The Act provides that an Assessment Panel will be a relevant authority (planning and building) in relation to a proposed development that is to be undertaken within the area of a council, unless another authority is prescribed by the Act or regulations (section 93 of the Act). The Assessment Panel is designated the relevant authority for Performance Assessed development under section 107 of the Act where notice of the application must be given under section 107(3) of the Act.
- 1.6 The Panel takes considerable effort in providing an environment for hearing representors in a way to encourage participation, recognising that for some members of the community presenting to a formal committee in front of a gallery can be an intimidating experience.
- 1.7 The Panel has established General Operating Procedures in accordance with the requirement under the Act. A copy of the General Operating procedures is published on Council's website.

Statutory Functions of the Panel

- 1.8 The Act has established specific statutory functions for the Council Assessment Panel, including that the Panel is assigned as a relevant authority in its own right under the Act.
- 1.9 The Panel is required to consider the following additional administration matters under the Act:
 - Delegations.
 - Policy for the Assessment Panel review of Decisions of the Assessment Manager.
 - Standing referral for Building Rules Assessment.

- Procedure for Appeals.

Delegations

- 1.10 In the exercise of its duties, the Panel has provided delegations to Council staff to undertake specific duties and exercise powers on its behalf in relation to planning applications.
- 1.11 Delegations are necessary for an effective and efficient development assessment system to achieve outcomes prescribed under the Act. Tasks delegated to Council staff facilitate the assessment process.
- 1.12 The Panel will review the delegation in the next period, following a recent update to regulations. The current delegations provide for the Assessment Manager to determine development applications:
 - Where no valid representations are received; or
 - All valid representations are withdrawn; or
 - No valid representor wishes to be heard.
- 1.13 The Assessment Manager provides the Panel a quarterly report for all the development applications considered under delegated authority. The Assessment Manager determined twenty seven (27) development applications under delegated authority in this period.

Policy for the Assessment Panel review of Decisions of the Assessment Manager

- 1.14 The Act provides that where the application is made to an Assessment Manager, a person who has applied for the development authorisation may apply to the Assessment Panel for a review of a prescribed matter. A prescribed matter essentially includes any aspect of the development application. The Local Government Association has provided templates for this process and the Panel has adopted a procedure to facilitate this process. The procedure is published as part of the Panel's General Operating procedures.
- 1.15 A person that has the benefit of this review may also still apply to the Environment, Resources and Development Court (ERD Court) for a full hearing of the matter. The person may also appeal against the review decision of the Panel.
- 1.16 There was one application for the Panel for a review of a decision by the Assessment Manager for this period. The Applicant sought a review of the decision of the Assessment Manager to Refuse the development application for the construction of *two (2) single storey group dwellings in association with four (4) existing single storey group dwellings, shared driveway, visitor car parking and landscaping* at 30 and 32 Shepherdson Road, Parafield Gardens. On review of the application decision, the Panel resolved to affirm the decision of the Assessment Manager. The applicant has subsequently lodged an appeal against this decision to the Environment, Resources and Development Court.

Standing referral for Building Rules Assessment.

- 1.17 The Act assigns the Panel as the relevant authority for the Building Rules Assessment where the applicant does not nominate a building certifier for the building assessment. The Act provides that Panels may refer a proposed development which involves the assessment of the Building Rules to the council

for the area in which the proposed development is to be undertaken. The Panel has referred the building rules assessment to Council, which was considered by Council at its meeting December 2020 and Council delegated these functions to the Chief Executive Officer.

Procedure for Appeals

- 1.18 The Panel has been assigned a relevant authority in its own right under the Act. The implication of this change is that the Panel will be the respondent to appeals against their decisions, rather than the Council. The Panel had two appeals lodged during this period. The appeal matters are summarised below.

Applicant Appeal to Environment, Resources and Development Court, Tony Maiello (N43 Pty Ltd) v City of Salisbury (ERD-22-000022) - Development Application 22031953

The Applicant has appealed against the decision of the Panel to affirm the decision of the Assessment Manager to refuse the development application for the *Construction of Two (2) Single Storey Group Dwellings in Association with Four (4) Existing Single Storey Group Dwellings, Shared Driveway, Visitor Car Parking and Landscaping* at Unit 1-2, 30 Shepherdson Road, Parafield Gardens. This appeal has been adjourned at the request of the appellant to lodge an alternative proposal and is currently relisted before the Court for 26 September 2023.

Applicant Appeal to Environment, Resources and Development Court, Development Holdings Pty Ltd v City of Salisbury Assessment Panel (ERD-23-000053) - Development Application 23002678

The Applicant appealed against the decision of the Panel to refuse the development application for a *Childcare Centre ('pre-school') with associated car parking, landscaping, signage, retaining walls and fencing* at 61 Stanford Road, Salisbury Heights. The Court has scheduled a hearing for this matter starting on 20 September 2023.

- 1.19 One appeal matter, from the previous financial year was concluded with the applicant withdrawing their appeal.

Applicant Appeal to Environment, Resources and Development Court, 48 Commercial Road, Salisbury Pty. Ltd. v Salisbury Council Assessment Panel (ERD-22-000046) - Development Application 21034988

The Applicant appealed against the decision of the Panel to refuse the development application for a *Land Division – Creation of 18 Allotments, Public Roads and Reserve and construction of Retail Fuel Outlet with associated Signage and Fencing (on proposed Allotment 100) at 89-97 Kings Road, Salisbury Downs* at 51 Kings Road, Salisbury Downs. The applicant subsequently withdrew the appeal.

- 1.20 There is one appeal matter from the previous year that is still pending. The matter has been deferred at the request of the appellant to enable them to consider alternative proposals.

Applicant Appeal to Environment, Resources and Development Court, Tony Maiello (N27 Pty Ltd) v City of Salisbury (ERD-22-000014) - Development Application 361/1618/2020/2A

The Applicant appealed against the decision of the Panel to refuse the development application to *retain the existing two storey residential flat*

building (comprising six (6) dwellings), demolition of the existing utilities building, construction of three (3) two-storey group dwellings and pergola, vehicular access from the rear laneway (public road), alterations to on-site carparking, retaining walls, fencing, landscaping and provision of communal areas at 173-175 Park Terrace, Brahma Lodge. The applicant presented two alternative proposals in response to the decision of the Panel but the amendments did not address the concerns of the Panel. This appeal has been adjourned at the request of the appellant and is currently relisted before the Court for 29 August 2023.

Panel Performance

- 1.21 The Panel held ten (10) meetings over the period and considered seventeen (17) development applications. The option of attending meetings by electronic means was made available to all attendees where requested.
- 1.22 The Panel approved thirteen (13) development applications and refused three (3) development applications that it considered during this period. An overview of the development applications considered by the Panel is provided in Attachment 1.
- 1.23 A summary of key statistics is provided in the table below.

	2021/22	2022/23
Meeting		
Number	10	10
Applications	13	17
Applications with representors	13	9
Business Items		
Delegations, quarterly reports from Assessment manager, Operating Procedures, Appeal matters	17	11
Decisions		
Approve	9	13
Refuse	4	3
Defer	1	1
Deemed Consent	0	0
ERD Court Appeals		
Applicant	2	2
ERD Court Decisions		
Compromise	0	0
Appeal withdrawn	0	1
Appeal upheld	0	0
Appeal dismissed	0	0
Still Pending	2	3

- 1.24 While the number of applications considered by the Panel is low, they often represent the more complicated and contentious proposals, where representors have objected to a proposal or an element of a proposal. A total of nine (9) applications considered by the Panel included verbal submissions from representors.
- 1.25 The Panel considered a relatively broad range of development applications including residential infill development, major Council developments, commercial and industrial developments with residential interface issues.
- 1.26 The applications that are not considered by the Panel are assigned by the Regulations to either the Assessment Manager, State Commission Assessment

Panel or in the case of a Deemed to Satisfy Development, an applicant may choose to use an Accredited Professional.

Key Policy and Operational Issues

- 1.27 The Panel made two submissions to the Expert Panel on Planning reform during this year. The submissions were provided to Council. In summary, the submissions raised the following.

Non-residential uses in the General Neighborhood Zone under the Planning and Design Code

In the assessment of two development applications proposing non-residential uses within the General Neighbourhood Zone, the Panel identified that a combination of permissibility intended by the zone, together with policy expression, created some uncertainty in the assessment process. The Panel's submission recommended consideration be given to better guidance on residential amenity and character to determine the appropriateness of these non-residential uses.

Annual Report of the Development Assessment Panel

As a result of the Elected Member on the Panel being challenged by the applicants due to the Council having made a representation on a development applications before a Panel, the Panel recommended consideration be given to clarifying the role of Elected Members on the Panel in the *Assessment Panel Members - Code of Conduct*. In addition, that an alternative title than "Council" Assessment Panel" be considered to better differentiate the independent role of Panels from Council for the community. The Panel also recommended a review the *call-in power* and practice by the Minister for Planning under section 94 of the *Planning, Development and Infrastructure Act 2016* to include more significant development applications undertaken by a council.

Presiding Member General Comments

- 1.28 The Panel has developed a more in depth knowledge and understanding of the Planning and Design Code over this year, particularly with the policy approach of the Code to have increased mixed use and flexibility within residential type zones. This has revealed a relative broad spectrum of interpretation on the appropriateness of non-residential uses within residential type zones. The experience of the Panel is that this more permissive policy change under the Code has not been appreciated by communities when making submissions to the Panel. This has contributed to uncertainty for communities, as well as applicants.
- 1.29 The Panel made two submissions to the Expert Panel on Planning Reform, given the experience under the new legislative scheme. The first submission was in relation to the concerns of the Panel with the potential impact on many of residential areas arising from the apparent directions in the Planning and Design Code to introduce small scale commercial uses and larger community uses without any further locational criteria being available to guide the assessment process. While a recent Supreme Court judgement indicates that a Panel may continue to exercise its professional judgement and potentially reject proposals, this may not address the current uncertainty. It is noted however that future court judgements may provide better clarity. The second matter raised with the Expert Panel recommended consideration be given to clarifying the role of Elected Members on the Panel, when a Council makes a representation on a development application before the Panel.

This is an important governance question that has arisen for both the Elected Member on Panel whose participation has been challenged by applicants, as well as the community in clarifying the role of the Panel, as distinct from Council, under this legislative scheme.

- 1.30 As I have previously mentioned, one of the many functions of the Presiding Member is to ensure that those in attendance understand the independence of the CAP, that those who are entitled to make representations are able to do so in a comfortable and non-threatening environment and in a manner able to be clearly heard and understood by the CAP, that the discussion fully utilises the professional experience and expertise of all Panel Members and the decisions made with common sense appropriately balancing the public interest as expressed in the planning policy with the interests of the applicant. The Panel has continued to deliberate the matters before it in this way.
- 1.31 The Panel continues to place a heavy reliance on the professionalism of the planning staff in performing all the specific statutory functions under the Act. This includes having the necessary operating procedures, policies and delegations. The Panel has maintained delegations to Council staff to determine development applications where representors have chosen not to make a verbal submission to the Panel. This has proven to be effective in providing exceptional customer service and efficient timeframes within allocated resources. The Panel receives a report all the applications determined under delegated authority by the Assessment Manager on a quarterly reports as an oversight to these delegated decisions. The Panel will continue to review operations and monitor applications determined under delegated authority.

CONCLUSION

- 1.32 The Council Assessment Panel Annual Report for 2022/23 summarises the activities and outcomes of the Panel over the preceding financial year. The Panel is operating effectively, and reaching decisions on development applications following consideration of relevant matters under the Planning and Design Code in accordance with its operating procedures. Accordingly, this Report is submitted to Council for noting.

ATTACHMENT 1: APPLICATIONS CONSIDERED JULY 2022 - JUNE 2023

Meeting Date	Application Number	Address	Proposal Description	Decision	Representors / No. verbal
26 July 2022	Applicant Appeal to ERD Court, Tony Maiello (N27 Pty Ltd) v City of Salisbury (ERD-22-000014) – Development Application 361/1618/2020/2A				
	Assessment Manager Quarterly Report – April to June 2022				
	Decision making in Development Assessment & Ethics in Planning workshop				
23 August 2022	22008891	146-156 St Kilda Road, Waterloo Corner	Change in use to a portion of the land, for the temporary storage (2 years) of construction vehicles, materials, plant and equipment in association with civil construction works at the Bolivar Wastewater Treatment plant, and associated civil works, amenities, 4 shipping containers, tanks and landscaping	Refused	Received – 3 Heard – 1
	22022501	94, 96, 98, 100, 102, 104, 106, 108, 110, 112 Boardwalk Drive, Paralowie	Ten (10) Two Storey Detached Dwellings	Approve with conditions	Exempt from notification
	Annual Report of the Council Assessment Panel for 2021/22				
27 September 2022	21038042	14 & 16 Shepherdson Road, Parafield Gardens	Construction of a child care centre with associated signage, carparking, landscaping and boundary acoustic fencing	Approve with conditions	Received – 8 Heard – 3
	22009141	19b Anzac Street Salisbury Heights	Detached Dwelling, Retaining walls and Fencing	Approve with conditions	Received – 2 Heard – 1
25 October 2022	Submission to Expert Panel on Planning Reform - Non-residential uses in the General Neighborhood Zone under the Planning and Design Code				
	Submission to Expert Panel on Planning Reform - Elected Member on Panels and Council Representations				
	Assessment Manager Quarterly Report – July to September 2022				
20 December 2022	22037129	51 Kings Road, Salisbury Downs	Childcare centre with associated advertising and acoustic fencing	Approve with conditions	Received – 6 Heard – 3
	22031812	13 Ceafield Road, Para Hills West	Variation to DA 21005622 (Vary Hours of Operation)	Approve with conditions	Received – 3 Heard – 3
	Council Assessment Panel Meeting Schedule				
28 February 2023	22037064	1-9 Lolands Rd, Salisbury Plain	Change of Use of portion of Site to Storage Facility ('Store') comprising Storage of Caravans with Associated Carparking, Fencing over 2.1m in height and Landscaping	Approve with conditions	Received – 1 Heard – 1
	22030607	71-75 Woomera Avenue, Edinburgh	Industrial Building for recycled paper processing in association with existing material recovery facility and Removal of One (1) Significant Tree and One (1) Regulated Tree	Approved with conditions	Exempt from notification
	Assessment Manager Quarterly Report – October to December 2022				
	Review of Assessment Manager Decision - DA22031953, Unit 1-2, 30 Shepherdson Road, Parafield Gardens				
28 March 2023	23005553	23-29 Amsterdam Crescent, Salisbury Downs	Land Division (Boundary Realignment)	Approved with conditions	Exempt from notification
	22040408	15-21 Brown Terrace and 23 Brown Terrace, Salisbury	Health Hub comprising community and indoor recreation facilities and consulting rooms with associated car parking and landscaping and the removal of five regulated trees	Approve with conditions	Received – 0 Heard – 0

Meeting Date	Application Number	Address	Proposal Description	Decision	Representors / No. verbal
26 April 2023	22038407	20 Hissar Avenue, Salisbury North	Seven (7) Single Storey Dwellings and Private Driveway	Approved with conditions	Exempt from notification
	23006923	20 Hissar Avenue, Salisbury North	Boundary realignment of Reserve and Creation of Twenty-Nine (29) Torrens Title Allotments for Residential Purposes, Public Road, Reserve Strip, retaining walls and fencing with combined height greater than 2.1m.	Approve with conditions	Received – 2 Heard – 0
	22038410	20 Hissar Avenue, Salisbury North	Twenty-Eight (28) Single Storey Dwellings and Removal of Three (3) Significant and Sixteen (16) Regulated Trees, and Retention of Two (2) Significant and Ten (10) Regulated Trees	Approved with conditions	Exempt from notification
	22031936	11 & 13 Goodall Road, Para Hills	Three (3) Two Storey Detached Dwellings in a Terrace Arrangement and Four (4) Group Dwellings with associated Landscaping, Common Driveway, Retaining Walls and Fencing Over 2.1m	Approve with conditions	Received – 6 Heard – 4
	Assessment Manager Quarterly Report – January to March 2023				
23 May 2023	23002678	61 Stanford Rd Salisbury Heights	Childcare Centre ('pre-school') with associated car parking, landscaping, signage, retaining walls and fencing	Refused	Received – 54 Heard – 14
	22039606	14 Barndioota Road, Salisbury Plain	Transport depot with associated office (Unit 3)	Deferred	Received – 3 Heard – 2
27 June 2023	22022225	110 Levels Road, Cavan	Change of use from warehouse to light industry (processing and storage of vegetables) with associated office, storage and car parking	Approved with conditions	Received – 3 Heard – 0