

Details of Representations

Application Summary

Application ID	24040803
Proposal	Demolition of existing residential buildings and construction of a retirement facility in the form of two (2), three (3) storey residential flat buildings comprising twelve (12) units, ground floor carparking, fencing, landscaping, roof mounted solar photovoltaic panels and communal facilities including a community garden.
Location	157 CHILDERS ST NORTH ADELAIDE SA 5006, LOT 893 BUXTON ST NORTH ADELAIDE SA 5006

Representations

Representor 1 - Guido Porcaro

Name	Guido Porcaro
Address	15/150 Childers St NORTH ADELAIDE SA, 5006 Australia
Submission Date	17/01/2025 07:49 AM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	Yes
My position is	I oppose the development

Reasons
Childers St Western side is one of the last remaining streets in North Adelaide where there is no hospital, school, nursing home, business etc, of all which add much noise and disturbance with extra people and visitors and cars coming and going. Childers street is a quiet street and I believe this should be protected. I don't think the street is appropriate for a aged care facility with all of the extra traffic and deliveries and services. Value of properties would also be affected. I strongly do not support this and happy to detail further and speak to whom further and submit formal input as requested.

Attached Documents

Representations

Representor 2 - Scott Griffin

Name	Scott Griffin
Address	161 Childers Street NORTH ADELAIDE SA, 5005 Australia
Submission Date	22/01/2025 10:16 AM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	Yes
My position is	I oppose the development

Reasons

We have looked at the proposed plans and have multiple concerns regarding the size, proximity, noise and overlooking issues of the current build. Our representation is attached, please reach out and contact us should you require any further information. Best regards, Scott Griffin 0413209844

Attached Documents

Submission-Helping-Hand-1452402.pdf
Decision-Notice-cover-page-1452403.jpg
Decision-Notification-form-1452404.jpg
Reasons-for-refusal-1452405.jpg

We have looked at the proposed plans and have multiple concerns regarding the size, proximity, noise and overlooking issues of the current build.

Many hours were spent in 2020 when this building was last proposed as we questioned a two story structure that was Refused via the Adelaide City Council due to its height and overlooking issues so it is frustrating to once again have to spend many hours again pouring over plans and policies for a three story structure on the same site with similar problems. We understand that there needs to be progress in building a new structure and look forward to finding a mutually benefitting solution - we do however have the following concerns:

Unnecessary building height - other three story buildings do exist in the street (some of them unsightly) - however the majority of houses surrounding our home and in our street are one story - when we moved into our property over twenty years ago the houses on either side of us were one story with no overlooking - a factor in selecting our property.

The site is located within North Adelaide Low Intensity Subzone of the City Living Zone.

6.2.2 local variation states Maximum Building Height (levels) Maximum Building height is 2 levels.

Multiple entrances on the side of the building with a close proximity to our fence line - previously set back - these will now be closer to our bedroom windows and our back and front yards - noise / lighting issues due to visitors and carers visiting - doors slamming - security lights etc

Overlooking in front and back yard - into side windows - windows and balcony's overlooking into our front and back yard - with restrictions that are still not acceptable - we use our front and back yard equally and feel that any kind of overlooking is unacceptable - even 20% - we have had issues with gardeners on ladders looking over and as the property next door is already higher due to the fall of the street we often have to keep our awnings down already on side windows to prevent people/carers /

visitors from looking over the fence into our property and our children's bedrooms

7.6.1 Visual Privacy

(a) site layout, Entrance to foyer on the proposed plan is directly in line with existing bedroom window to our property.

(b) off setting balconies and window, from proposed plan these will present opportunity to overlook our windows and courtyard gardens.

Car parking hazards with cars now using turning circles and multiple garages within the property - we see the need for some kind of bollards or safety net as cars could easily end up in our back yard or side of our house with cars being used in tight spaces

On Street Parking issues - already a major issue with visitors and carers - also down to the fact that Adelaide City Council refuse to mark lines on the existing car parks - parks not being used to full potential

Solar rendered useless by overshadowing - roof panels that cost us over \$10,000 could now be overshadowed for most of the day

Overshadowing in front and back yard - yards that we use constantly will be in shadow for many parts of the day - making it difficult to entertain in any kind of natural sunlight - grow a garden or lawn - dry clothes, sunbake or enjoy natural light into our home

7.6.2 Overshadowing accordance to PO 3.1 & PO 3.2

Acknowledgement of impact on our properties access to natural light, however shadow diagrams do not seem accurate at all.

Clearly, we are not professionals in this matter but hope this submission gives us a voice to have our concerns heard.

In the proposal's plans there are statements of public consultations these however where not something that we were asked to or included in.

The plans talk of the sympathetic nature of the roof line to soften the impact of three stories, we do not see this as an accurate representation of the finished building, or an excuse to override the North Adelaide City Sub Zone of the City Living Zone.

The landscaping design is also misleading with very mature plants shown in all the rendered images.

Parking is already an issue with existing carers from helping hand parking haphazardly in the existing street parks, using more space then then required. This will only worsen whilst building is undertaken with tradesman trucks and utes, and after with more visitors and carers to the sites increased occupancy.

The impact of dust and dirt to our property during demolition and building, also needs to be addressed.



CITY OF
ADELAIDE

25 Pirie Street, Adelaide
GPO Box 2252 Adelaide
South Australia 5001

T (08) 8203 7203
F (08) 8203 7575
W cityofadelaide.com.au

ABN 20 903 762 572

Enquiries: Seb Grose 8203 7195

Reference: DA/7/2019

4 February 2020

HELPING HAND AGED CARE INC

C/- Access Planning

By email: adam@accessplanning.com.au

Dear Sir/Madam

Application: DA/7/2019

Address: HOWLAND COURT, 157-159 Childers Street, NORTH ADELAIDE SA 5006

Description: Demolition of existing buildings and construction of two-storey residential flat building comprising nine retirement village residences ancillary to Helping Hand Aged Care

Development Plan Consent Refusal

Please find enclosed a Decision Notification Form in respect to the above-mentioned application. You will note that Planning Consent has been **REFUSED** and the reason for this decision is attached to this notice.

I advise that pursuant to Section 86(1) of the Development Act, 1993 you have the right of appeal to the Environment, Resources and Development Court. Pursuant to the provisions of Section 86(4) of the Development Act, 1993 any such appeal should be lodged with the Environment, Resources and Development Court within 2 months after the applicant receives notice of the decision, unless the Court in its discretion allows an extension of time.

The Environment, Resources and Development Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide 5000 (Postal Address, GPO Box 2465, Adelaide 5001).

Should you require any further information or assistance, do not hesitate to contact me.

Yours faithfully

Seb Grose

SENIOR PLANNER – DEVELOPMENT ASSESSMENT





CITY OF
ADELAIDE

DECISION NOTIFICATION FORM

Application Registered On: 8 January 2019	Contact Officer: Seb Grose 8203 7195
Application Dated: 8 January 2019	File Reference: DA/7/2019

Application:	DA/7/2019
Applicant:	HELPING HAND AGED CARE INC
Location:	HOWLAND COURT, 157-159 Childers Street, NORTH ADELAIDE SA 5006
Description:	Demolition of existing buildings and construction of two-storey residential flat building comprising nine retirement village residences ancillary to Helping Hand Aged Care

In respect of this proposed development you are informed that:

Nature of Decision	Decision Status	Date of Decision	No. of Conditions
Development Plan Consent	Refused	3 February 2020	-
Building Rules Consent	-	-	-
Development Approval	-	-	-

Details of the building classification and the approved number of occupants under the Building Code are attached:

representation(s) from third parties concerning your category 3 proposal were received:

If there were third party representations, any consent/approval or consent/approval with conditions does not operate until the periods specified in the Act have expired.

Reason for this decision, any conditions imposed, and the reasons for imposing those conditions are set out on the attached sheet.

No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Notification Form, you must not start any site works or building works or change the use of the land until you have also received notification of a Development Approval.

Date of Decision: 3 February 2020

☐ State Planning Assessment Commission or delegate

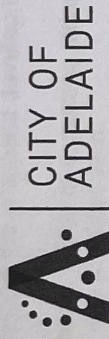
☒ Council Chief Executive Officer or delegate

Signed:

☐ Private Certifier

Date: 4 February 2020

☒ Pages



Application:	DA/7/2019
Applicant:	HELPING HAND AGED CARE INC
Location:	HOWLAND COURT, 157-159 Childers Street, NORTH ADELAIDE SA 5006
Description:	Demolition of existing buildings and construction of two-storey residential flat building comprising nine retirement village residences ancillary to Helping Hand Aged Care

REASONS FOR REFUSAL

- Fails to strengthen, achieve and be consistent or compatible with the Desired Character of Hill Street Policy Area 1 and the North Adelaide Historic (Conservation) Zone through an inability to:
 - respect the low scale character
 - appear as a single storey detached dwelling adjacent Childers Street
 - reinstate the prevailing building setbacks established by existing Heritage Places in the locality.
- Is not considered to satisfy the following relevant Development Plan provisions:
 - Hill Street Policy Area 1 Desired Character, Objective 1 & 2 and PDC 11(d)(iii)
 - North Adelaide Historic (Conservation) Zone Objectives 1 & 2 and PDCs 1(b), 3(a)(b)(d), 5, 6, 8, 9
 - Council Wide Heritage and Conservation Objectives 43, PDC 141(a)(b), Heritage and Conservation – North Adelaide PDCs 162(a)(b)(c)(d), 164, 165
 - The development does not provide adequate private open space and visitor parking in accordance with CW PDC 31 and CW PDC 253(b)

CONDITIONS OF BUILDING RULES CONSENT

Not applicable

Representations

Representor 3 - Richard Hayward

Name	Richard Hayward
Address	po box 574 NORTH ADELAIDE SA, 5006 Australia
Submission Date	23/01/2025 01:12 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development
Reasons The proposed development has been sympathetically designed for the location with minimal impact in respect to neighboring properties and taking into consideration of both the heritage and Environmntal aspects.	

Attached Documents

Representations

Representor 4 - John Burt

Name	John Burt
Address	Unit 3, 28 Buxton Street NORTH ADELAIDE SA, 5006 Australia
Submission Date	24/01/2025 01:50 PM
Submission Source	Post
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development
Reasons	

Attached Documents

BurtRep-10261617.pdf

REPRESENTATION ON APPLICATION

Planning, Development and Infrastructure Act 2016



Applicant: Helping Hand Aged Care

Development Number: 24040803

Nature of Development: Demolition of existing residential buildings and construction of a retirement facility in the form of two (2), three (3) storey residential flat buildings comprising twelve (12) units, ground floor carparking, fencing, landscaping, roof mounted solar photovoltaic panels and communal facilities including a community garden.

Zone/Sub-zone/Overlay: City Living / North Adelaide Low Intensity / Aircraft Noise Exposure (ANEF20) Airport Building Height (Regulated) (All structures over 110 metres AHD) Building Near Airfields Design Historic Area (Adel1) Hazards (Flooding – Evidence Required) Prescribed Wells Area Regulated and Significant Tree Stormwater Management Urban Tree Canopy

Subject Land: CT 5804/224 / LOT 893 BUXTON ST NORTH ADELAIDE SA 5006
CT 5801/554 / 157 CHILDERS ST NORTH ADELAIDE SA 5006
CT 5845/885 / LOT 893 BUXTON ST NORTH ADELAIDE SA 5006

Contact Officer: Assessment Panel/Assessment Manager at State Planning Commission

Phone Number: +611800752664

Close Date: Wednesday 5 February 2025 at 11:59pm

My name*: **MR JOHN CHARLES BURT**

My phone number: **(08) 83617170**

My postal address*: **3/28 BUXTON ST
NORTH ADELAIDE
5006**

My email:

* Indicates mandatory information

My position is: ☐ I support the development
☒ I support the development with some concerns (detail below)
☐ I oppose the development

**THE PROPOSED COMMUNAL AREA, IT'S EFFECT ON VILLA'S 3+5,
LOSS OF EXISTING VISITOR PARKING WITHIN LOT 893 BUXTON ST.,
NORTH ADELAIDE SA 5006.**



Government of South Australia

Department for Trade
and Investment

The specific reasons I believe that consent should be granted/~~refused~~ are:

IT WILL BE AN ENHANCEMENT FOR NORTH ADELAIDE, BUT VISITOR PARKING
WITHIN THE WHOLE PROPOSED DEVELOPMENT IS OF A CONCERN.

[attach additional pages as needed]

Note: In order for this submission to be valid, it must:


- be in writing; and
- include the name and address of the person (or persons) who are making the representation; and
- set out the particular reasons why consent should be granted or refused; and
- comment only on the performance-based elements (or aspects) of the proposal, which does not include the:

I: ☐ wish to be heard in support of my submission*
☒ do not wish to be heard in support of my submission

By: ☐ appearing personally
☐ being represented by the following person:

**You may be contacted if you indicate that you wish to be heard by the relevant authority in support of your submission*

Signature:


J.C. BURT

Date: 21/01/2025

Return Address: 3/28 Buxton St., North Adelaide SA 5006

Email:

Complete online submission: plan.sa.gov.au/have_your_say/notified_developments

Representations

Representor 5 - Peter Knight

Name	Peter Knight
Address	3, 38 Buxton Street NORTH ADELAIDE SA, 5006 Australia
Submission Date	24/01/2025 01:55 PM
Submission Source	Email
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development
Reasons	

Attached Documents

PeterRep-10261682.pdf

REPRESENTATION ON APPLICATION

Planning, Development and Infrastructure Act 2016



Applicant: Helping Hand Aged Care

Development Number: 24040803

Nature of Development: Demolition of existing residential buildings and construction of a retirement facility in the form of two (2), three (3) storey residential flat buildings comprising twelve (12) units, ground floor carparking, fencing, landscaping, roof mounted solar photovoltaic panels and communal facilities including a community garden.

Zone/Sub-zone/Overlay: City Living / North Adelaide Low Intensity / Aircraft Noise Exposure (ANEF20)
Airport Building Height (Regulated) (All structures over 110 metres AHD)
Building Near Airfields
Design
Historic Area (Adel1)
Hazards (Flooding – Evidence Required)
Prescribed Wells Area
Regulated and Significant Tree
Stormwater Management
Urban Tree Canopy

Subject Land: CT 5804/224 / LOT 893 BUXTON ST NORTH ADELAIDE SA 5006
CT 5801/554 / 157 CHILDERS ST NORTH ADELAIDE SA 5006
CT 5845/885 / LOT 893 BUXTON ST NORTH ADELAIDE SA 5006

Contact Officer: Assessment Panel/Assessment Manager at State Planning Commission

Phone Number: +611800752664

Close Date: Wednesday 5 February 2025 at 11:59pm

My name*: *Peter & Lian Knight* My phone number*: *0400397750 - P. 0438 397977*

My postal address*: *38 Buxton St Unit 3* My email: *Peter and Lian @ me.com*

* Indicates mandatory information

My position is: ☒ I support the development
☐ I support the development with some concerns (detail below)
☐ I oppose the development



Government of South Australia

Department for Trade
and Investment

The specific reasons I believe that consent should be granted/refused are:

[attach additional pages as needed]

Note: In order for this submission to be valid, it must:

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- include the name and address of the person (or persons) who are making the representation; and
- set out the particular reasons why consent should be granted or refused; and
- comment only on the performance-based elements (or aspects) of the proposal, which does not include the:

I: ☐ wish to be heard in support of my submission*
☐ do not wish to be heard in support of my submission

By: ☐ appearing personally
☐ being represented by the following person:

**You may be contacted if you indicate that you wish to be heard by the relevant authority in support of your submission*

Signature:

Date:

Return Address:

Email:

Complete online submission: plan.sa.gov.au/have_your_say/notified_developments

Representations

Representor 6 - Margaret Stevens

Name	Margaret Stevens
Address	2/38 Buxton Street NORTH ADELAIDE SA, 5006 Australia
Submission Date	24/01/2025 02:07 PM
Submission Source	Post
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	Yes
My position is	I support the development
Reasons	

Attached Documents

MargaretRep-10261843.pdf

REPRESENTATION ON APPLICATION

Planning, Development and Infrastructure Act 2016



Applicant: Helping Hand Aged Care

Development Number: 24040803

Nature of Development: Demolition of existing residential buildings and construction of a retirement facility in the form of two (2), three (3) storey residential flat buildings comprising twelve (12) units, ground floor carparking, fencing, landscaping, roof mounted solar photovoltaic panels and communal facilities including a community garden.

Zone/Sub-zone/Overlay: City Living / North Adelaide Low Intensity / Aircraft Noise Exposure (ANEF20)
Airport Building Height (Regulated) (All structures over 110 metres AHD)
Building Near Airfields
Design
Historic Area (Adel1)
Hazards (Flooding – Evidence Required)
Prescribed Wells Area
Regulated and Significant Tree
Stormwater Management
Urban Tree Canopy

Subject Land: CT 5804/224 / LOT 893 BUXTON ST NORTH ADELAIDE SA 5006
CT 5801/554 / 157 CHILDERS ST NORTH ADELAIDE SA 5006
CT 5845/885 / LOT 893 BUXTON ST NORTH ADELAIDE SA 5006

Contact Officer: Assessment Panel/Assessment Manager at State Planning Commission

Phone Number: +611800752664

Close Date: Wednesday 5 February 2025 at 11:59pm

My name*: MARGARET STEVENS

My phone number: 0499905625

My postal address*: 2/38 Buxton St

My email: missedbus@yahoo.com

* Indicates mandatory information

NTH ADELAIDE

My position is:



I support the development



I support the development with some concerns (detail below)



I oppose the development



Government of South Australia

Department for Trade
and Investment

The specific reasons I believe that consent should be granted/~~refused~~ are:

Opportunity for accommodation is for retirement
for residents over 65.

[attach additional pages as needed]

Note: In order for this submission to be valid, it must:

- be in writing; and
- include the name and address of the person (or persons) who are making the representation; and
- set out the particular reasons why consent should be granted or refused; and
- comment only on the performance-based elements (or aspects) of the proposal, which does not include the:

I:



wish to be heard in support of my submission*



do not wish to be heard in support of my submission

By:



appearing personally



being represented by the following person:

**You may be contacted if you indicate that you wish to be heard by the relevant authority in support of your submission*

Signature:



Date:

18.1.25

Return Address:

Email:

Complete online submission: plan.sa.gov.au/have_your_say/notified_developments

Representations

Representor 7 - Inns Graham

Name	Inns Graham
Address	4/38 Buxton Street NORTH ADELAIDE SA, 5006 Australia
Submission Date	24/01/2025 02:17 PM
Submission Source	Post
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development
Reasons	

Attached Documents

Rep-10261955.pdf

REPRESENTATION ON APPLICATION

Planning, Development and Infrastructure Act 2016



Applicant: Helping Hand Aged Care

Development Number: 24040803

Nature of Development: Demolition of existing residential buildings and construction of a retirement facility in the form of two (2), three (3) storey residential flat buildings comprising twelve (12) units, ground floor carparking, fencing, landscaping, roof mounted solar photovoltaic panels and communal facilities including a community garden.

Zone/Sub-zone/Overlay: City Living / North Adelaide Low Intensity / Aircraft Noise Exposure (ANEF20)
Airport Building Height (Regulated) (All structures over 110 metres AHD)
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Historic Area (Adel1)
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Prescribed Wells Area
Regulated and Significant Tree
Stormwater Management
Urban Tree Canopy

Subject Land: CT 5804/224 / LOT 893 BUXTON ST NORTH ADELAIDE SA 5006
CT 5801/554 / 157 CHILDERS ST NORTH ADELAIDE SA 5006
CT 5845/885 / LOT 893 BUXTON ST NORTH ADELAIDE SA 5006

Contact Officer: Assessment Panel/Assessment Manager at State Planning Commission

Phone Number: +611800752664

Close Date: Wednesday 5 February 2025 at 11:59pm

My name*: GRAHAM INNS
My postal address*: 04/38 BUXTON ST
NORTH ADELAIDE
5006

My phone number: 0419 671 480
My email: gandcinns@internode.ono.net

* Indicates mandatory information

My position is: ☒ I support the development
☐ I support the development with some concerns (detail below)
☐ I oppose the development



Government of South Australia

Department for Trade
and Investment

The specific reasons I believe that consent should be granted/~~refused~~ are:

As an existing resident of the Helping Hand North Adelaide Retirement Village we have been fully consulted during the planning period of this new development. Any detrimental effects this new structure will have on existing retirement village residents is minimal.
The design is pleasing and its height is not intrusive.

[attach additional pages as needed]

Note: In order for this submission to be valid, it must:

- be in writing; and
- include the name and address of the person (or persons) who are making the representation; and
- set out the particular reasons why consent should be granted or refused; and
- comment only on the performance-based elements (or aspects) of the proposal, which does not include the:

I: ☐ wish to be heard in support of my submission*
☒ do not wish to be heard in support of my submission

By: ☐ appearing personally
☐ being represented by the following person:

*You may be contacted if you indicate that you wish to be heard by the relevant authority in support of your submission

Signature:



Date:

24/1/2025

Return Address:

04/38 Buxton St. North Adelaide 5006

Email:

gandcinn@internode.on.net

Complete online submission: plan.sa.gov.au/have_your_say/notified_developments

Representations

Representor 8 - Inns Christine

Name	Inns Christine
Address	4/38 Buxton Street NORTH ADELAIDE SA, 5006 Australia
Submission Date	24/01/2025 02:20 PM
Submission Source	Email
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development
Reasons	

Attached Documents

Rep2-10262012.pdf

REPRESENTATION ON APPLICATION

Planning, Development and Infrastructure Act 2016



Applicant: Helping Hand Aged Care

Development Number: 24040803

Nature of Development: Demolition of existing residential buildings and construction of a retirement facility in the form of two (2), three (3) storey residential flat buildings comprising twelve (12) units, ground floor carparking, fencing, landscaping, roof mounted solar photovoltaic panels and communal facilities including a community garden.

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Urban Tree Canopy

Subject Land: CT 5804/224 / LOT 893 BUXTON ST NORTH ADELAIDE SA 5006
CT 5801/554 / 157 CHILDERS ST NORTH ADELAIDE SA 5006
CT 5845/885 / LOT 893 BUXTON ST NORTH ADELAIDE SA 5006

Contact Officer: Assessment Panel/Assessment Manager at State Planning Commission

Phone Number: +611800752664

Close Date: Wednesday 5 February 2025 at 11:59pm

My name*: CHRISTINE INNS

My phone number: 0407 183 465

My postal address*: 4/38 BUXTON ST.
NORTH ADELAIDE SA.

My email: christineinns@yahoo.com.au

* Indicates mandatory information

My position is: ☒ I support the development
☐ I support the development with some concerns (detail below)
☐ I oppose the development



Government of South Australia

Department for Trade
and Investment

The specific reasons I believe that consent should be granted/~~refused~~ are:

The proposed development is compatible with the already existing retirement village and supports the Helping Hand Age Care retirement commitment.
The design is appealing and from the plans that I have seen fits the street scape of Childers Street.

[attach additional pages as needed]

Note: In order for this submission to be valid, it must:

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- set out the particular reasons why consent should be granted or refused; and
- comment only on the performance-based elements (or aspects) of the proposal, which does not include the:

I: ☐ wish to be heard in support of my submission*
☒ do not wish to be heard in support of my submission

By: ☐ appearing personally
☐ being represented by the following person:

**You may be contacted if you indicate that you wish to be heard by the relevant authority in support of your submission*

Signature: Christine Inns,

Date: 24 Jan 2025

Return Address: 4/38 BUXTON ST, NORTH ADELAIDE, SA 5006

Email: christineinns@yahoo.com.au

Complete online submission: plan.sa.gov.au/have_your_say/notified_developments

Representations

Representor 9 - Janine Emsley

Name	Janine Emsley
Address	5/28 Buxton Street NORTH ADELAIDE SA, 5006 Australia
Submission Date	24/01/2025 02:23 PM
Submission Source	Post
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development
Reasons	

Attached Documents

Rep3-10262063.pdf

REPRESENTATION ON APPLICATION

Planning, Development and Infrastructure Act 2016



Applicant: Helping Hand Aged Care

Development Number: 24040803

Nature of Development: Demolition of existing residential buildings and construction of a retirement facility in the form of two (2), three (3) storey residential flat buildings comprising twelve (12) units, ground floor carparking, fencing, landscaping, roof mounted solar photovoltaic panels and communal facilities including a community garden.

Zone/Sub-zone/Overlay: City Living / North Adelaide Low Intensity / Aircraft Noise Exposure (ANEF20)
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Subject Land: CT 5804/224 / LOT 893 BUXTON ST NORTH ADELAIDE SA 5006
CT 5801/554 / 157 CHILDERS ST NORTH ADELAIDE SA 5006
CT 5845/885 / LOT 893 BUXTON ST NORTH ADELAIDE SA 5006

Contact Officer: Assessment Panel/Assessment Manager at State Planning Commission

Phone Number: +611800752664

Close Date: Wednesday 5 February 2025 at 11:59pm

My name*: JANINE EMSLEY

My phone number: 0408810638

My postal address*: 5/28 Buxton St.
NORTH ADELAIDE 5006

My email:

* Indicates mandatory information

My position is:



I support the development



I support the development with some concerns (detail below)



I oppose the development



Government of South Australia

Department for Trade
and Investment

The specific reasons I believe that consent should be granted/refused are:

As a resident of the North Adelaide retirement village this development by Helping Hand will have a positive impact on community retirement living. Helping Hand Aged Care, North Adelaide has fully consulted existing residents & I support its design.

[attach additional pages as needed]

Note: In order for this submission to be valid, it must:

- be in writing; and
- include the name and address of the person (or persons) who are making the representation; and
- set out the particular reasons why consent should be granted or refused; and
- comment only on the performance-based elements (or aspects) of the proposal, which does not include the:

I: ☐ wish to be heard in support of my submission*
☒ do not wish to be heard in support of my submission

By: ☐ appearing personally
☐ being represented by the following person:

*You may be contacted if you indicate that you wish to be heard by the relevant authority in support of your submission

Signature:

Janine Emsley

Date: 20/1/2025.

Return Address:

Unit 5, 28 Buxton St. North Adelaide 5006

Email:

janineemadcloud.com

Complete online submission: [plan.sa.gov.au/have your say/notified developments](https://plan.sa.gov.au/have-your-say/notified-developments)

Representations

Representor 10 - Graham Inns

Name	Graham Inns
Address	Unit 4, 38 Buxton Street NORTH ADELAIDE SA, 5006 Australia
Submission Date	29/01/2025 09:06 AM
Submission Source	Post
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development
Reasons	

Attached Documents

ScannedDocument170806-10278347.pdf

Helping Hand North Adelaide Residents Committee

c/- Unit 4, 38 Buxton Street, North Adelaide SA 5006

22 January 2025



To: The Chairman State Planning Commission

Re: Development Application ID. 24040803 Helping Hand Aged Care Inc.

Residential Village development Childers St. North Adelaide

The Helping Hand North Adelaide Residents Committee (The Committee) wishes to give general support to the above application lodged by Helping Hand Aged Care Inc. (HHAC). The Committee and its retirement village resident members in Buxton and Chiton Cts have been consulted on a continuing basis since the conceptual planning of this facility commenced in 2024. HHAC has sought the input of The Committee and has incorporated a number of suggestions put forward by residents. Our support is based on the following.

- The land area encompassing the development is already designated for retirement village use and is an extension of the villas adjoining the new facility
- The proposed development will enhance the retirement community already existing in Buxton Ct. and Chiton Ct.
- The structure itself is compatible in design with other buildings in the vicinity and would blend well with older and more modern buildings in Childers St. It does not in our view breach height levels of buildings already in the vicinity.
- Overlooking of existing properties including the retirement villas in Buxton and Chilton Cts. has been reduced to a minimum.
- HHAC has over the past 80 years shown to be a caring, responsible and dedicated aged care provider with an unblemished record of high standard aged care accommodation. This new development will continue that high standard.
- With the recent emphasis being given by the Commonwealth and State Governments to encouraging retirement independent living this facility to be known as "Westering" will provide a much-needed opportunity to meet these objectives.
- Senior retirees who have chosen to reside in retirement villages are generally responsible, community spirited and quiet living citizens. They add to the social and economic environment of a precinct with their generally higher net disposable income.

As the development of this facility takes place The Committee is continuing to hold discussions with HHAC on a number of matters including the impact of construction on existing village residents, pedestrian access on completion, and communal facilities external to the main structure. None of these matters should in our view, prevent the development proposal from proceeding and we repeat our support for its approval by the Commission.

A handwritten signature in blue ink, appearing to read "Graham J Inns".

Graham J Inns
Chairman

Representations

Representor 11 - Jodie Prosser

Name	Jodie Prosser
Address	6 Ellis Ave VICTOR HARBOR SA, 5211 Australia
Submission Date	30/01/2025 08:24 AM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development

Reasons

I have worked in the Retirement Living industry in South Australia for the past 30 years, South Australia, like most states in Australia, has a huge under supply of quality Retirement Living accomodation offers for seniors. Which is forcing seniors to move to suburbs that may be unfamiliar or away from their families and friends or into ageing accomodation that does not match the level of their current surroundings. I have been impressed with the level of research and consultation Helping Hand have done to ensure that this development matches the requirements of seniors within the catchment area. This development will not only add choice for seniors in the surrounding suburbs but its colocation with the Aged Care Facility will ensure that seniors have the choice to stay together regardless of their varying health needs into the future. South Australia is in dire need of this type of quality accomodation that offers a contemporary solution to the increasing isolation issue of seniors, expanded accessible services and facilities purpose built for their future needs.

Attached Documents

Representations

Representor 12 - Kerry Lehman

Name	Kerry Lehman
Address	PO Box 1785 BURNSIDE SA, 5066 Australia
Submission Date	31/01/2025 08:59 AM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development

Reasons

We have a number of perspectives when providing commentary on this proposed development, the first is as previous residents of North Adelaide. Our family previously resided in North Adelaide and note the limited opportunities for suitable housing options as we and our neighbours age. Helping Hand has long been recognised as a caring and progressive provider in the area, and the only one with the long history of investing in North Adelaide for the benefit of the local community. We also have knowledge of the retirement living needs that are growing across the country having provided support to many operators in their developments to deliver the right components to ensure the eventual residents have a fabulous community to live in. In talking with many local North Adelaideans there is strong interest in purpose-built housing for independent living; no more stairs, more opportunity for community/socialising (addressing loneliness and well-being) and safe and secure place to live. This will also free up housing for the next generation as the residents will sell their homes to make the move. Helping Hand is well-recognised as a wonderful not-for-profit provider and they are to be commended for taking a considered approach to this. They are not a commercial developer with a short term interest. They have been around for a very long time, and their intentions to renew and innovate are to be supported.

Attached Documents

Representations

Representor 13 - Margaret Loftus

Name	Margaret Loftus
Address	Unit 7, 38-44 Buxton Street NORTH ADELAIDE SA, 5006 Australia
Submission Date	03/02/2025 02:27 PM
Submission Source	Post
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development
Reasons See attachment	

Attached Documents

Rep-HelpingHand-10318833.pdf

REPRESENTATION ON APPLICATION

Planning, Development and Infrastructure Act 2016



Applicant: Helping Hand Aged Care

Development Number: 24040803

Nature of Development: Demolition of existing residential buildings and construction of a retirement facility in the form of two (2), three (3) storey residential flat buildings comprising twelve (12) units, ground floor carparking, fencing, landscaping, roof mounted solar photovoltaic panels and communal facilities including a community garden.

Zone/Sub-zone/Overlay: City Living / North Adelaide Low Intensity / Aircraft Noise Exposure (ANEF20)
Airport Building Height (Regulated) (All structures over 110 metres AHD)
Building Near Airfields
Design
Historic Area (Adel1)
Hazards (Flooding – Evidence Required)
Prescribed Wells Area
Regulated and Significant Tree
Stormwater Management
Urban Tree Canopy

Subject Land: CT 5804/224 / LOT 893 BUXTON ST NORTH ADELAIDE SA 5006
CT 5801/554 / 157 CHILDERS ST NORTH ADELAIDE SA 5006
CT 5845/885 / LOT 893 BUXTON ST NORTH ADELAIDE SA 5006

Contact Officer: Assessment Panel/Assessment Manager at State Planning Commission

Phone Number: +611800752664

Close Date: Wednesday 5 February 2025 at 11:59pm

My name*: MARGARET LOFTUS

My phone number: 83619499

My postal address*: NO. 7 BUXTON COURT,
38-44 BUXTON ST, NORTH ADELAIDE
5006

My email: —

* Indicates mandatory information

My position is:



I support the development



I support the development with some concerns (detail below)



I oppose the development



Government of South Australia

Department for Trade
and Investment

The specific reasons I believe that consent should be granted/~~refused~~ are:

- There will be a need for more well-designed and well-situated Retirement Villages as we have an older population coming in the future.
- This site is ideal for the proposed development as it is in a central position in Adelaide and has the Free Connector Bus to take residents and visitors about in the city area. This service is a great help for everyone.
- The site is on level ground and should provide easy access for walking.
- There are a variety of cafe's and shops, etc. close by and community activities are available.
- I believe consent should be granted as such a facility would be beneficial to the area

[attach additional pages as needed]

Note: In order for this submission to be valid, it must:

- be in writing; and
- include the name and address of the person (or persons) who are making the representation; and
- set out the particular reasons why consent should be granted or refused; and
- comment only on the performance-based elements (or aspects) of the proposal, which does not include the:

- I: ☐ wish to be heard in support of my submission*
- ☒ do not wish to be heard in support of my submission
- By: ☐ appearing personally
- ☐ being represented by the following person:

*You may be contacted if you indicate that you wish to be heard by the relevant authority in support of your submission

Signature:

M. Loftus

Date:

29-1-2025

Return Address:

Email:

Complete online submission: plan.sa.gov.au/have_your_say/notified_developments

Representations

Representor 14 - Bruce Djite

Name	Bruce Djite
Address	91 KING WILLIAM STREET ADELAIDE SA, 5000 Australia
Submission Date	04/02/2025 01:44 PM
Submission Source	Email
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development
Reasons See attachment	

Attached Documents

20250203PropertyCouncil-HelpingHand-LetterOfSupport_final-10329491.pdf
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Property Council of Australia ABN 13 00847 4422
A Level 4, 91 King William Street, Adelaide SA 5000
T +61 8 8236 0900
E info@propertycouncil.com.au
W propertycouncil.com.au
T @propertycouncil

3 February 2025

State Commission Assessment Panel
Level 10, 83 Pirie Street
Adelaide SA 5001

scapreps@sa.gov.au

Letter of support – Helping Hand – 157 Childers Street, North Adelaide

Dear State Commission Assessment Panel,

The Property Council writes in support of our member, Helping Hand, who are currently seeking approval to develop a wellbeing precinct in the heart of North Adelaide at 157 Childers Street.

We understand that stage one of the development is currently open for public notification and that redevelopment of the full precinct will take place over several stages, with construction of the apartments expected to start in 2025.

We are advised that the development includes twelve architecturally designed apartments over three levels, a community garden, pedestrian walkways and amenities, designed to Gold Standards to support ageing-in-place and in keeping with North Adelaide's heritage.

We understand that extensive community engagement has shaped the design of the precinct. Helping Hand have informed me that the feedback has been overwhelmingly supportive, with strong emphasis on the importance of safety, quality design and ageing-in-place amenities and services.

This development represents an opportunity to develop housing for an ageing demographic that enables locals to move into age-appropriate housing within their community and simultaneously release family homes back into the conventional housing market.

Developments, such as Helping Hand's 157 Childers St proposal will do a lot of the heavy lifting when it comes to supplying South Australians with more diversity, choice and flexibility in residential building design.

With Australia's population aged over 85 expected to increase by 140 percent to 1.28 million by 2041, the demand for aged care and services for seniors is rapidly outpacing supply. Helping Hand's precinct will help in addressing this growing need by offering a seamless continuum of care.

A handwritten signature in black ink, appearing to read "Bruce Djite".

Bruce Djite
SA Executive Director, Property Council



Property Council of Australia ABN 13 00847 4422

A Level 4, 91 King William Street, Adelaide SA 5000

T +61 8 8236 0900

E info@propertycouncil.com.au

W propertycouncil.com.au

🐦 [@propertycouncil](https://twitter.com/propertycouncil)

Representations

Representor 15 - Staroula Daminato

Name	Staroula Daminato
Address	24 BUXTON STREET NORTH ADELAIDE SA, 5006 Australia
Submission Date	04/02/2025 01:51 PM
Submission Source	Email
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I oppose the development
Reasons	

Attached Documents

StavoulaDaminato-RepresentaionHelpingHands-10329603.pdf
Photos-StavroulaDaminatos-10329756.docx

From: Stavroula Daminato <vouladaminato@live.com>

Sent: Monday, 3 February 2025 3:12 PM

To: DHUD:SPC Applications <spcapplications@sa.gov.au>

Subject: Fwd: Objection to Development Application at Lot 893 Buxton Street, North Adelaide and 157 Childers Street, North Adelaide, 5006. Application ID : 24040803

You don't often get email from vouladaminato@live.com. [Learn why this is important](#)

Begin forwarded message:

From: Stavroula Daminato <vouladaminato@live.com>

Subject: Objection to Development Application at Lot 893 Buxton Street, North Adelaide and 157 Childers Street, North Adelaide, 5006. Application ID : 24040803

Date: 3 February 2025 at 2:51:17 pm ACDT

To: <spcapplication@sa.gov.au>

Dear Plan SA,

I am writing to formally object to the proposed development at Lot 893 Buxton Street, North Adelaide and 157 Childers Street, North Adelaide , 5006. I live at 24 Buxton Street, North Adelaide , 5006 and I believe the development will negatively impact my property and the local community in several ways:

1. OVERSHADOWING

The proposed building will cause significant overshadowing of my property, particularly in the small courtyard at the back of my home. It is my backyard and it is the area where I receive the only natural sunlight in the back area of my home. This will negatively affect my ability to enjoy my outdoor space.

2. PRIVACY

The new development will overlook my courtyard and home, significantly reducing my households privacy. Currently there are single story homes next to my home where the development aims to protrude and by building multiple story buildings will intrude all my privacy inside and outside the home and property. In the past, Helping Hand has renovated their two front heritage listed properties. When this was happening, trades were working on the property closest to mine and were able to look into my courtyard and home. I believe having these long term development plans will severely affect my households privacy and cause long term distress.

3.OVERDEVELOPMENT

I have concerns for overdevelopment, the height of the proposed buildings (three story buildings in an area predominately surrounded by single story residents) and the density of these buildings. With the proposed 5 stage plan , I am concerned the buildings will not preserve or contribute to the residential character of the area. Also, by approving three story buildings, this will provide a precedent for future developments in which is currently a low-rise residential area. Allowing a large scale development could lead to a future trend in similar projects, eventually changing and transforming the entire area in ways that give North Adelaide the vast appeal it has with residents and the community.

4.ENVIRONMENTAL CONCERNS

A large development of this scale will impact the environment leading to poor air quality and ongoing noise quality, particularly as a resident living next door to the proposed development. With no time frames in place, I believe the ongoing construction, using heavy machinery, demolition and other noisy activities of this development would affect the noise quality for my household long-term during the demolition phase and construction phase. This will be disturbing, cause disruption and distress for many months and reduce the tranquility of the area. The development of this scale will also pose health risks by way of unacceptable levels of dust and being constantly exposed to hazardous materials increasing the air pollution which we will be breathing in.

5.TRAFFIC AND PARKING IMPACT

I believe the development will significantly increase the traffic congestion of the street and area, causing parking issues and disruption to the route of the Adelaide free commuter bus (stop 6) which is currently used by a large number of residence , for transportation to work or university and particularly for the elderly who do not drive. Having an increase in the traffic flow in the area by way of trucks and trades vehicles will reduce the safety of the local community and cause major disruptions.

6.PROPERTY VALUE

I believe the property value of my residence will decrease as it will negatively impact the aesthetics of the home. Having multi-storey buildings will give a sense of congestion, especially in the courtyard area and around my property which will affect the overall property value of my home.

PHOTOS

To support these concerns, I will be forwarding a separate email with several photos that clearly show the potential impacts of the development on my property.

I respectfully ask that Plan SA and the Adelaide city council either reject the proposal or request for modifications to the concerns I have raised be addressed.

Regards,

Stavroula Daminato

24 Buxton Street, North Adelaide, SA 5006

Representations

Representor 16 - Anne Mangan

Name	Anne Mangan
Address	165 Childers Street NORTH ADELAIDE SA, 5006 Australia
Submission Date	05/02/2025 02:19 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development with some concerns

Reasons

Whilst looking at the plans I note that on page 4 it states that my home and that of the neighbours is 2 storey. They are not. I believe that this is corrected on page 9. My concerns are:- 1. Will my neighbours and I be overlooked as the new proposal is considerably taller than the original residence with west facing windows. 2. The only light source on the eastern side of my residence is through a central atrium. How will this taller building affect the light source into my home. Especially during the winter months. 3. I have had solar panels inserted on the eastern side of my roof. How will this new proposal affect their efficiency. 4. There is limited parking in our street. Many spaces are taking up by staff members of Helping Hand. This will only increase. As a member of a strata I am unable to get a parking permit for our second car.

Attached Documents

Representations

Representor 17 - Mal and Andrea Mead

Name	Mal and Andrea Mead
Address	147 Childers Street NORTH ADELAIDE SA, 5000 Australia
Submission Date	05/02/2025 03:50 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	Yes
My position is	I oppose the development
Reasons	

Attached Documents

54342LET01-1460184.pdf

5 February 2025

Teagan Lewis
State Planning Commission
Via: Plan SA Portal

Our Ref: 54342LET01

Dear Teagan

Representation - Development Application 24040803 - 157 Childers Street and Lot 893 Buxton Street, North Adelaide

MasterPlan (SA) Pty Ltd ('MasterPlan') have been engaged by Mal and Andrea Mead to provide a representation in response to the public notification of Application ID: 20240803. Mal and Andrea reside at 147 Childers Street, located immediately east of the subject site.

In providing this representation we have reviewed the application documentation, the relevant Planning and Design Code provisions and undertaken a site and locality inspection.

Our clients consider that the density, land use intensity, height, bulk, scale and overlooking impacts of this proposal are inappropriate in this location and inconsistent with the character of the area. Given these factors, the proposal will result in a significant impact on the high residential amenity level currently enjoyed.

Please find the following discussion regarding specific elements of the development proposed.

Density

The subject land is located within the City Living Zone and the North Adelaide Low Intensity Subzone. We note that the City Living Zone predominantly anticipates low to medium-density housing, however, it incorporates two (2) subzones that identify the appropriate locations for each density level. The subject site is located within the North Adelaide Low Intensity Subzone in which low-density housing is envisaged, as stipulated in the following:

North Adelaide Low Intensity Subzone	
DO 1	Predominantly low-rise low-density housing on large allotments in an open landscaped setting.



The Code defines low net density as ‘less than 35 dwelling units per hectare’ and medium net residential density as ‘35 to 70 dwelling units per hectare’.

The proposal seeks to establish 12 dwellings in the form of two (2) residential flat buildings, equating to a net residential density of 53 dwellings per hectare. The proposed dwelling density sits centrally within the definition of medium net density.

Should the proposal be consistent with the Sub-zone’s intention of predominantly low-density housing of up to 34 dwelling units per hectare, this would equate to seven (7) dwellings. The proposal incorporates *five (5) dwellings beyond the low net density anticipated* within the Zone and Sub-zone for the site.

Examples of medium net density developments within Childers Street have been identified within the Planning Report as a development feature in the locality.

Notably, the medium density examples within the locality are characteristically groups of ‘units’ with small floor plans. A high proportion appear to be one (1) and two (2) bedroom units with one (1) bathroom. Some are single storey demonstrating the modest floor areas.

The proposal does not replicate the floor plan characteristics demonstrated in the medium level examples referenced. The proposal incorporates dwellings with three (3) bedrooms, or two (2) bedrooms plus study floorplans, each with either two (2) or three (3) bathrooms. There is one 2-bedroom, 2-bathroom apartment.

The floor plans are generous, providing a different form of medium density dwelling to that existing with Childers Street, which is of significantly larger scale. The significant size of the floor areas results in a disproportionally large building relevant to the density of 12 apartments.

The dwelling density significantly exceeds the residential density anticipated within the North Adelaide Low Intensity Zone. More importantly, impacts of the high density are exacerbated by the large floor areas proposed, resulting in a further intensification of the externalities such as height, size, bulk, scale, site coverage, landscaping and character, as discussed further within this representation.

Building Height

The City Living Zone and North Adelaide Low Intensity Sub-zone provide clear guidance regarding the envisaged building height, as follows:

City Living Zone

DO 1

Predominantly low-rise, low to medium-density housing, with medium rise in identified areas, which supports a range of needs and lifestyles located within easy reach of a diversity of services and facilities



City Living Zone	
that support city living. Small scale employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising residential amenity.	
PO 2.2 Development contributes to a predominantly low-rise residential character, except when located in the Medium - High Intensity Subzone or East Terrace Subzone where it contributes to a predominantly medium rise residential character, consistent with the form expressed in the Maximum Building Height (Levels) Technical and Numeric Variation layer and the Maximum Building Height (Metres) Technical and Numeric Variation layer in the SA planning database or any relevant Concept Plan and positively responds to the local context.	DTS/DPF 2.2 Except where a Concept Plan specifies otherwise or on a Catalyst Site in the East Terrace Subzone, development (excluding garages, carports and outbuildings): (a) does not exceed the following building heights: <ul style="list-style-type: none">• Maximum building height is 2 levels• (Truncated)
North Adelaide Low Intensity Subzone	
DO 1	Predominantly low-rise low-density housing on large allotments in an open landscaped setting.

The proposal incorporates three (3) building levels, exceeding the two (2) level low-rise residential character numerical standard anticipated by one (1) level. In considering the appropriateness or otherwise of this departure, the Courts have provided recent guidance on how building height (levels) are to be considered where a numerical guideline is exceeded.

Barrio Developments Pty Ltd v State Planning Commission (2020) SAERDC 32 is particularly relevant to this proposal in that building height formed the primary focus of the Commissioners assessment. The proposal incorporated the variation to an approved six-storey residential flat building, to incorporate an addition seventh level.

In considering the numerical discrepancy, the Commissioner recognised it was important that the additional building level was consistent with the qualitative standards within the Development Plan.

In this regard, the proposal was considered ‘*not to offend those qualitative design provisions*’, as recognised in the following:

I can find no support for the proposed seventh level addition (21.5 metres) notwithstanding that it is, in my view, well designed and that it satisfies those provisions of the Development Plan relating to function, overlooking, overshadowing and the like.

Similarly, this proposal does not offend the relevant qualitative design provisions.



However, while the design of the residential flat building is important, a high level of design does not necessarily provide justification for exceedance of the relevant building levels anticipated within a Zone. The height, bulk and scale of the building remain an important consideration when assessing the built form character envisaged within the zone, as recognised by the Commissioner:

the quantitative expression relating to an envisaged building height has a qualitative goal – namely a built form character established by the envisaged height of buildings. The proposed seventh building level does not achieve that goal.

The built form character within Childers Street is predominantly single-storey, interspersed with two-storey development.

A three-storey building is located to the north-east at 150 Childers Street. While the three-storey building is out of character within the streetscape, it incorporates a modest building frontage width of approximately 13.5 metres, reducing its streetscape presence. The application documentation identifies the building as being 10.02 metres high. The building does not provide a dominant streetscape impression, nor is it characteristic within Childers Street.

The proposal incorporates two (2) buildings with heights of 11.4 metres. Notably, this includes 3.7 metres between each floor level and 4 metres between the level 2 floor and parapet line. The height of each floor level is excessive, resulting in the total height of the three-storey building being significantly higher than can be achieved with lower Building Rules compliant ceiling heights.

The proposal incorporates an additional building level beyond the sub-zone expectations, along with high floor to floor/roof heights that accentuate the uncharacteristic building height.

The intention of a low-rise character is clearly stipulated in the zone and subzone. Varying from that intention requires site specific circumstances where the development ‘contributes to a predominantly low-rise residential character’ (PO 2.2). The proposal does not positively contribute, the building height is in stark contrast to the Childers Street streetscape character, representing a dominant and uncharacteristic visual element, as demonstrated within the application documentation streetscape perspectives:





Bulk and Scale

The following provisions are particularly relevant to the proposals bulk and scale:

Design in Urban Areas	
<p>DO 1</p> <p>Development is:</p> <ul style="list-style-type: none"> (a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributing to the character of the locality (b) durable - fit for purpose, adaptable and long lasting (c) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors <p>sustainable - by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.</p>	
Historic Area Overlay	
<p>PO 2.1</p> <p>The form and scale of new buildings and structures that are visible from the public realm are consistent with the prevailing historic characteristics of the historic area.</p>	<p>DTS/DPF 2.1</p> <p>None are applicable.</p>
<p>PO 2.2</p> <p>Development is consistent with the prevailing building and wall heights in the historic area.</p>	<p>DTS 2.2</p> <p>None are applicable.</p>
City Living Zone	
<p>PO 2.3</p> <p>New buildings and structures visible from the public realm consistent with:</p> <ul style="list-style-type: none"> (a) the valued streetscape characteristics of the area (b) prevailing built form characteristics, such as floor to ceiling heights, of the area. 	<p>DTS/DPF 2.3</p> <p>None are applicable.</p>
North Adelaide Low Intensity Subzone	
<p>PO 1.1</p> <p>Buildings sited and designed to complement the low-density or very-low density character of the</p>	<p>DTS/DPF 1.1</p> <p>None are applicable.</p>



North Adelaide Low Intensity Subzone	
neighbourhood, in locations where an open landscape setting is the prevailing character.	
PO 2.1 Building footprints consistent with the character and pattern of the prevailing open landscaped character of the neighbourhood, in locations where an open landscaped setting is the prevailing character.	DTS/DPF 2.1 The development does not result in site coverage exceeding 50%.

In considering the appropriateness of the proposals bulk and scale, the relevant character of the locality is of importance. The character is best described as being predominantly single storey dwellings, intermixed with two-storey dwellings.

The subject site is located within a section of single storey dwellings on the southern side of Childers Street. Dwellings at 161 through to 171 Childers Street are single storey to the west (the street facing dwelling at 161 is single storey). Dwellings at 145 and 147 are single storey to the east. The dwellings typically incorporate frontage widths of approximately 11 metres. The four row dwellings at 165 to 171 Childers Street incorporate building widths of approximately 7 metres.

The proposal sits within this streetscape with three (3) building levels incorporating a total height of 11.4 metres and frontage width of 22 metres. The buildings width is twice that typical in the streetscape and the building incorporates two (2) building levels beyond the dwellings to the east and west. The building's roof top is higher than these single storey dwellings in a range between 6.125 metres to 6.43 metres.

We note the relevance of *Kelly v City of Burnside* (2006) SAERDC 16 in providing specific guidance regarding the assessment of bulk and scale, in particular:

Although the question of scale can involve complex and subjective argument, a common sense approach to the assessment demonstrates to me that the existing development in the locality is of low scale and is the basis for assessing whether the proposed development is of the same or similar character. Approached in this way, it is evident that the proposed building does not have the same character.

The building width of 22 metres and the three (3) building levels contribute to the significant and uncharacteristic bulk and scale when viewed from Childers Street. The proposal does not meet the *Kelly v City of Burnside* (2006) 'common sense approach' in considering whether the proposed development is of the same or similar character. The proposed building clearly 'does not have the same character'.

Beyond the streetscape, the building's bulk, scale and height impacts will be at their most extreme when viewed from our client's property located to the east, particularly given the building's expansive height and width, and the orientation of our client's living space.



Our client's primary living rooms, swimming pool and private open space are located adjacent to the common boundary with the subject site, for which the proposed building is anticipated to provide an overbearing presence when enjoying these spaces. Our client's dwelling plans have been overlayed on the proposal plans to demonstrate the interface impact at **Attachment A**. The following photographs depict our client's primary open-plan living and kitchen currently under construction. The photographs below have been taken from the relevant location marked on the **attached** plan.



Photograph 1 - Views to the west from our client's kitchen bench



Photograph2 - Views to the northwest from our clients central living space

Our client will have direct views of Building 1's southern elevation from their main living area through expansive windows. The gap between the proposed two (2) residential flat buildings will not provide relief from this vantage point due to the angle of view. The bland and featureless southern elevation will represent the dominant impression, as depicted in the following:

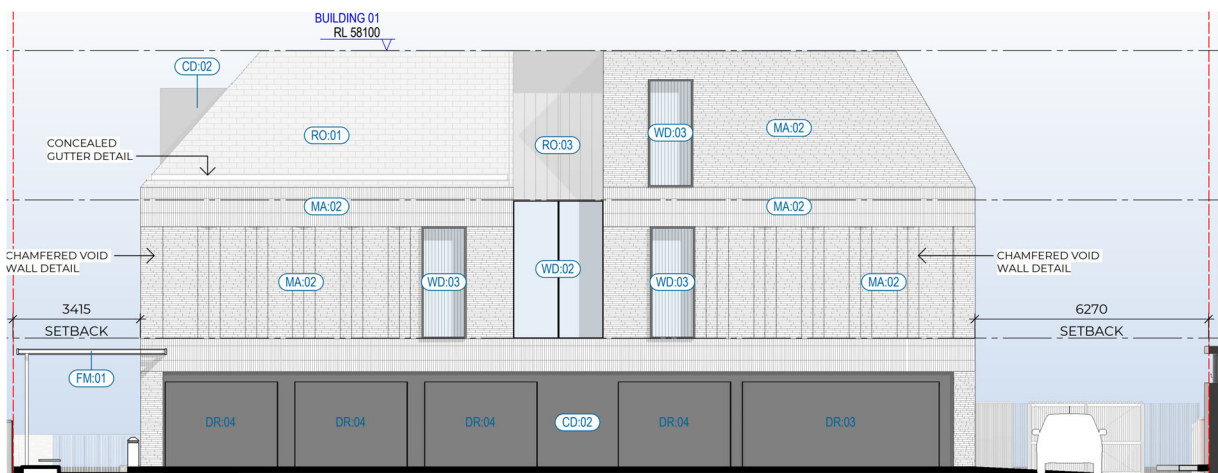


Figure 2: Southern elevation of proposed Building 1



Photograph 3 - Views to the north-west from the southern living area



Photograph 4 – views to the north-west from our client's rear yard



Photograph 5 – views to the west from our client's rear yard



Photograph 6 – views to the north-east from our client's rear yard

Our client will have direct views of the proposed rear buildings eastern elevation through the expansive windows in photograph 2. Views of the following façade will be dominant:



Figure 3: Eastern elevation of proposed Building 2

The confronting views through our clients' western windows will be of a high and wide built form that provides no visual relief. Our client currently enjoys the opportunity for sky views and a sense of space when using their living area, swimming pool and private open space. The proposal will result in a sense of enclosure when using these spaces which is beyond what is to be reasonably anticipated given the characteristics of the area and the relevant policy settings.

Given the North Adelaide Sub-zone intentions of *'Building footprints consistent with the character and pattern of the prevailing open landscaped character of the neighbourhood'*, this character expectation will not be provided to Mal and Andrea Mead due to the building's height, bulk and scale.

The inclusion of the third level and the high floor-to-floor/roof building levels will result in an unreasonable bulk and scale impact for Mal and Andrea Mead as the building elevations are inconsistent with the *'prevailing built form characteristics'*, do not *'complement the low-density or very-low-density character of the neighbourhood'*, nor *'the prevailing historic characteristics of the historic area'*. The buildings are of an inappropriate size and do not *'positively contribute to the character of the immediate area'*.

The proposal is inconsistent with the existing Childers Street single-storey character and the intentions of the North Adelaide Low Intensity Sub-zone given the relative bulk and scale experienced. It does not meet the *Kelly v City of Burnside 'common sense approach'* in considering whether the proposed development is of the same or similar character. The proposed building clearly *'does not have the same character'*. Our client will be unreasonably impacted by this character departure.

In terms of the opportunity for plan amendments, our client questions the need for the three (3) levels when the site provides the opportunity for basement car parking. The provision of basement parking enables the building height, and bulk and scale to align with the prevailing character. Our client makes the observation that basement parking is becoming a more common element within North Adelaide.



Overlooking

The following provisions are of relevance:

Design in Urban Areas	
<p>PO 10.1</p> <p>Development mitigates direct overlooking from upper-level windows to habitable rooms and private open spaces of adjoining residential uses in neighbourhood-type zones.</p>	<p>DTS/DPF 10.1</p> <p>Upper-level windows facing side or rear boundaries shared with a residential use in a neighbourhood-type zone:</p> <ul style="list-style-type: none"> (a) are permanently obscured to a height of 1.5m above finished floor level and are fixed or not capable of being opened more than 125mm (b) have sill heights greater than or equal to 1.5m above finished floor level (c) incorporate screening with a maximum of 25% openings, permanently fixed no more than 500mm from the window surface and sited adjacent to any part of the window less than 1.5 m above the finished floor level.
<p>PO 10.2</p> <p>Development mitigates direct overlooking from balconies to habitable rooms and private open space of adjoining residential uses in neighbourhood type zones.</p>	<p>DTS/DPF 10.2</p> <p>One of the following is satisfied:</p> <ul style="list-style-type: none"> (a) the longest side of the balcony or terrace will face a public road, public road reserve or public reserve that is at least 15m wide in all places faced by the balcony or terrace <p>or</p> <ul style="list-style-type: none"> (b) all sides of balconies or terraces on upper building levels are permanently obscured by screening with a maximum 25% transparency/openings fixed to a minimum height of: <ul style="list-style-type: none"> i. 1.5m above finished floor level where the balcony is located at least 15 metres from the nearest habitable window of a dwelling on adjacent land <p>or</p> ii. 1.7m above finished floor level in all other cases

Direct overlooking is defined within the Code as:

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



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

To gain an understanding of the extent of views that will be available from the three-storey proposal into our client's property, our client has engaged Billson Sawley Architects to provide a 3D Architectural model of the relevant sight lines, provided at **Attachment B**.

The sight lines are accurately modelled, with the four images taken from a viewing height of 9 metres (eye height of 1.6 metres from the third-floor level), 7 metres from the common boundary and 34, 38, 42 and 49 metres from the Childers Street frontage, representing the location of the proposed skylight and three dormer windows. The Architectural models depicts direct views into our client's kitchen and central living area through their extensive western glazing, central courtyard, swimming pool and rear yard.

The proposal directly overlooks our client's living room windows, swimming pool and private open space in the following cases:

- The dormer windows within the second building level are not proposed to be obscured. The application suggests that the deeper reveals will minimise the opportunity for direct overlooking, however; views down to our client's property remain attainable and direct. The section plans do not demonstrate obstructed sight lines. There is direct overlooking from these windows.
- Direct overlooking is provided through the Building 2 penthouse hallway windows through the 'terrace'. The section plan sight lines do not demonstrate that direct views are obstructed. There is direct overlooking from this terrace.
- Direct overlooking is provided from the Building 1 penthouse balcony on the eastern elevation. The planter box proposed to obscure views is 1.0 metres high. Plantings within the planter box will not obscure direct overlooking.
- Direct overlooking is provided from the Building 1 first floor level balcony on the eastern elevation. The planter box proposed to obscure views is one metre high. Plantings within the planter box will not obscure direct overlooking.

Direct overlooking into our client's living room windows, swimming pool and private open space is to be 'mitigated' (PO 10.1 & 10.2). The design approach does not mitigate overlooking. The proposal incorporates direct overlooking into these spaces, which is required to be addressed.

Redevelopment of 147 Childers Street

Our client's dwelling is Local Heritage listed and currently subject to the construction of a rear addition and swimming pool. In association, significant restoration has occurred to the original cottage, for which Adelaide City Council assisted with a financial contribution.



Our client feels that the restoration efforts and financial investment into the cottage will be compromised given the overwhelming scale of the proposal disrupting the item's context and setting. The disproportionate scale between the two buildings will overwhelm the Item, impacting its place within the streetscape.

The small scale of the cottage has also resulted in the additions being located towards the site's rear and west to provide for a comfortable sized living area. Our client will spend a high proportion of their time within the rear living area, with their prominent outlook towards the three-building level proposal. The current high amenity enjoyed by our clients will be significantly impacted due to these site-specific circumstances.

Summary

Our client is not opposed to redevelopment of the site generally, however, considers that the proposed height, bulk and scale of this development is inappropriate in this location, which will result in a significant impact on the high level of residential amenity that they currently enjoy. In particular, the third level will represent a dominant visual impact when viewed from their west facing living areas, swimming pool and private open space. Our clients will also be directly overlooked.

Our client requests that the proposal's building level exceedance form a principal consideration in SCAP's assessment, along with the floor-to-floor/roof heights of 3.7 metres and 4 metres. The construction of the third building level and the floor level heights are the elements that will result in the greatest impact for our client.

The proposal does not satisfy the provisions of the Planning and Design Code and in our view does not warrant the granting of Planning Consent.

Please advise of the time and date for the State Commission Assessment Panel meeting at which the application will be considered so our client or their representative is able to arrange to be in attendance.

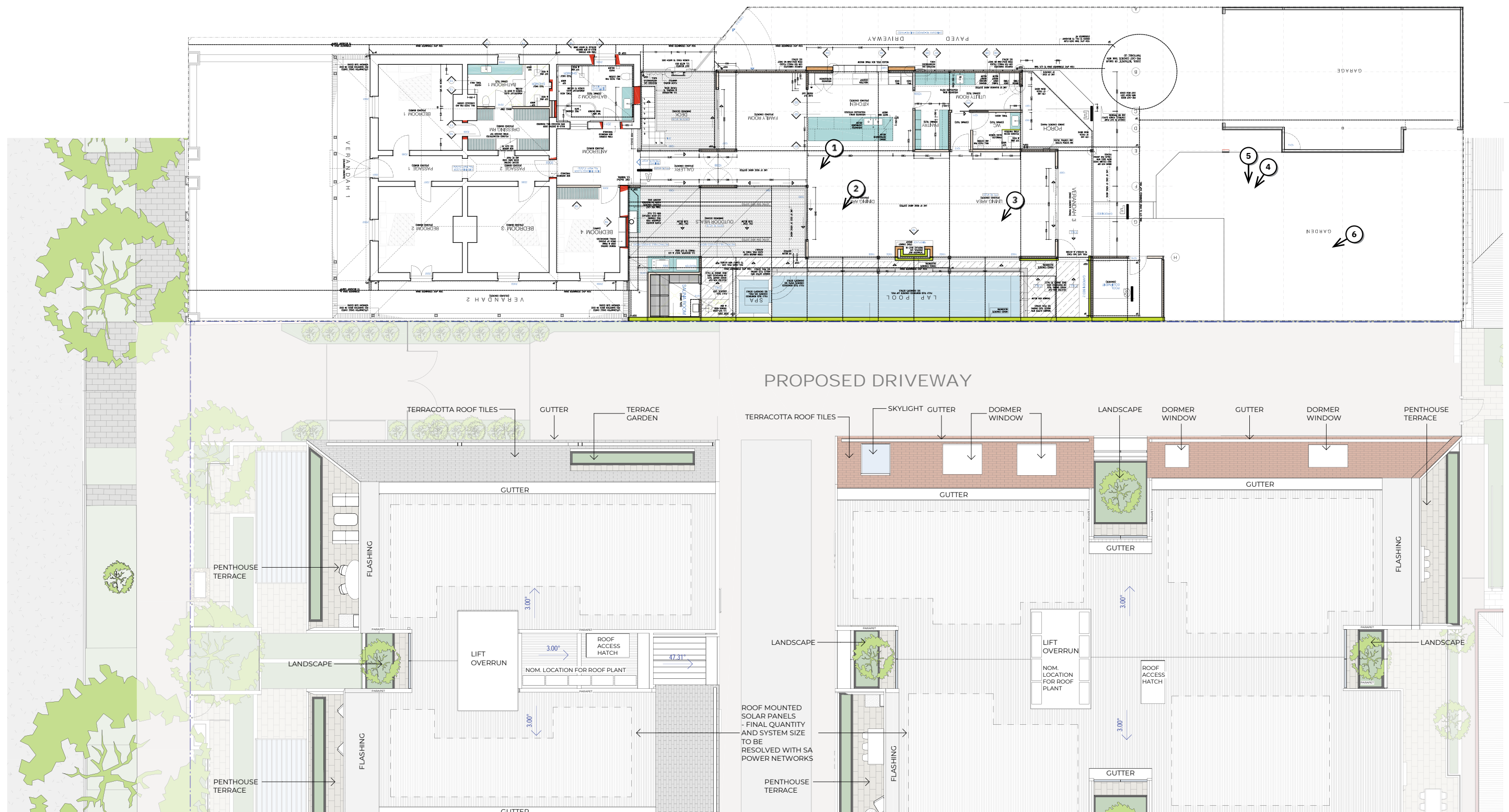
Yours sincerely

Stewart Hocking
MasterPlan SA Pty Ltd

enc. Site Plan

Attachment A

Development Interface



REFER TO OVERALL SITE PLAN FOR DETAIL

1 Referenced image number and direction taken

SITE PLAN Development Interface

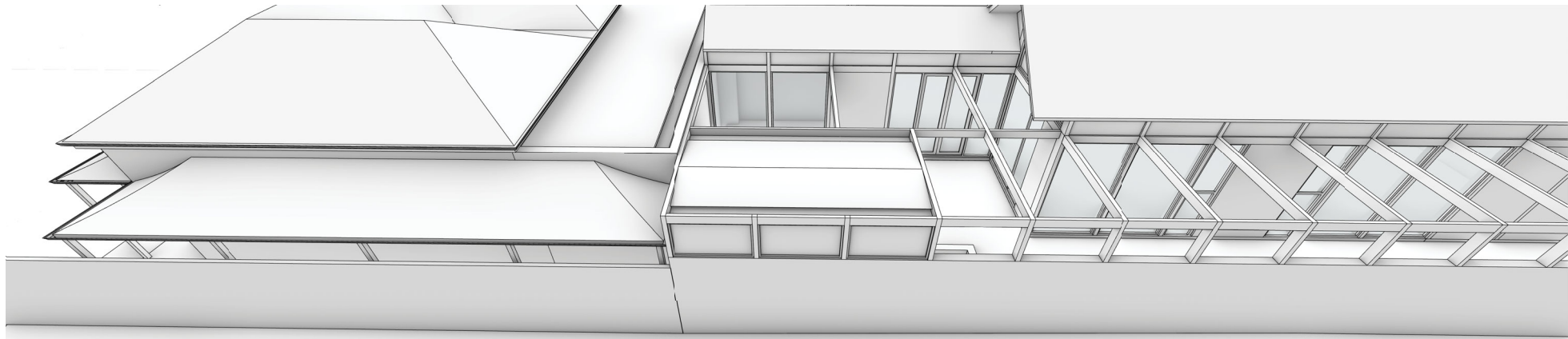
157 Childers Street
NORTH ADELAIDE

for Mal Mead

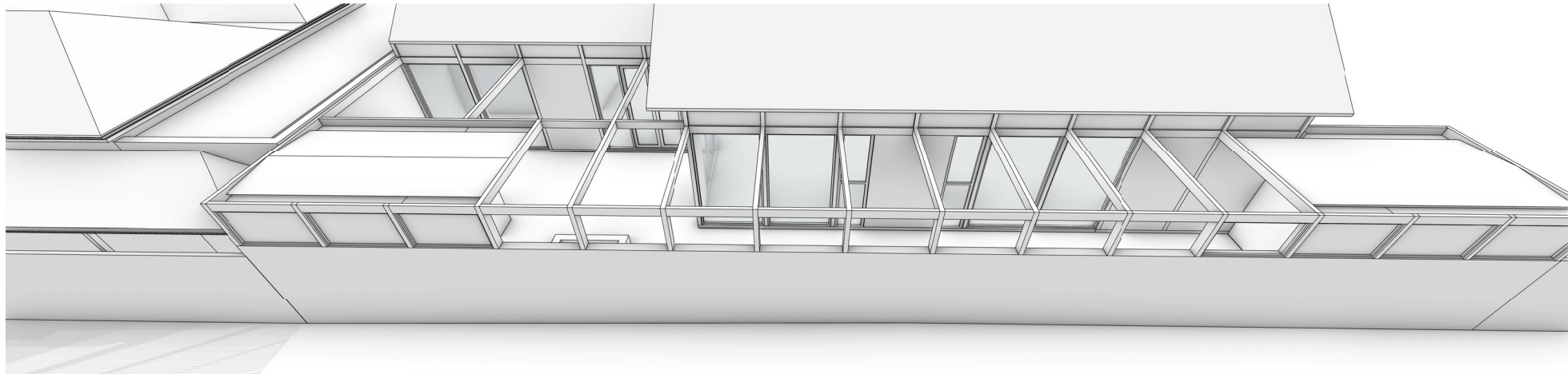


Attachment B

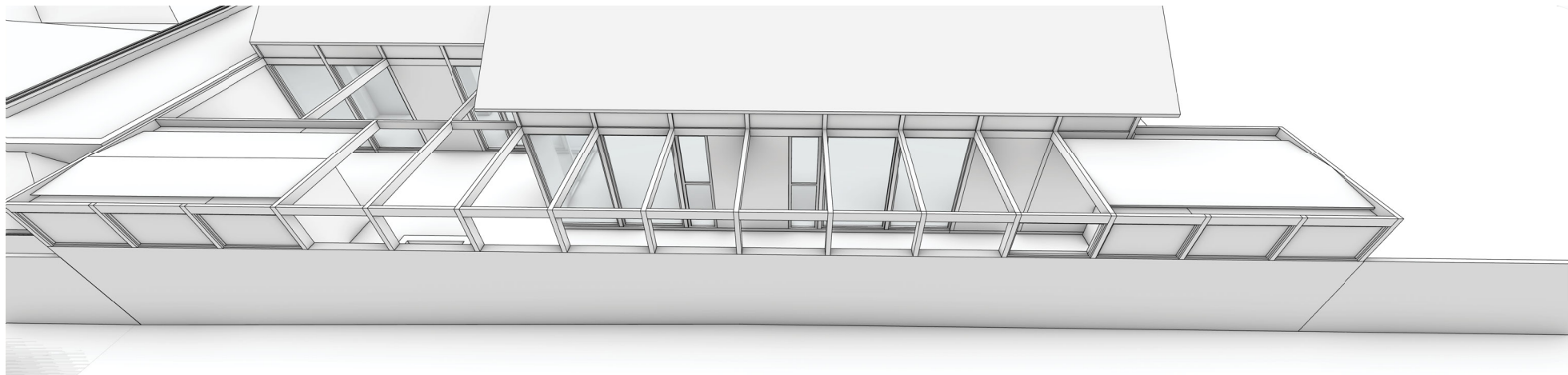
3D Architectural Model



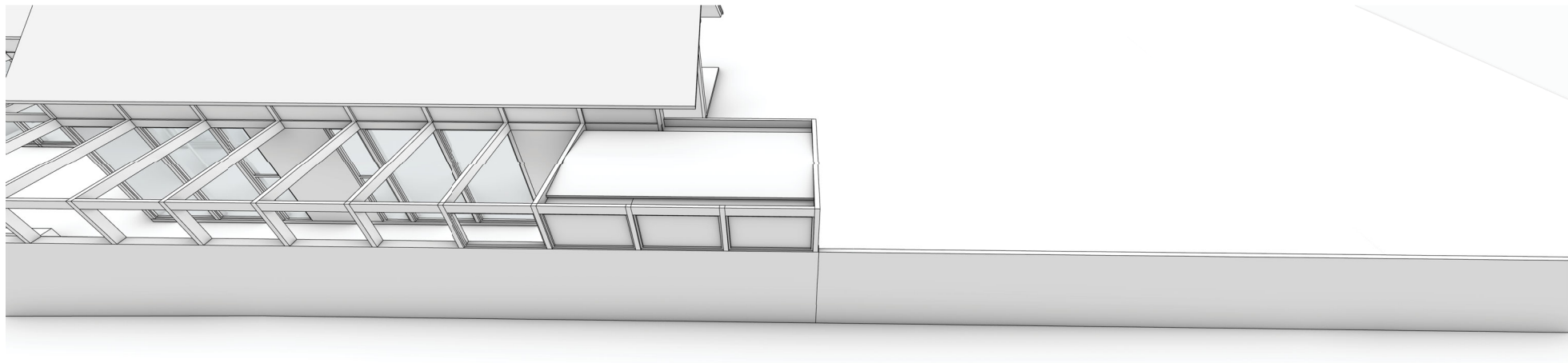
34 metres from
Childers Street Frontage



38 metres from
Childers Street Frontage



42 metres from
Childers Street Frontage



49 metres from
Childers Street Frontage

These views are accurately modelled with a viewing height of 9M above ground level (eye height 1.6M above 3rd floor level) taken 7M west of the boundary alignment.

There are 4 views taken 34, 38, 42 and 49 metres from the Childers Street frontage which is the location of the proposed skylight and 3 dormer windows.

3D Architecural Model

Representations

Representor 18 - David Crotti

Name	David Crotti
Address	168 Childers Street NORTH ADELAIDE SA, 5006 Australia
Submission Date	05/02/2025 04:22 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	Yes
My position is	I oppose the development
Reasons	

Attached Documents

Helping-Hand-Childers-Street-1460241.pdf
--

I object to the proposed residential flat building (per Dev No. 240040803), by Helping Hand, at 157 Childers Street/Lot 893 Buxton Street, North Adelaide on a number of grounds. My primary concern is with that portion of the development site facing Childers Street.

The proposed building is excessively tall and dense on the Childers Street site and at odds with the clear intent for this part of the low-density/low rise North Adelaide Low Intensity Subzone. The applicants architect seeks to draw reference to a standalone three storey residential flat building opposite the subject Childers Street frontage in order to justify the proposed building height. Perhaps too, some weight is sought to be drawn on the City Living Zone PO 1.1 in achieving goals of increasing dwelling yields for a more diverse housing type/need. However, the proposed three building levels fronting Childers Street is clearly at odds with the area's "prevailing character" – that being the appropriate context, or reference point as repeatedly identified throughout the City Living Zone ((PO 2.1, PO 2.3 and PO 3.1), the North Adelaide Low Intensity Subzone (PO 1.1 and PO 2.1), and more particularly the Historic Area Overlay (PO 2.1, PO 2.2, PO 2.3 and PO 2.4). It is also at odds with the express terms of Concept Plan 33 prepared for the Helping Hand properties. It is absolutely clear that a "low scale, up to 2 levels" prescription is intended for the Childers Street site, and not the proposed three storeys.

On this ground alone the application should be refused.

On my assessment, the design and siting of the proposed Childers Street building is also excessive and at odds with the design brief as clearly spelt out under the Code. It is not a "...contextually responsive design..." (per Historic Overlay DO1) and does not display building massing, side setbacks, an open landscaped character, nor indeed a design or architectural detailing that is consistent with the prevailing historic characteristics of the North Adelaide Hill Street Historic Area Statement (per Historic Area Overlay PO 2.1, PO 2.2, PO 2.3 and PO 2.4). City Living Zone Pos 2.1 and 2.3 essentially set the brief for the designers – that is

PO 2.3 New buildings and structures visible from the public realm consistent with:

- (a) The valued streetscape characteristics of the area
- (b) Prevailing building form characteristics such as floor to ceiling heights...of the

area.

Whilst I have no objection to a redevelopment of the Helping Hand sites, which are generally welcomed, they are expected to meet the express terms of the Planning and Design Code. This proposal does not and should be refused.

I seek the opportunity to be heard by the Council Assessment Panel in support of my concerns either in person or by representative.

Representations

Representor 19 - Rose Debbie - James Thomas - Georgina Rose De Palma - Birchall

Name	Rose Debbie - James Thomas - Georgina Rose De Palma - Birchall
Address	134 Childers Street NORTH ADELAIDE SA, 5006 Australia
Submission Date	05/02/2025 05:43 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	Yes
My position is	I oppose the development
Reasons See attached	

Attached Documents

Representation-Letter-5-February-2025-1460294.pdf

Our Ref: AK:A250200

5 February 2025

Teagan Lewis
State Planning Commission
Via: Plan SA Portal

ALSO BY EMAIL: spcapplications@sa.gov.au

Dear Sir/Madam

**PROPOSED DEVELOPMENT AT 157 CHILDERS STREET, NORTH ADELAIDE
DEVELOPMENT APPLICATION NUMBER 24040803**

1. We refer to the above development application (**'the Application'**) for 157-163 Childers Street (**'the Subject Land'**), which seeks development approval for 12 Independent Living Units comprising two, three-storey apartment buildings (**'the Proposed Development'**), and which is currently out on public notification.
2. We act for the following registered proprietors/residents and have been asked to lodge a representation on their behalf in respect of the Application:
 - 2.1. Rose Debbie De Palma, James Thomas Wardlaw Birchall and Georgina Rose Wardlaw Birchall (134 Childers Street, which is a single storey dwelling on the opposite side of Childers Street and to the east of the Subject Land);
 - 2.2. Carolyn Roesler and Christopher Page (138 Childers Street, which is a single storey dwelling on the opposite side of Childers Street and to the east of the Subject Land);
 - 2.3. Malcolm John Mead and Andrea Jane Mead (147 Childers Street, which is currently being redeveloped and is on the same side of Childers Street and is immediately to the east of the Subject Land);
 - 2.4. Van Van Vu, Ms Phuong Do, Alyshia Vu and Anneliese Vu (156 Childers Street, which is which is a single storey dwelling on the opposite side of Childers Street and directly opposite the Subject Land);
 - 2.5. Scott Griffin and Jacqueline Griffin (161 Childers Street, which is which is a single storey dwelling on the same side of Childers Street and is immediately to the west of the Subject Land); and

Adelaide

Pirie house, Level 6, 89 Pirie Street
Adelaide SA 5000
GPO Box 74 Adelaide SA 5001
P 08 8414 3400

Port Lincoln

11 Mortlock Terrace
Port Lincoln SA 5606
PO Box 411 Port Lincoln SA 5606
P 08 8682 3133

Clare

165 Main North Road
Clare SA 5453
PO Box 671 Clare SA 5453
P 08 8842 1833

Barossa Valley

41 Tanunda Road
Nuriootpa SA 5355
PO Box 339 Nuriootpa SA 5355
P 08 8561 1000

Regional Offices (By appointment only)

P 1300 414 414

Balaklava, Burra, Bordertown, Ceduna, Cleve, Cummins, Elliston, Kadina, Keith, Kimba,
McLaren Vale, Riverton, Streaky Bay, Wudinna

- 2.6. Glenn Burrett and Loreto Mallari (163A Childers Street, which is which is a single storey dwelling on the same side of Childers Street and is immediately to the west of the Subject Land, being located behind/south of 161 Childers Street).
3. Rather than submitting multiple copies of the same representation, we ask that you accept this as a separate representation from each of our above clients. Where necessary we will speak to the differing impacts on each of our clients below.
4. Our clients are opposed to the proposed development for the reasons set out below.
5. Our clients have also had the benefit of reviewing the separate representations lodged on behalf of Mr and Mrs Mead and Mr and Mrs Griffin and agree with the matters raised in those representations. This representation is also lodged on behalf of Mr and Mrs Mead and Mr and Mrs Griffin to supplement those matters raised in the representations they have already lodged.

The development application

6. The development application is described as being for the *'demolition of existing residential buildings and construction of a retirement facility in the form of two, three-storey residential flat buildings comprising twelve units, ground floor carparking, fencing, landscaping, solar panels and communal facilities including a community garden'*.
7. The most pertinent elements of the Proposed Development are as follows:
 - 7.1. The main façade of the 'front' building of the Proposed Development is set back 5.9 metres at all levels and sits in line with the 1 storey building at 161 Childers Street, although there is a covered terrace area which sits forward of the main façade, almost to the boundary of the property. The Proposed Development sits forward of the building at 147 Childers Street
 - 7.2. The side setbacks for the front building at all levels are 6 metres to the east and 3.708 metres to the west (noting that the site tapers from the front to the rear).
 - 7.3. The side setbacks for the rear building at all levels are 6 metres to the east and between 3.193 and 2.8 metres to the west (noting that the site tapers from the front to the rear).
 - 7.4. The buildings are both three-storey and have a height of 11.4 metres and have a width of 22 metres.
 - 7.5. Landscaping is proposed in a relatively small area at the front (north) of the Subject Land, predominantly incorporated into the terrace area of the Proposed Development.
8. A lot is made of future stages (stages 3 through 7), but they cannot be considered as part of this application. It would be improper to consider any benefit (or otherwise) that the Proposed Development might obtain from those future developments, particularly given those future stages may never eventuate. In short, what is required is for the Application to be assessed on its own merits.

The Planning and Design Code ('the Code')

9. The Subject Land is located within the City Living Zone ('the Zone').
10. It is accepted that the proposed use as a retirement facility is an envisaged use within the Zone.
11. Relevantly the Zone provides as follows (our emphasis):

11.1. DO 1

Predominantly low-rise, low to medium-density housing, with medium rise in identified areas, that supports a range of needs and lifestyles located within easy reach of a diversity of services and facilities that support city living. Small scale employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising residential amenity.

11.2. PO 1.3

Non-residential development sited and designed to complement the residential character and amenity of the neighbourhood.

11.3. PO 2.2

Development contributes to a predominantly low-rise residential character, except when located in the Medium - High Intensity Subzone or East Terrace Subzone where it contributes to a predominantly medium rise residential character...

The associated DTS/DPF seeks a maximum building height of two levels.

11.4. PO 2.3

New buildings and structures visible from the public realm consistent with:

- (a) valued streetscape characteristics of the area
- (b) prevailing built form characteristics, such as floor to ceiling heights, of the area.

11.5. PO 3.1

Buildings are set back from primary street boundaries to complement the existing streetscape character.

11.6. PO 3.3

Buildings setback from side boundaries to provide:

- (a) separation between buildings in a way that is consistent with the established streetscape of the locality.
- (b) access to natural light and ventilation to neighbours.

12. The Zone contains three subzones: Medium-High Intensity Subzone; North Adelaide Low Intensity Subzone; and East Terrace Subzone. It is evident from the terms of each

of these subzones that they seek to control where higher intensity development can occur.

13. In respect of the North Adelaide Low Intensity Subzone (**‘the North Adelaide Subzone’**), it contains the following provisions which make it clear that low-intensity development is sought:

13.1. DO1

Predominantly low-rise low density housing on large allotments in an open landscaped setting.

13.2. PO 1.1

Buildings sited and designed to complement the low-density or very-low density character of the neighbourhood, in locations where an open landscape setting is the prevailing character.

13.3. PO 2.1

Building footprints consistent with the character and pattern of the prevailing open landscaped character of the neighbourhood, in locations where an open landscaped setting is the prevailing character.

The associated DTS/DPF seeks that development does not result in a site coverage exceeding 50%.

14. The North Adelaide Subzone applies to the Subject Land.

15. What is sought by the Zone can therefore be summarised as being:

- 15.1. low-density development;
- 15.2. which is also low rise (two levels or less);
- 15.3. which has an open, landscaped setting;
- 15.4. that complements the residential character and amenity of the neighbourhood;
and
- 15.5. is consistent with the streetscape and built form characteristics of the locality.

Legal context

16. Before considering any assessment of the Proposed Development against the provisions of the Code, it is important to establish the correct legal framework within which this should occur.

17. The comments made by his Honour Justice Bleby in *Alexandrina Council v Strath Hub Pty Limited*¹ are a reminder of the weight to be attributed to the planning objectives and

¹ (2003) 129 LGERA 318 at [27].

principles in the then Development Plans and now the Code.² His Honour said as follows:

'[The Development Plan] contains statements of planning objectives and principles to be applied sensibly and flexibly to particular circumstances. However, that does not mean that its objectives and principles may be ignored because it may seem convenient to do so in a particular case.'

18. In this regard we note that the following important matters can be taken from the case law:³

18.1. There is not a presumption in favour or against a development application and it falls to be assessed taking into consideration all relevant issues;

18.2. Even if there is no express conflict between the proposal and the provisions of the Code, it does not necessarily follow that the proposed development warrants consent as there may be factors implicit in the Code which require a planning judgment to be made- that is, it is necessary to look at the intent and purpose of the provisions and the policy behind the principle/performance outcome; and

18.3. Compliance with minimum standards is not the sole relevant criteria and regard must also be had to the qualitative provisions in the Code when deciding whether it is proper to grant development consent. We note the comments of his Honour Justice DeBelle in *City of Mitcham v Terra Equities Pty Ltd*⁴ in which he said that:

'Prescribed minimum standards are not a statement of desired standards. They are no more than minimum standards... the Commissioner has approached this issue on the footing that, if a proposal complies with the minimum quantitative standards it must be approved. That is not necessarily so. Compliance with minimum standards rarely leads to a grant of development consent, regard must also be had to the qualitative provisions in the Plan when deciding whether it is proper planning to grant development consent.'

19. In terms of the application of the Code, it is instructive to note the following:

19.1. In *Parkins v Adelaide Hills Council Assessment Manager*,⁵ Commissioner Dyer observed that (our emphasis in bold):

69. *To assist with the performance assessment process DPFs have been included in the Code.*

² In this regard see *Garden College v City of Salisbury* [2022] SAERDC 10.

³ See, for example, *City of Mitcham v Freckmann & Ors* [1999] SASC 234; *City of Mitcham v Terra Equities Pty Ltd* [2007] SASC 244; *Town of Gawler v Impact Investments* [2007] SASC 356; *AG Building & Developments Pty Ltd v City of Holdfast Bay & Tanti* [2009] SASC 11 and, in respect of the PDI Act, *Rymill Park Apartments Pty Ltd v Rymill House Foundation Pty Ltd & Anor* [2023] SASC 107.

⁴ [2007] SASC 244 at [13].

⁵ [2022] SAERC 12 at [69]-[77].

70. The rules – “Policies – Desired Outcomes and Performance Outcomes, Designated Performance Features” provides the following:

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

....

73. A DPF is neither a complying standard nor a Principle of Development Control. It is its own assessment tool to be applied as per the rules.

...

75. **The question becomes what guidance does a DPF provide if not met?** The rules are silent on the issue of quantum departure. However, they do provide that a DPF “...does not derogate ... from the need to assess development on its merits against all relevant policies”. [My underlining]

76. **A DPF is a relevant policy and must therefore form part of the assessment. On my reading, whilst quantum departure from the terms of a DPF is not, of itself, grounds for refusal, I am not convinced that quantum departure can be completely ignored. It will, if nothing else, be a flag to the relevant authority to carefully ensure that, by way of alternative or the specific facts and circumstances of the matter, the performance outcome is met.**

77. **The significance of any departure will depend, as always, on the circumstances of the matter at hand. The preciseness of the correlation between a PO and its corresponding DPF will also have bearing.**

- 19.2. The Courts have also noted that development is generally expected to make a positive contribution to the desired residential character for a locality. In *Spence v City of Burnside*,⁶ Commissioner Rumsby noted that (our emphasis in bold):

34. **Development, generally, is expected to make a positive contribution to the desired residential character, the principal elements of which are set out above. Long established, mature, residential areas will invariably exhibit some discordant elements or features which do not sit well with all of the characteristics of neighbouring residential areas, or the features desirably associated with them. In PA 13, relevant in this matter, those general features (above) are not universally found throughout this policy area, as is acknowledged in PA 13 Objective 1. Whilst there are acknowledged significant variations to the generally prevailing and desired residential features, all development is expected to contribute positively to that desired character and not incrementally depart from them, nor worsen any non-conformity.**

⁶ [2020] SAERDC 17 at [34] and [51].

Planning issues

20. On numerous occasions the courts have made it clear that a planning assessment is not one where you look at each of the individual elements in watertight compartments, but rather requires a consideration of those elements as part of an overall planning assessment. When one takes that approach in this instance, it is clear that the Proposed Development does not satisfy the relevant provisions of the Code and should be refused.
21. In considering this application, it is necessary to distil what is sought by the provisions of the Code.
22. Firstly, it is clear that the Code draws a distinction between development in this area in North Adelaide and development in East Terrace and other parts of the city. This is evidenced by the subzones, which draw a distinction between those areas where medium or high densities are sought, as against those areas where low densities are sought. This location is a low-density area, but what is proposed is a medium density development.⁷
23. The North Adelaide Subzone also makes it clear that what is sought is not only low-density developments, but also low-rise developments. Low-rise developments are defined in the Code as being '*up to and including 2 building levels*'. What is proposed is 3 building levels.
24. The North Adelaide Subzone also seeks that housing development be in an 'open landscaped setting'. This is consistent with what is evident in this locality, which predominantly comprises dwellings with a reasonable front setback and with well maintained, landscaped front yards. What is proposed by way of landscaping and front setback, particularly in the context of a three-storey building which occupies a significant frontage, is properly described as minimal landscaping and certainly doesn't achieve an 'open landscaped setting'.
25. Turning then to the broader zone provisions, what is sought by these provisions is:
 - 25.1. low-rise, low density housing;
 - 25.2. development which complements the residential character and amenity of the neighbourhood; and
 - 25.3. is consistent with the streetscape and built form characteristics of the locality.
26. What is evident in this locality is that it predominantly comprises single storey dwellings, with some two storey dwellings, with generally consistent front and side setbacks, with well landscaped front yards. The development in this locality is clearly consistent with the low-rise, low-density development which is sought by the Code.
27. It is therefore abundantly clear that what is proposed does not achieve any of the pertinent requirements of the Code, in that it:
 - 27.1. is not low-density;

⁷ The Code sets out that '*medium net residential density*' is 35 to 70 dwelling units per hectare.

- 27.2. is not low-rise/two storey;
- 27.3. has minimal front setbacks for a building of this size;
- 27.4. has minimal landscaping and is not in an open landscaped setting;
- 27.5. is not consistent with the streetscape and built form characteristics of the locality, which is comprised of generally single storey dwellings; and
- 27.6. does not complement the residential character and amenity of the neighbourhood, as it will present as a bulky, oversized building with little in the way of articulation relative to the obvious bulk, height and scale of the proposed development.

Adjoining land owners

28. Turning then to specific impacts on the adjoining properties at 147, 161 and 163A Childers Street, the Proposed Development shows total disregard for these adjoining landowners. In this regard we note the following:

- 28.1. The proposed buildings will result in a significant bulk and scale for the dwelling to the east and the dwellings to the west. They will all be presented with large three-storey buildings which run along a significant portion of the site, with little in the way of articulation and little done to soften the appearance of the buildings.
- 28.2. The setback on the western side of the buildings is 3.7 metres at its widest and reduces 2.8 metres to the south (rear) of the site. There is no stepping back of the building as it increases in height, nor is there anything (beyond some windows) to break up the bulk or scale of this elevation on each of the proposed buildings. This will have a drastic impact on the adjoining premises. As is evident from the 'Overall Plans- Ground Floor (sheet SK – 0003)', the dwelling at 161 Childers Street has a small courtyard area adjoining the buildings, and it is a similar situation with 163A Childers Street (and other properties). These outdoor areas will be dominated by the sheer bulk and size of the Proposed Development.
- 28.3. Whilst the setback on the eastern side is greater at 6 metres, in the context of the buildings proposed this will still result in overly imposing, dominant and overbearing buildings which will have a significant detrimental impact on the dwelling being constructed at 147 Childers Street.
- 28.4. The owners of these adjoining properties are also extremely concerned about the extent of overlooking which will be possible from the Proposed Development, particularly given the location of bedrooms and private open space of the adjoining dwellings. The measures taken to deal with this overlooking are inadequate. The section plans provided do not satisfactorily demonstrate that the proposed measures will adequately address overlooking issues. Furthermore, the use of timber batten screening with 20% visibility is not satisfactory- this should be solid screening so there is no visibility of our clients' land.
- 28.5. The final issue relates to overshadowing. The Proposed Development will result in:
 - 28.5.1. 161 and 163A Childers Street (and other properties) at the winter solstice (and it is similar at the summer solstice) having no sunlight to any of its private open space save for a small period of time at or

around midday (noting that prior to midday it will be overshadowed by the proposed development and, from some time between 1 and 3, this area will be in shadow as a result of the existing dwellings on these land parcels.

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35. The final issue to address is the residential flat building at 150 Childers Street, which is diagonally opposite the Proposed Development.
36. It is inappropriate to suggest that this might 'set the bar' for the Proposed Development. The residential flat building is much smaller in size and scale, particularly as a result of its much smaller width of 13.5 metres.
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39. Based on all of the above, what is proposed is in complete contrast to both what is sought by the Code for this locality and what is evident in the locality itself.

Summary

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42. The Proposed Development will present as a blocky, large element, with minimal landscaping or setback, and will be an incongruous element in the locality. It will be a dominant and discordant building within the locality if approved.
43. This is the classic case of an overdevelopment of the site- rather than adopting an approach of balancing out the Zone requirements, the Proposed Development pushes the limits on all of them. For example, if what was sought was a building which is over the height limit, one would expect it would have greater setbacks than the surrounding buildings and a greater amount of landscaping. Conversely, if what was sought was less landscaping and a smaller front setback, a good planning approach would be to have a more modest building fronting Childers Street. Instead, what has occurred here is to have a design with minimal front setback, minimal landscaping, a building which exceeds the two-storey height limit and is of significant bulk with minimal articulation- it pushes the boundary in every possible way and is clearly contrary to the Code.
44. Our clients each seek to be heard (either personally and/or through their representatives) in respect of their representations and, accordingly, we ask that you please advise us as to the time and date for the State Commission Assessment Panel ('**SCAP**') meeting in due course.

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Yours faithfully
MELLOR OLSSON



ANTHONY KELLY
Partner
Email: akelly@molawyers.com.au
Phone: 8414 3449 (Adelaide)

Representations

Representor 20 - Carolyn - Christopher Roesler - Page

Name	Carolyn - Christopher Roesler - Page
Address	138 Childers Street NORTH ADELAIDE SA, 5006 Australia
Submission Date	05/02/2025 05:44 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	Yes
My position is	I oppose the development
Reasons See attached	

Attached Documents

Representation-Letter-5-February-2026-1460296.pdf

Our Ref: AK:A250200

5 February 2025

Teagan Lewis
State Planning Commission
Via: Plan SA Portal

ALSO BY EMAIL: spcapplications@sa.gov.au

Dear Sir/Madam

**PROPOSED DEVELOPMENT AT 157 CHILDERS STREET, NORTH ADELAIDE
DEVELOPMENT APPLICATION NUMBER 24040803**

1. We refer to the above development application (**'the Application'**) for 157-163 Childers Street (**'the Subject Land'**), which seeks development approval for 12 Independent Living Units comprising two, three-storey apartment buildings (**'the Proposed Development'**), and which is currently out on public notification.
2. We act for the following registered proprietors/residents and have been asked to lodge a representation on their behalf in respect of the Application:
 - 2.1. Rose Debbie De Palma, James Thomas Wardlaw Birchall and Georgina Rose Wardlaw Birchall (134 Childers Street, which is a single storey dwelling on the opposite side of Childers Street and to the east of the Subject Land);
 - 2.2. Carolyn Roesler and Christopher Page (138 Childers Street, which is a single storey dwelling on the opposite side of Childers Street and to the east of the Subject Land);
 - 2.3. Malcolm John Mead and Andrea Jane Mead (147 Childers Street, which is currently being redeveloped and is on the same side of Childers Street and is immediately to the east of the Subject Land);
 - 2.4. Van Van Vu, Ms Phuong Do, Alyshia Vu and Anneliese Vu (156 Childers Street, which is which is a single storey dwelling on the opposite side of Childers Street and directly opposite the Subject Land);
 - 2.5. Scott Griffin and Jacqueline Griffin (161 Childers Street, which is which is a single storey dwelling on the same side of Childers Street and is immediately to the west of the Subject Land); and

Adelaide

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Adelaide SA 5000
GPO Box 74 Adelaide SA 5001
P 08 8414 3400

Port Lincoln

11 Mortlock Terrace
Port Lincoln SA 5606
PO Box 411 Port Lincoln SA 5606
P 08 8682 3133

Clare

165 Main North Road
Clare SA 5453
PO Box 671 Clare SA 5453
P 08 8842 1833

Barossa Valley

41 Tanunda Road
Nuriootpa SA 5355
PO Box 339 Nuriootpa SA 5355
P 08 8561 1000

Regional Offices (By appointment only)

P 1300 414 414

Balaklava, Burra, Bordertown, Ceduna, Cleve, Cummins, Elliston, Kadina, Keith, Kimba,
McLaren Vale, Riverton, Streaky Bay, Wudinna

- 2.6. Glenn Burrett and Loreto Mallari (163A Childers Street, which is which is a single storey dwelling on the same side of Childers Street and is immediately to the west of the Subject Land, being located behind/south of 161 Childers Street).
3. Rather than submitting multiple copies of the same representation, we ask that you accept this as a separate representation from each of our above clients. Where necessary we will speak to the differing impacts on each of our clients below.
4. Our clients are opposed to the proposed development for the reasons set out below.
5. Our clients have also had the benefit of reviewing the separate representations lodged on behalf of Mr and Mrs Mead and Mr and Mrs Griffin and agree with the matters raised in those representations. This representation is also lodged on behalf of Mr and Mrs Mead and Mr and Mrs Griffin to supplement those matters raised in the representations they have already lodged.

The development application

6. The development application is described as being for the *'demolition of existing residential buildings and construction of a retirement facility in the form of two, three-storey residential flat buildings comprising twelve units, ground floor carparking, fencing, landscaping, solar panels and communal facilities including a community garden'*.
7. The most pertinent elements of the Proposed Development are as follows:
 - 7.1. The main façade of the 'front' building of the Proposed Development is set back 5.9 metres at all levels and sits in line with the 1 storey building at 161 Childers Street, although there is a covered terrace area which sits forward of the main façade, almost to the boundary of the property. The Proposed Development sits forward of the building at 147 Childers Street
 - 7.2. The side setbacks for the front building at all levels are 6 metres to the east and 3.708 metres to the west (noting that the site tapers from the front to the rear).
 - 7.3. The side setbacks for the rear building at all levels are 6 metres to the east and between 3.193 and 2.8 metres to the west (noting that the site tapers from the front to the rear).
 - 7.4. The buildings are both three-storey and have a height of 11.4 metres and have a width of 22 metres.
 - 7.5. Landscaping is proposed in a relatively small area at the front (north) of the Subject Land, predominantly incorporated into the terrace area of the Proposed Development.
8. A lot is made of future stages (stages 3 through 7), but they cannot be considered as part of this application. It would be improper to consider any benefit (or otherwise) that the Proposed Development might obtain from those future developments, particularly given those future stages may never eventuate. In short, what is required is for the Application to be assessed on its own merits.

The Planning and Design Code ('the Code')

9. The Subject Land is located within the City Living Zone ('the Zone').
10. It is accepted that the proposed use as a retirement facility is an envisaged use within the Zone.
11. Relevantly the Zone provides as follows (our emphasis):

11.1. DO 1

Predominantly low-rise, low to medium-density housing, with medium rise in identified areas, that supports a range of needs and lifestyles located within easy reach of a diversity of services and facilities that support city living. Small scale employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising residential amenity.

11.2. PO 1.3

Non-residential development sited and designed to complement the residential character and amenity of the neighbourhood.

11.3. PO 2.2

Development contributes to a predominantly low-rise residential character, except when located in the Medium - High Intensity Subzone or East Terrace Subzone where it contributes to a predominantly medium rise residential character...

The associated DTS/DPF seeks a maximum building height of two levels.

11.4. PO 2.3

New buildings and structures visible from the public realm consistent with:

- (a) valued streetscape characteristics of the area
- (b) prevailing built form characteristics, such as floor to ceiling heights, of the area.

11.5. PO 3.1

Buildings are set back from primary street boundaries to complement the existing streetscape character.

11.6. PO 3.3

Buildings setback from side boundaries to provide:

- (a) separation between buildings in a way that is consistent with the established streetscape of the locality.
- (b) access to natural light and ventilation to neighbours.

12. The Zone contains three subzones: Medium-High Intensity Subzone; North Adelaide Low Intensity Subzone; and East Terrace Subzone. It is evident from the terms of each

of these subzones that they seek to control where higher intensity development can occur.

13. In respect of the North Adelaide Low Intensity Subzone (**‘the North Adelaide Subzone’**), it contains the following provisions which make it clear that low-intensity development is sought:

13.1. DO1

Predominantly low-rise low density housing on large allotments in an open landscaped setting.

13.2. PO 1.1

Buildings sited and designed to complement the low-density or very-low density character of the neighbourhood, in locations where an open landscape setting is the prevailing character.

13.3. PO 2.1

Building footprints consistent with the character and pattern of the prevailing open landscaped character of the neighbourhood, in locations where an open landscaped setting is the prevailing character.

The associated DTS/DPF seeks that development does not result in a site coverage exceeding 50%.

14. The North Adelaide Subzone applies to the Subject Land.

15. What is sought by the Zone can therefore be summarised as being:

- 15.1. low-density development;
- 15.2. which is also low rise (two levels or less);
- 15.3. which has an open, landscaped setting;
- 15.4. that complements the residential character and amenity of the neighbourhood;
and
- 15.5. is consistent with the streetscape and built form characteristics of the locality.

Legal context

16. Before considering any assessment of the Proposed Development against the provisions of the Code, it is important to establish the correct legal framework within which this should occur.

17. The comments made by his Honour Justice Bleby in *Alexandrina Council v Strath Hub Pty Limited*¹ are a reminder of the weight to be attributed to the planning objectives and

¹ (2003) 129 LGERA 318 at [27].

principles in the then Development Plans and now the Code.² His Honour said as follows:

'[The Development Plan] contains statements of planning objectives and principles to be applied sensibly and flexibly to particular circumstances. However, that does not mean that its objectives and principles may be ignored because it may seem convenient to do so in a particular case.'

18. In this regard we note that the following important matters can be taken from the case law:³

18.1. There is not a presumption in favour or against a development application and it falls to be assessed taking into consideration all relevant issues;

18.2. Even if there is no express conflict between the proposal and the provisions of the Code, it does not necessarily follow that the proposed development warrants consent as there may be factors implicit in the Code which require a planning judgment to be made- that is, it is necessary to look at the intent and purpose of the provisions and the policy behind the principle/performance outcome; and

18.3. Compliance with minimum standards is not the sole relevant criteria and regard must also be had to the qualitative provisions in the Code when deciding whether it is proper to grant development consent. We note the comments of his Honour Justice DeBelle in *City of Mitcham v Terra Equities Pty Ltd*⁴ in which he said that:

'Prescribed minimum standards are not a statement of desired standards. They are no more than minimum standards... the Commissioner has approached this issue on the footing that, if a proposal complies with the minimum quantitative standards it must be approved. That is not necessarily so. Compliance with minimum standards rarely leads to a grant of development consent, regard must also be had to the qualitative provisions in the Plan when deciding whether it is proper planning to grant development consent.'

19. In terms of the application of the Code, it is instructive to note the following:

19.1. In *Parkins v Adelaide Hills Council Assessment Manager*,⁵ Commissioner Dyer observed that (our emphasis in bold):

69. *To assist with the performance assessment process DPFs have been included in the Code.*

² In this regard see *Garden College v City of Salisbury* [2022] SAERDC 10.

³ See, for example, *City of Mitcham v Freckmann & Ors* [1999] SASC 234; *City of Mitcham v Terra Equities Pty Ltd* [2007] SASC 244; *Town of Gawler v Impact Investments* [2007] SASC 356; *AG Building & Developments Pty Ltd v City of Holdfast Bay & Tanti* [2009] SASC 11 and, in respect of the PDI Act, *Rymill Park Apartments Pty Ltd v Rymill House Foundation Pty Ltd & Anor* [2023] SASC 107.

⁴ [2007] SASC 244 at [13].

⁵ [2022] SAERC 12 at [69]-[77].

70. The rules – “Policies – Desired Outcomes and Performance Outcomes, Designated Performance Features” provides the following:

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

....

73. A DPF is neither a complying standard nor a Principle of Development Control. It is its own assessment tool to be applied as per the rules.

...

75. **The question becomes what guidance does a DPF provide if not met?** The rules are silent on the issue of quantum departure. However, they do provide that a DPF “...does not derogate ... from the need to assess development on its merits against all relevant policies”. [My underlining]

76. **A DPF is a relevant policy and must therefore form part of the assessment. On my reading, whilst quantum departure from the terms of a DPF is not, of itself, grounds for refusal, I am not convinced that quantum departure can be completely ignored. It will, if nothing else, be a flag to the relevant authority to carefully ensure that, by way of alternative or the specific facts and circumstances of the matter, the performance outcome is met.**

77. **The significance of any departure will depend, as always, on the circumstances of the matter at hand. The preciseness of the correlation between a PO and its corresponding DPF will also have bearing.**

- 19.2. The Courts have also noted that development is generally expected to make a positive contribution to the desired residential character for a locality. In *Spence v City of Burnside*,⁶ Commissioner Rumsby noted that (our emphasis in bold):

34. **Development, generally, is expected to make a positive contribution to the desired residential character, the principal elements of which are set out above. Long established, mature, residential areas will invariably exhibit some discordant elements or features which do not sit well with all of the characteristics of neighbouring residential areas, or the features desirably associated with them. In PA 13, relevant in this matter, those general features (above) are not universally found throughout this policy area, as is acknowledged in PA 13 Objective 1. Whilst there are acknowledged significant variations to the generally prevailing and desired residential features, all development is expected to contribute positively to that desired character and not incrementally depart from them, nor worsen any non-conformity.**

⁶ [2020] SAERDC 17 at [34] and [51].

Planning issues

20. On numerous occasions the courts have made it clear that a planning assessment is not one where you look at each of the individual elements in watertight compartments, but rather requires a consideration of those elements as part of an overall planning assessment. When one takes that approach in this instance, it is clear that the Proposed Development does not satisfy the relevant provisions of the Code and should be refused.
21. In considering this application, it is necessary to distil what is sought by the provisions of the Code.
22. Firstly, it is clear that the Code draws a distinction between development in this area in North Adelaide and development in East Terrace and other parts of the city. This is evidenced by the subzones, which draw a distinction between those areas where medium or high densities are sought, as against those areas where low densities are sought. This location is a low-density area, but what is proposed is a medium density development.⁷
23. The North Adelaide Subzone also makes it clear that what is sought is not only low-density developments, but also low-rise developments. Low-rise developments are defined in the Code as being '*up to and including 2 building levels*'. What is proposed is 3 building levels.
24. The North Adelaide Subzone also seeks that housing development be in an 'open landscaped setting'. This is consistent with what is evident in this locality, which predominantly comprises dwellings with a reasonable front setback and with well maintained, landscaped front yards. What is proposed by way of landscaping and front setback, particularly in the context of a three-storey building which occupies a significant frontage, is properly described as minimal landscaping and certainly doesn't achieve an 'open landscaped setting'.
25. Turning then to the broader zone provisions, what is sought by these provisions is:
- 25.1. low-rise, low density housing;
 - 25.2. development which complements the residential character and amenity of the neighbourhood; and
 - 25.3. is consistent with the streetscape and built form characteristics of the locality.
26. What is evident in this locality is that it predominantly comprises single storey dwellings, with some two storey dwellings, with generally consistent front and side setbacks, with well landscaped front yards. The development in this locality is clearly consistent with the low-rise, low-density development which is sought by the Code.
27. It is therefore abundantly clear that what is proposed does not achieve any of the pertinent requirements of the Code, in that it:
- 27.1. is not low-density;

⁷ The Code sets out that '*medium net residential density*' is 35 to 70 dwelling units per hectare.

- 27.2. is not low-rise/two storey;
- 27.3. has minimal front setbacks for a building of this size;
- 27.4. has minimal landscaping and is not in an open landscaped setting;
- 27.5. is not consistent with the streetscape and built form characteristics of the locality, which is comprised of generally single storey dwellings; and
- 27.6. does not complement the residential character and amenity of the neighbourhood, as it will present as a bulky, oversized building with little in the way of articulation relative to the obvious bulk, height and scale of the proposed development.

Adjoining land owners

28. Turning then to specific impacts on the adjoining properties at 147, 161 and 163A Childers Street, the Proposed Development shows total disregard for these adjoining landowners. In this regard we note the following:

- 28.1. The proposed buildings will result in a significant bulk and scale for the dwelling to the east and the dwellings to the west. They will all be presented with large three-storey buildings which run along a significant portion of the site, with little in the way of articulation and little done to soften the appearance of the buildings.
- 28.2. The setback on the western side of the buildings is 3.7 metres at its widest and reduces 2.8 metres to the south (rear) of the site. There is no stepping back of the building as it increases in height, nor is there anything (beyond some windows) to break up the bulk or scale of this elevation on each of the proposed buildings. This will have a drastic impact on the adjoining premises. As is evident from the 'Overall Plans- Ground Floor (sheet SK – 0003)', the dwelling at 161 Childers Street has a small courtyard area adjoining the buildings, and it is a similar situation with 163A Childers Street (and other properties). These outdoor areas will be dominated by the sheer bulk and size of the Proposed Development.
- 28.3. Whilst the setback on the eastern side is greater at 6 metres, in the context of the buildings proposed this will still result in overly imposing, dominant and overbearing buildings which will have a significant detrimental impact on the dwelling being constructed at 147 Childers Street.
- 28.4. The owners of these adjoining properties are also extremely concerned about the extent of overlooking which will be possible from the Proposed Development, particularly given the location of bedrooms and private open space of the adjoining dwellings. The measures taken to deal with this overlooking are inadequate. The section plans provided do not satisfactorily demonstrate that the proposed measures will adequately address overlooking issues. Furthermore, the use of timber batten screening with 20% visibility is not satisfactory- this should be solid screening so there is no visibility of our clients' land.
- 28.5. The final issue relates to overshadowing. The Proposed Development will result in:
 - 28.5.1. 161 and 163A Childers Street (and other properties) at the winter solstice (and it is similar at the summer solstice) having no sunlight to any of its private open space save for a small period of time at or

around midday (noting that prior to midday it will be overshadowed by the proposed development and, from some time between 1 and 3, this area will be in shadow as a result of the existing dwellings on these land parcels.

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Yours faithfully
MELLOR OLSSON



ANTHONY KELLY
Partner
Email: akelly@molawyers.com.au
Phone: 8414 3449 (Adelaide)

Representations

Representor 21 - Malcolm John - Andrea Jane Mead

Name	Malcolm John - Andrea Jane Mead
Address	147 Childers Street NORTH ADELAIDE SA, 5006 Australia
Submission Date	05/02/2025 05:44 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	Yes
My position is	I oppose the development
Reasons See attached	

Attached Documents

Representation-Letter-5-February-2027-1460298.pdf

Our Ref: AK:A250200

5 February 2025

Teagan Lewis
State Planning Commission
Via: Plan SA Portal

ALSO BY EMAIL: spcapplications@sa.gov.au

Dear Sir/Madam

**PROPOSED DEVELOPMENT AT 157 CHILDERS STREET, NORTH ADELAIDE
DEVELOPMENT APPLICATION NUMBER 24040803**

1. We refer to the above development application (**'the Application'**) for 157-163 Childers Street (**'the Subject Land'**), which seeks development approval for 12 Independent Living Units comprising two, three-storey apartment buildings (**'the Proposed Development'**), and which is currently out on public notification.
2. We act for the following registered proprietors/residents and have been asked to lodge a representation on their behalf in respect of the Application:
 - 2.1. Rose Debbie De Palma, James Thomas Wardlaw Birchall and Georgina Rose Wardlaw Birchall (134 Childers Street, which is a single storey dwelling on the opposite side of Childers Street and to the east of the Subject Land);
 - 2.2. Carolyn Roesler and Christopher Page (138 Childers Street, which is a single storey dwelling on the opposite side of Childers Street and to the east of the Subject Land);
 - 2.3. Malcolm John Mead and Andrea Jane Mead (147 Childers Street, which is currently being redeveloped and is on the same side of Childers Street and is immediately to the east of the Subject Land);
 - 2.4. Van Van Vu, Ms Phuong Do, Alyshia Vu and Anneliese Vu (156 Childers Street, which is which is a single storey dwelling on the opposite side of Childers Street and directly opposite the Subject Land);
 - 2.5. Scott Griffin and Jacqueline Griffin (161 Childers Street, which is which is a single storey dwelling on the same side of Childers Street and is immediately to the west of the Subject Land); and

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3. Rather than submitting multiple copies of the same representation, we ask that you accept this as a separate representation from each of our above clients. Where necessary we will speak to the differing impacts on each of our clients below.
4. Our clients are opposed to the proposed development for the reasons set out below.
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The development application

6. The development application is described as being for the *'demolition of existing residential buildings and construction of a retirement facility in the form of two, three-storey residential flat buildings comprising twelve units, ground floor carparking, fencing, landscaping, solar panels and communal facilities including a community garden'*.
7. The most pertinent elements of the Proposed Development are as follows:
 - 7.1. The main façade of the 'front' building of the Proposed Development is set back 5.9 metres at all levels and sits in line with the 1 storey building at 161 Childers Street, although there is a covered terrace area which sits forward of the main façade, almost to the boundary of the property. The Proposed Development sits forward of the building at 147 Childers Street
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The Planning and Design Code ('the Code')

9. The Subject Land is located within the City Living Zone ('the Zone').
10. It is accepted that the proposed use as a retirement facility is an envisaged use within the Zone.
11. Relevantly the Zone provides as follows (our emphasis):

11.1. DO 1

Predominantly low-rise, low to medium-density housing, with medium rise in identified areas, that supports a range of needs and lifestyles located within easy reach of a diversity of services and facilities that support city living. Small scale employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising residential amenity.

11.2. PO 1.3

Non-residential development sited and designed to complement the residential character and amenity of the neighbourhood.

11.3. PO 2.2

Development contributes to a predominantly low-rise residential character, except when located in the Medium - High Intensity Subzone or East Terrace Subzone where it contributes to a predominantly medium rise residential character...

The associated DTS/DPF seeks a maximum building height of two levels.

11.4. PO 2.3

New buildings and structures visible from the public realm consistent with:

- (a) valued streetscape characteristics of the area
- (b) prevailing built form characteristics, such as floor to ceiling heights, of the area.

11.5. PO 3.1

Buildings are set back from primary street boundaries to complement the existing streetscape character.

11.6. PO 3.3

Buildings setback from side boundaries to provide:

- (a) separation between buildings in a way that is consistent with the established streetscape of the locality.
- (b) access to natural light and ventilation to neighbours.

12. The Zone contains three subzones: Medium-High Intensity Subzone; North Adelaide Low Intensity Subzone; and East Terrace Subzone. It is evident from the terms of each

of these subzones that they seek to control where higher intensity development can occur.

13. In respect of the North Adelaide Low Intensity Subzone (**‘the North Adelaide Subzone’**), it contains the following provisions which make it clear that low-intensity development is sought:

13.1. DO1

Predominantly low-rise low density housing on large allotments in an open landscaped setting.

13.2. PO 1.1

Buildings sited and designed to complement the low-density or very-low density character of the neighbourhood, in locations where an open landscape setting is the prevailing character.

13.3. PO 2.1

Building footprints consistent with the character and pattern of the prevailing open landscaped character of the neighbourhood, in locations where an open landscaped setting is the prevailing character.

The associated DTS/DPF seeks that development does not result in a site coverage exceeding 50%.

14. The North Adelaide Subzone applies to the Subject Land.

15. What is sought by the Zone can therefore be summarised as being:

15.1. low-density development;

15.2. which is also low rise (two levels or less);

15.3. which has an open, landscaped setting;

15.4. that complements the residential character and amenity of the neighbourhood;
and

15.5. is consistent with the streetscape and built form characteristics of the locality.

Legal context

16. Before considering any assessment of the Proposed Development against the provisions of the Code, it is important to establish the correct legal framework within which this should occur.

17. The comments made by his Honour Justice Bleby in *Alexandrina Council v Strath Hub Pty Limited*¹ are a reminder of the weight to be attributed to the planning objectives and

¹ (2003) 129 LGERA 318 at [27].

principles in the then Development Plans and now the Code.² His Honour said as follows:

'[The Development Plan] contains statements of planning objectives and principles to be applied sensibly and flexibly to particular circumstances. However, that does not mean that its objectives and principles may be ignored because it may seem convenient to do so in a particular case.'

18. In this regard we note that the following important matters can be taken from the case law:³

18.1. There is not a presumption in favour or against a development application and it falls to be assessed taking into consideration all relevant issues;

18.2. Even if there is no express conflict between the proposal and the provisions of the Code, it does not necessarily follow that the proposed development warrants consent as there may be factors implicit in the Code which require a planning judgment to be made- that is, it is necessary to look at the intent and purpose of the provisions and the policy behind the principle/performance outcome; and

18.3. Compliance with minimum standards is not the sole relevant criteria and regard must also be had to the qualitative provisions in the Code when deciding whether it is proper to grant development consent. We note the comments of his Honour Justice DeBelle in *City of Mitcham v Terra Equities Pty Ltd*⁴ in which he said that:

'Prescribed minimum standards are not a statement of desired standards. They are no more than minimum standards... the Commissioner has approached this issue on the footing that, if a proposal complies with the minimum quantitative standards it must be approved. That is not necessarily so. Compliance with minimum standards rarely leads to a grant of development consent, regard must also be had to the qualitative provisions in the Plan when deciding whether it is proper planning to grant development consent.'

19. In terms of the application of the Code, it is instructive to note the following:

19.1. In *Parkins v Adelaide Hills Council Assessment Manager*,⁵ Commissioner Dyer observed that (our emphasis in bold):

69. *To assist with the performance assessment process DPFs have been included in the Code.*

² In this regard see *Garden College v City of Salisbury* [2022] SAERDC 10.

³ See, for example, *City of Mitcham v Freckmann & Ors* [1999] SASC 234; *City of Mitcham v Terra Equities Pty Ltd* [2007] SASC 244; *Town of Gawler v Impact Investments* [2007] SASC 356; *AG Building & Developments Pty Ltd v City of Holdfast Bay & Tanti* [2009] SASC 11 and, in respect of the PDI Act, *Rymill Park Apartments Pty Ltd v Rymill House Foundation Pty Ltd & Anor* [2023] SASC 107.

⁴ [2007] SASC 244 at [13].

⁵ [2022] SAERC 12 at [69]-[77].

70. The rules – “Policies – Desired Outcomes and Performance Outcomes, Designated Performance Features” provides the following:

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

....

73. A DPF is neither a complying standard nor a Principle of Development Control. It is its own assessment tool to be applied as per the rules.

...

75. **The question becomes what guidance does a DPF provide if not met?** The rules are silent on the issue of quantum departure. However, they do provide that a DPF “...does not derogate ... from the need to assess development on its merits against all relevant policies”. [My underlining]

76. **A DPF is a relevant policy and must therefore form part of the assessment. On my reading, whilst quantum departure from the terms of a DPF is not, of itself, grounds for refusal, I am not convinced that quantum departure can be completely ignored. It will, if nothing else, be a flag to the relevant authority to carefully ensure that, by way of alternative or the specific facts and circumstances of the matter, the performance outcome is met.**

77. **The significance of any departure will depend, as always, on the circumstances of the matter at hand. The preciseness of the correlation between a PO and its corresponding DPF will also have bearing.**

- 19.2. The Courts have also noted that development is generally expected to make a positive contribution to the desired residential character for a locality. In *Spence v City of Burnside*,⁶ Commissioner Rumsby noted that (our emphasis in bold):

34. **Development, generally, is expected to make a positive contribution to the desired residential character, the principal elements of which are set out above. Long established, mature, residential areas will invariably exhibit some discordant elements or features which do not sit well with all of the characteristics of neighbouring residential areas, or the features desirably associated with them. In PA 13, relevant in this matter, those general features (above) are not universally found throughout this policy area, as is acknowledged in PA 13 Objective 1. Whilst there are acknowledged significant variations to the generally prevailing and desired residential features, all development is expected to contribute positively to that desired character and not incrementally depart from them, nor worsen any non-conformity.**

⁶ [2020] SAERDC 17 at [34] and [51].

Planning issues

20. On numerous occasions the courts have made it clear that a planning assessment is not one where you look at each of the individual elements in watertight compartments, but rather requires a consideration of those elements as part of an overall planning assessment. When one takes that approach in this instance, it is clear that the Proposed Development does not satisfy the relevant provisions of the Code and should be refused.
21. In considering this application, it is necessary to distil what is sought by the provisions of the Code.
22. Firstly, it is clear that the Code draws a distinction between development in this area in North Adelaide and development in East Terrace and other parts of the city. This is evidenced by the subzones, which draw a distinction between those areas where medium or high densities are sought, as against those areas where low densities are sought. This location is a low-density area, but what is proposed is a medium density development.⁷
23. The North Adelaide Subzone also makes it clear that what is sought is not only low-density developments, but also low-rise developments. Low-rise developments are defined in the Code as being '*up to and including 2 building levels*'. What is proposed is 3 building levels.
24. The North Adelaide Subzone also seeks that housing development be in an 'open landscaped setting'. This is consistent with what is evident in this locality, which predominantly comprises dwellings with a reasonable front setback and with well maintained, landscaped front yards. What is proposed by way of landscaping and front setback, particularly in the context of a three-storey building which occupies a significant frontage, is properly described as minimal landscaping and certainly doesn't achieve an 'open landscaped setting'.
25. Turning then to the broader zone provisions, what is sought by these provisions is:
- 25.1. low-rise, low density housing;
 - 25.2. development which complements the residential character and amenity of the neighbourhood; and
 - 25.3. is consistent with the streetscape and built form characteristics of the locality.
26. What is evident in this locality is that it predominantly comprises single storey dwellings, with some two storey dwellings, with generally consistent front and side setbacks, with well landscaped front yards. The development in this locality is clearly consistent with the low-rise, low-density development which is sought by the Code.
27. It is therefore abundantly clear that what is proposed does not achieve any of the pertinent requirements of the Code, in that it:
- 27.1. is not low-density;

⁷ The Code sets out that '*medium net residential density*' is 35 to 70 dwelling units per hectare.

- 27.2. is not low-rise/two storey;
- 27.3. has minimal front setbacks for a building of this size;
- 27.4. has minimal landscaping and is not in an open landscaped setting;
- 27.5. is not consistent with the streetscape and built form characteristics of the locality, which is comprised of generally single storey dwellings; and
- 27.6. does not complement the residential character and amenity of the neighbourhood, as it will present as a bulky, oversized building with little in the way of articulation relative to the obvious bulk, height and scale of the proposed development.

Adjoining land owners

28. Turning then to specific impacts on the adjoining properties at 147, 161 and 163A Childers Street, the Proposed Development shows total disregard for these adjoining landowners. In this regard we note the following:

- 28.1. The proposed buildings will result in a significant bulk and scale for the dwelling to the east and the dwellings to the west. They will all be presented with large three-storey buildings which run along a significant portion of the site, with little in the way of articulation and little done to soften the appearance of the buildings.
- 28.2. The setback on the western side of the buildings is 3.7 metres at its widest and reduces 2.8 metres to the south (rear) of the site. There is no stepping back of the building as it increases in height, nor is there anything (beyond some windows) to break up the bulk or scale of this elevation on each of the proposed buildings. This will have a drastic impact on the adjoining premises. As is evident from the 'Overall Plans- Ground Floor (sheet SK – 0003)', the dwelling at 161 Childers Street has a small courtyard area adjoining the buildings, and it is a similar situation with 163A Childers Street (and other properties). These outdoor areas will be dominated by the sheer bulk and size of the Proposed Development.
- 28.3. Whilst the setback on the eastern side is greater at 6 metres, in the context of the buildings proposed this will still result in overly imposing, dominant and overbearing buildings which will have a significant detrimental impact on the dwelling being constructed at 147 Childers Street.
- 28.4. The owners of these adjoining properties are also extremely concerned about the extent of overlooking which will be possible from the Proposed Development, particularly given the location of bedrooms and private open space of the adjoining dwellings. The measures taken to deal with this overlooking are inadequate. The section plans provided do not satisfactorily demonstrate that the proposed measures will adequately address overlooking issues. Furthermore, the use of timber batten screening with 20% visibility is not satisfactory- this should be solid screening so there is no visibility of our clients' land.
- 28.5. The final issue relates to overshadowing. The Proposed Development will result in:
 - 28.5.1. 161 and 163A Childers Street (and other properties) at the winter solstice (and it is similar at the summer solstice) having no sunlight to any of its private open space save for a small period of time at or

around midday (noting that prior to midday it will be overshadowed by the proposed development and, from some time between 1 and 3, this area will be in shadow as a result of the existing dwellings on these land parcels.

- 28.5.2. This will cause the additional issue of the solar panels on these properties being rendered close to useless given the extensive hours of being in shade.

Parking

29. It has been suggested that the proposed development provides sufficient parking in providing 19 covered parking spaces. This is not correct.
30. As identified in the response provided by the City of Adelaide, there is in fact a requirement for 19 parking spaces and 2 visitor car parks. Whilst there is sufficient car parking for residents, there is no parking provided for visitors.
31. This is contrary to the specific provisions which call for 2 visitor car parking spaces.
32. It is also contrary to common sense, as one would expect there to regularly be more than two 'visitors' attending the Proposed Development, given the likelihood of regular attendance by carers as well as other visitors to the residents. This will all take place in a street setting in which on-street car parking is already at a premium for various reasons.

Building form

33. It has been suggested that the 'form' of the Proposed Development is appropriate as it is comparable to a large Georgian residence.
34. That may be the case, but what this suggestion overlooks is that these types of residences are not prominent in Childers Street. This demonstrates again that the proponent has given little consideration to the actual character of this particular locality.

150 Childers Street

35. The final issue to address is the residential flat building at 150 Childers Street, which is diagonally opposite the Proposed Development.
36. It is inappropriate to suggest that this might 'set the bar' for the Proposed Development. The residential flat building is much smaller in size and scale, particularly as a result of its much smaller width of 13.5 metres.
37. It is not a development which erodes the overall character of the locality. It is something which can now be seen as being inappropriate in the locality, but despite this it has not eroded the character to such an extent that the provisions of the Code cannot be achieved.
38. The courts⁸ have reiterated on many occasions that it is inappropriate to approve a development because of an earlier approval- or, put another way, a previous bad

⁸ See, for example, *Nadebaum v City of Mitcham* [1995] EDLR 587; *City of Charles Sturt v Hatch* [1999] SASC 523.

planning decision should not be used as a justification or reason to make another one which is inconsistent with the Code. What is relevant is the effect on the character and amenity of a particular locality- in this instance the residential flat building does not have the impact of so altering the character and amenity of the locality that the Code provisions are unable to be properly applied.

39. Based on all of the above, what is proposed is in complete contrast to both what is sought by the Code for this locality and what is evident in the locality itself.

Summary

40. It is plain that the Proposed Development has significant shortcomings when assessed against fundamental, relevant policies within the Code and there is simply no basis upon which it could properly be approved.
41. We consider that the Proposed Development fails to achieve the relevant requirements of the Code, particularly relating to building height, density, parking, form, overlooking, overshadowing and consistency with the streetscape and built form characteristics of the locality.
42. The Proposed Development will present as a blocky, large element, with minimal landscaping or setback, and will be an incongruous element in the locality. It will be a dominant and discordant building within the locality if approved.
43. This is the classic case of an overdevelopment of the site- rather than adopting an approach of balancing out the Zone requirements, the Proposed Development pushes the limits on all of them. For example, if what was sought was a building which is over the height limit, one would expect it would have greater setbacks than the surrounding buildings and a greater amount of landscaping. Conversely, if what was sought was less landscaping and a smaller front setback, a good planning approach would be to have a more modest building fronting Childers Street. Instead, what has occurred here is to have a design with minimal front setback, minimal landscaping, a building which exceeds the two-storey height limit and is of significant bulk with minimal articulation- it pushes the boundary in every possible way and is clearly contrary to the Code.
44. Our clients each seek to be heard (either personally and/or through their representatives) in respect of their representations and, accordingly, we ask that you please advise us as to the time and date for the State Commission Assessment Panel ('**SCAP**') meeting in due course.

Assessment by SCAP

45. It is not clear as to the basis upon which this is being assessed by SCAP rather than by The Corporation of the City of Adelaide ('**the Council**').
46. As you would be aware, section 93(1)(a) of the *Planning, Development and Infrastructure Act 2016* ('**the Act**') makes a Council Assessment Panel the relevant authority for all development applications within an area of the relevant council, save for where otherwise set out in the Act.
47. In this instance, the only potentially relevant provisions are section 94(1)(a), which makes SCAP the relevant authority if the proposed development comes within a class of development designated by the Code or prescribed by the regulations, and section 94(2) if the Minister considers the proposed development is of significance to the State.

-
48. Regulation 23 of the *Planning, Development and Infrastructure Regulations 2017* (**‘the Regulations’**) sets out that SCAP is the relevant authority for development of a class prescribed in Schedule 6.
49. Schedule 6 of the Regulations stipulates that SCAP is the relevant authority for development within the area of the Council where the total amount to be applied to any work exceeds \$10 million.
50. One of our clients has had discussions with the relevant planning officer and been advised that no information has been furnished by the applicant in support of its assertion that the Proposed Development will cost in excess of \$10 million (which is set out in clause 6.5 of the planning statement from Ekistics).
51. In the absence of this information being provided, SCAP is unable to properly satisfy itself that it is the relevant authority to assess the Application. Until this information is provided, SCAP should refrain from assessing the Application.
52. Furthermore, to the extent this estimate is based on this development being part of a larger staged development which will cumulatively exceed \$10 million, as things stand presently the Application is not a ‘staged’ development in the proper sense. The Application does not seek approval for an overall development, with it being implemented in stages. What is sought is approval for a stand-alone development comprising 12 Independent Living Units comprising two, three-storey apartment buildings. Any future development is entirely hypothetical and is irrelevant when considering the development costs.
53. Our clients reserve their rights to bring an application in the courts challenging the jurisdiction of SCAP to hear the matter should it proceed with determining the matter.

Yours faithfully
MELLOR OLSSON



ANTHONY KELLY
Partner
Email: akelly@molawyers.com.au
Phone: 8414 3449 (Adelaide)

Representations

Representor 22 - Van Van - Phuong - Alyshia - Anneliese Vu - Do

Name	Van Van - Phuong - Alyshia - Anneliese Vu - Do
Address	156 Childers Street NORTH ADELAIDE SA, 5006 Australia
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Our Ref: AK:A250200

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Teagan Lewis
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Via: Plan SA Portal**ALSO BY EMAIL: spcapplications@sa.gov.au**

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New buildings and structures visible from the public realm consistent with:

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of these subzones that they seek to control where higher intensity development can occur.

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Predominantly low-rise low density housing on large allotments in an open landscaped setting.

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Buildings sited and designed to complement the low-density or very-low density character of the neighbourhood, in locations where an open landscape setting is the prevailing character.

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Building footprints consistent with the character and pattern of the prevailing open landscaped character of the neighbourhood, in locations where an open landscaped setting is the prevailing character.

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and
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Legal context

16. Before considering any assessment of the Proposed Development against the provisions of the Code, it is important to establish the correct legal framework within which this should occur.

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principles in the then Development Plans and now the Code.² His Honour said as follows:

'[The Development Plan] contains statements of planning objectives and principles to be applied sensibly and flexibly to particular circumstances. However, that does not mean that its objectives and principles may be ignored because it may seem convenient to do so in a particular case.'

18. In this regard we note that the following important matters can be taken from the case law:³

18.1. There is not a presumption in favour or against a development application and it falls to be assessed taking into consideration all relevant issues;

18.2. Even if there is no express conflict between the proposal and the provisions of the Code, it does not necessarily follow that the proposed development warrants consent as there may be factors implicit in the Code which require a planning judgment to be made- that is, it is necessary to look at the intent and purpose of the provisions and the policy behind the principle/performance outcome; and

18.3. Compliance with minimum standards is not the sole relevant criteria and regard must also be had to the qualitative provisions in the Code when deciding whether it is proper to grant development consent. We note the comments of his Honour Justice DeBelle in *City of Mitcham v Terra Equities Pty Ltd*⁴ in which he said that:

'Prescribed minimum standards are not a statement of desired standards. They are no more than minimum standards... the Commissioner has approached this issue on the footing that, if a proposal complies with the minimum quantitative standards it must be approved. That is not necessarily so. Compliance with minimum standards rarely leads to a grant of development consent, regard must also be had to the qualitative provisions in the Plan when deciding whether it is proper planning to grant development consent.'

19. In terms of the application of the Code, it is instructive to note the following:

19.1. In *Parkins v Adelaide Hills Council Assessment Manager*,⁵ Commissioner Dyer observed that (our emphasis in bold):

69. *To assist with the performance assessment process DPFs have been included in the Code.*

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

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77. **The significance of any departure will depend, as always, on the circumstances of the matter at hand. The preciseness of the correlation between a PO and its corresponding DPF will also have bearing.**

- 19.2. The Courts have also noted that development is generally expected to make a positive contribution to the desired residential character for a locality. In *Spence v City of Burnside*,⁶ Commissioner Rumsby noted that (our emphasis in bold):

34. **Development, generally, is expected to make a positive contribution to the desired residential character, the principal elements of which are set out above. Long established, mature, residential areas will invariably exhibit some discordant elements or features which do not sit well with all of the characteristics of neighbouring residential areas, or the features desirably associated with them. In PA 13, relevant in this matter, those general features (above) are not universally found throughout this policy area, as is acknowledged in PA 13 Objective 1. Whilst there are acknowledged significant variations to the generally prevailing and desired residential features, all development is expected to contribute positively to that desired character and not incrementally depart from them, nor worsen any non-conformity.**

⁶ [2020] SAERDC 17 at [34] and [51].

Planning issues

20. On numerous occasions the courts have made it clear that a planning assessment is not one where you look at each of the individual elements in watertight compartments, but rather requires a consideration of those elements as part of an overall planning assessment. When one takes that approach in this instance, it is clear that the Proposed Development does not satisfy the relevant provisions of the Code and should be refused.
21. In considering this application, it is necessary to distil what is sought by the provisions of the Code.
22. Firstly, it is clear that the Code draws a distinction between development in this area in North Adelaide and development in East Terrace and other parts of the city. This is evidenced by the subzones, which draw a distinction between those areas where medium or high densities are sought, as against those areas where low densities are sought. This location is a low-density area, but what is proposed is a medium density development.⁷
23. The North Adelaide Subzone also makes it clear that what is sought is not only low-density developments, but also low-rise developments. Low-rise developments are defined in the Code as being *'up to and including 2 building levels'*. What is proposed is 3 building levels.
24. The North Adelaide Subzone also seeks that housing development be in an 'open landscaped setting'. This is consistent with what is evident in this locality, which predominantly comprises dwellings with a reasonable front setback and with well maintained, landscaped front yards. What is proposed by way of landscaping and front setback, particularly in the context of a three-storey building which occupies a significant frontage, is properly described as minimal landscaping and certainly doesn't achieve an 'open landscaped setting'.
25. Turning then to the broader zone provisions, what is sought by these provisions is:
- 25.1. low-rise, low density housing;
 - 25.2. development which complements the residential character and amenity of the neighbourhood; and
 - 25.3. is consistent with the streetscape and built form characteristics of the locality.
26. What is evident in this locality is that it predominantly comprises single storey dwellings, with some two storey dwellings, with generally consistent front and side setbacks, with well landscaped front yards. The development in this locality is clearly consistent with the low-rise, low-density development which is sought by the Code.
27. It is therefore abundantly clear that what is proposed does not achieve any of the pertinent requirements of the Code, in that it:
- 27.1. is not low-density;

⁷ The Code sets out that *'medium net residential density'* is 35 to 70 dwelling units per hectare.

- 27.2. is not low-rise/two storey;
- 27.3. has minimal front setbacks for a building of this size;
- 27.4. has minimal landscaping and is not in an open landscaped setting;
- 27.5. is not consistent with the streetscape and built form characteristics of the locality, which is comprised of generally single storey dwellings; and
- 27.6. does not complement the residential character and amenity of the neighbourhood, as it will present as a bulky, oversized building with little in the way of articulation relative to the obvious bulk, height and scale of the proposed development.

Adjoining land owners

28. Turning then to specific impacts on the adjoining properties at 147, 161 and 163A Childers Street, the Proposed Development shows total disregard for these adjoining landowners. In this regard we note the following:

- 28.1. The proposed buildings will result in a significant bulk and scale for the dwelling to the east and the dwellings to the west. They will all be presented with large three-storey buildings which run along a significant portion of the site, with little in the way of articulation and little done to soften the appearance of the buildings.
- 28.2. The setback on the western side of the buildings is 3.7 metres at its widest and reduces 2.8 metres to the south (rear) of the site. There is no stepping back of the building as it increases in height, nor is there anything (beyond some windows) to break up the bulk or scale of this elevation on each of the proposed buildings. This will have a drastic impact on the adjoining premises. As is evident from the 'Overall Plans- Ground Floor (sheet SK – 0003)', the dwelling at 161 Childers Street has a small courtyard area adjoining the buildings, and it is a similar situation with 163A Childers Street (and other properties). These outdoor areas will be dominated by the sheer bulk and size of the Proposed Development.
- 28.3. Whilst the setback on the eastern side is greater at 6 metres, in the context of the buildings proposed this will still result in overly imposing, dominant and overbearing buildings which will have a significant detrimental impact on the dwelling being constructed at 147 Childers Street.
- 28.4. The owners of these adjoining properties are also extremely concerned about the extent of overlooking which will be possible from the Proposed Development, particularly given the location of bedrooms and private open space of the adjoining dwellings. The measures taken to deal with this overlooking are inadequate. The section plans provided do not satisfactorily demonstrate that the proposed measures will adequately address overlooking issues. Furthermore, the use of timber batten screening with 20% visibility is not satisfactory- this should be solid screening so there is no visibility of our clients' land.
- 28.5. The final issue relates to overshadowing. The Proposed Development will result in:
 - 28.5.1. 161 and 163A Childers Street (and other properties) at the winter solstice (and it is similar at the summer solstice) having no sunlight to any of its private open space save for a small period of time at or

around midday (noting that prior to midday it will be overshadowed by the proposed development and, from some time between 1 and 3, this area will be in shadow as a result of the existing dwellings on these land parcels.

- 28.5.2. This will cause the additional issue of the solar panels on these properties being rendered close to useless given the extensive hours of being in shade.

Parking

29. It has been suggested that the proposed development provides sufficient parking in providing 19 covered parking spaces. This is not correct.
30. As identified in the response provided by the City of Adelaide, there is in fact a requirement for 19 parking spaces and 2 visitor car parks. Whilst there is sufficient car parking for residents, there is no parking provided for visitors.
31. This is contrary to the specific provisions which call for 2 visitor car parking spaces.
32. It is also contrary to common sense, as one would expect there to regularly be more than two 'visitors' attending the Proposed Development, given the likelihood of regular attendance by carers as well as other visitors to the residents. This will all take place in a street setting in which on-street car parking is already at a premium for various reasons.

Building form

33. It has been suggested that the 'form' of the Proposed Development is appropriate as it is comparable to a large Georgian residence.
34. That may be the case, but what this suggestion overlooks is that these types of residences are not prominent in Childers Street. This demonstrates again that the proponent has given little consideration to the actual character of this particular locality.

150 Childers Street

35. The final issue to address is the residential flat building at 150 Childers Street, which is diagonally opposite the Proposed Development.
36. It is inappropriate to suggest that this might 'set the bar' for the Proposed Development. The residential flat building is much smaller in size and scale, particularly as a result of its much smaller width of 13.5 metres.
37. It is not a development which erodes the overall character of the locality. It is something which can now be seen as being inappropriate in the locality, but despite this it has not eroded the character to such an extent that the provisions of the Code cannot be achieved.
38. The courts⁸ have reiterated on many occasions that it is inappropriate to approve a development because of an earlier approval- or, put another way, a previous bad

⁸ See, for example, *Nadebaum v City of Mitcham* [1995] EDLR 587; *City of Charles Sturt v Hatch* [1999] SASC 523.

planning decision should not be used as a justification or reason to make another one which is inconsistent with the Code. What is relevant is the effect on the character and amenity of a particular locality- in this instance the residential flat building does not have the impact of so altering the character and amenity of the locality that the Code provisions are unable to be properly applied.

39. Based on all of the above, what is proposed is in complete contrast to both what is sought by the Code for this locality and what is evident in the locality itself.

Summary

40. It is plain that the Proposed Development has significant shortcomings when assessed against fundamental, relevant policies within the Code and there is simply no basis upon which it could properly be approved.
41. We consider that the Proposed Development fails to achieve the relevant requirements of the Code, particularly relating to building height, density, parking, form, overlooking, overshadowing and consistency with the streetscape and built form characteristics of the locality.
42. The Proposed Development will present as a blocky, large element, with minimal landscaping or setback, and will be an incongruous element in the locality. It will be a dominant and discordant building within the locality if approved.
43. This is the classic case of an overdevelopment of the site- rather than adopting an approach of balancing out the Zone requirements, the Proposed Development pushes the limits on all of them. For example, if what was sought was a building which is over the height limit, one would expect it would have greater setbacks than the surrounding buildings and a greater amount of landscaping. Conversely, if what was sought was less landscaping and a smaller front setback, a good planning approach would be to have a more modest building fronting Childers Street. Instead, what has occurred here is to have a design with minimal front setback, minimal landscaping, a building which exceeds the two-storey height limit and is of significant bulk with minimal articulation- it pushes the boundary in every possible way and is clearly contrary to the Code.
44. Our clients each seek to be heard (either personally and/or through their representatives) in respect of their representations and, accordingly, we ask that you please advise us as to the time and date for the State Commission Assessment Panel ('**SCAP**') meeting in due course.

Assessment by SCAP

45. It is not clear as to the basis upon which this is being assessed by SCAP rather than by The Corporation of the City of Adelaide ('**the Council**').
46. As you would be aware, section 93(1)(a) of the *Planning, Development and Infrastructure Act 2016* ('**the Act**') makes a Council Assessment Panel the relevant authority for all development applications within an area of the relevant council, save for where otherwise set out in the Act.
47. In this instance, the only potentially relevant provisions are section 94(1)(a), which makes SCAP the relevant authority if the proposed development comes within a class of development designated by the Code or prescribed by the regulations, and section 94(2) if the Minister considers the proposed development is of significance to the State.

-
48. Regulation 23 of the *Planning, Development and Infrastructure Regulations 2017* (**‘the Regulations’**) sets out that SCAP is the relevant authority for development of a class prescribed in Schedule 6.
49. Schedule 6 of the Regulations stipulates that SCAP is the relevant authority for development within the area of the Council where the total amount to be applied to any work exceeds \$10 million.
50. One of our clients has had discussions with the relevant planning officer and been advised that no information has been furnished by the applicant in support of its assertion that the Proposed Development will cost in excess of \$10 million (which is set out in clause 6.5 of the planning statement from Ekistics).
51. In the absence of this information being provided, SCAP is unable to properly satisfy itself that it is the relevant authority to assess the Application. Until this information is provided, SCAP should refrain from assessing the Application.
52. Furthermore, to the extent this estimate is based on this development being part of a larger staged development which will cumulatively exceed \$10 million, as things stand presently the Application is not a ‘staged’ development in the proper sense. The Application does not seek approval for an overall development, with it being implemented in stages. What is sought is approval for a stand-alone development comprising 12 Independent Living Units comprising two, three-storey apartment buildings. Any future development is entirely hypothetical and is irrelevant when considering the development costs.
53. Our clients reserve their rights to bring an application in the courts challenging the jurisdiction of SCAP to hear the matter should it proceed with determining the matter.

Yours faithfully
MELLOR OLSSON



ANTHONY KELLY
Partner
Email: akelly@molawyers.com.au
Phone: 8414 3449 (Adelaide)

Representations

Representor 23 - Scott - Jacqueline Griffin

Name	Scott - Jacqueline Griffin
Address	161 Childers Street NORTH ADELAIDE SA, 5006 Australia
Submission Date	05/02/2025 05:46 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	Yes
My position is	I oppose the development
Reasons See attached	

Attached Documents

Representation-Letter-5-February-2029-1460304.pdf

Our Ref: AK:A250200

5 February 2025

Teagan Lewis
State Planning Commission
Via: Plan SA Portal

ALSO BY EMAIL: spcapplications@sa.gov.au

Dear Sir/Madam

**PROPOSED DEVELOPMENT AT 157 CHILDERS STREET, NORTH ADELAIDE
DEVELOPMENT APPLICATION NUMBER 24040803**

1. We refer to the above development application (**'the Application'**) for 157-163 Childers Street (**'the Subject Land'**), which seeks development approval for 12 Independent Living Units comprising two, three-storey apartment buildings (**'the Proposed Development'**), and which is currently out on public notification.
2. We act for the following registered proprietors/residents and have been asked to lodge a representation on their behalf in respect of the Application:
 - 2.1. Rose Debbie De Palma, James Thomas Wardlaw Birchall and Georgina Rose Wardlaw Birchall (134 Childers Street, which is a single storey dwelling on the opposite side of Childers Street and to the east of the Subject Land);
 - 2.2. Carolyn Roesler and Christopher Page (138 Childers Street, which is a single storey dwelling on the opposite side of Childers Street and to the east of the Subject Land);
 - 2.3. Malcolm John Mead and Andrea Jane Mead (147 Childers Street, which is currently being redeveloped and is on the same side of Childers Street and is immediately to the east of the Subject Land);
 - 2.4. Van Van Vu, Ms Phuong Do, Alyshia Vu and Anneliese Vu (156 Childers Street, which is which is a single storey dwelling on the opposite side of Childers Street and directly opposite the Subject Land);
 - 2.5. Scott Griffin and Jacqueline Griffin (161 Childers Street, which is which is a single storey dwelling on the same side of Childers Street and is immediately to the west of the Subject Land); and

Adelaide

Pirie house, Level 6, 89 Pirie Street
Adelaide SA 5000
GPO Box 74 Adelaide SA 5001
P 08 8414 3400

Port Lincoln

11 Mortlock Terrace
Port Lincoln SA 5606
PO Box 411 Port Lincoln SA 5606
P 08 8682 3133

Clare

165 Main North Road
Clare SA 5453
PO Box 671 Clare SA 5453
P 08 8842 1833

Barossa Valley

41 Tanunda Road
Nuriootpa SA 5355
PO Box 339 Nuriootpa SA 5355
P 08 8561 1000

Regional Offices (By appointment only)

P 1300 414 414

Balaklava, Burra, Bordertown, Ceduna, Cleve, Cummins, Elliston, Kadina, Keith, Kimba,
McLaren Vale, Riverton, Streaky Bay, Wudinna

- 2.6. Glenn Burrett and Loreto Mallari (163A Childers Street, which is which is a single storey dwelling on the same side of Childers Street and is immediately to the west of the Subject Land, being located behind/south of 161 Childers Street).
3. Rather than submitting multiple copies of the same representation, we ask that you accept this as a separate representation from each of our above clients. Where necessary we will speak to the differing impacts on each of our clients below.
4. Our clients are opposed to the proposed development for the reasons set out below.
5. Our clients have also had the benefit of reviewing the separate representations lodged on behalf of Mr and Mrs Mead and Mr and Mrs Griffin and agree with the matters raised in those representations. This representation is also lodged on behalf of Mr and Mrs Mead and Mr and Mrs Griffin to supplement those matters raised in the representations they have already lodged.

The development application

6. The development application is described as being for the *'demolition of existing residential buildings and construction of a retirement facility in the form of two, three-storey residential flat buildings comprising twelve units, ground floor carparking, fencing, landscaping, solar panels and communal facilities including a community garden'*.
7. The most pertinent elements of the Proposed Development are as follows:
 - 7.1. The main façade of the 'front' building of the Proposed Development is set back 5.9 metres at all levels and sits in line with the 1 storey building at 161 Childers Street, although there is a covered terrace area which sits forward of the main façade, almost to the boundary of the property. The Proposed Development sits forward of the building at 147 Childers Street
 - 7.2. The side setbacks for the front building at all levels are 6 metres to the east and 3.708 metres to the west (noting that the site tapers from the front to the rear).
 - 7.3. The side setbacks for the rear building at all levels are 6 metres to the east and between 3.193 and 2.8 metres to the west (noting that the site tapers from the front to the rear).
 - 7.4. The buildings are both three-storey and have a height of 11.4 metres and have a width of 22 metres.
 - 7.5. Landscaping is proposed in a relatively small area at the front (north) of the Subject Land, predominantly incorporated into the terrace area of the Proposed Development.
8. A lot is made of future stages (stages 3 through 7), but they cannot be considered as part of this application. It would be improper to consider any benefit (or otherwise) that the Proposed Development might obtain from those future developments, particularly given those future stages may never eventuate. In short, what is required is for the Application to be assessed on its own merits.

The Planning and Design Code ('the Code')

9. The Subject Land is located within the City Living Zone ('the Zone').
10. It is accepted that the proposed use as a retirement facility is an envisaged use within the Zone.
11. Relevantly the Zone provides as follows (our emphasis):

11.1. DO 1

Predominantly low-rise, low to medium-density housing, with medium rise in identified areas, that supports a range of needs and lifestyles located within easy reach of a diversity of services and facilities that support city living. Small scale employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising residential amenity.

11.2. PO 1.3

Non-residential development sited and designed to complement the residential character and amenity of the neighbourhood.

11.3. PO 2.2

Development contributes to a predominantly low-rise residential character, except when located in the Medium - High Intensity Subzone or East Terrace Subzone where it contributes to a predominantly medium rise residential character...

The associated DTS/DPF seeks a maximum building height of two levels.

11.4. PO 2.3

New buildings and structures visible from the public realm consistent with:

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- (b) prevailing built form characteristics, such as floor to ceiling heights, of the area.

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Building footprints consistent with the character and pattern of the prevailing open landscaped character of the neighbourhood, in locations where an open landscaped setting is the prevailing character.

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- 19.2. The Courts have also noted that development is generally expected to make a positive contribution to the desired residential character for a locality. In *Spence v City of Burnside*,⁶ Commissioner Rumsby noted that (our emphasis in bold):

34. **Development, generally, is expected to make a positive contribution to the desired residential character, the principal elements of which are set out above. Long established, mature, residential areas will invariably exhibit some discordant elements or features which do not sit well with all of the characteristics of neighbouring residential areas, or the features desirably associated with them. In PA 13, relevant in this matter, those general features (above) are not universally found throughout this policy area, as is acknowledged in PA 13 Objective 1. Whilst there are acknowledged significant variations to the generally prevailing and desired residential features, all development is expected to contribute positively to that desired character and not incrementally depart from them, nor worsen any non-conformity.**

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21. In considering this application, it is necessary to distil what is sought by the provisions of the Code.
22. Firstly, it is clear that the Code draws a distinction between development in this area in North Adelaide and development in East Terrace and other parts of the city. This is evidenced by the subzones, which draw a distinction between those areas where medium or high densities are sought, as against those areas where low densities are sought. This location is a low-density area, but what is proposed is a medium density development.⁷
23. The North Adelaide Subzone also makes it clear that what is sought is not only low-density developments, but also low-rise developments. Low-rise developments are defined in the Code as being *'up to and including 2 building levels'*. What is proposed is 3 building levels.
24. The North Adelaide Subzone also seeks that housing development be in an 'open landscaped setting'. This is consistent with what is evident in this locality, which predominantly comprises dwellings with a reasonable front setback and with well maintained, landscaped front yards. What is proposed by way of landscaping and front setback, particularly in the context of a three-storey building which occupies a significant frontage, is properly described as minimal landscaping and certainly doesn't achieve an 'open landscaped setting'.
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 - 25.2. development which complements the residential character and amenity of the neighbourhood; and
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27. It is therefore abundantly clear that what is proposed does not achieve any of the pertinent requirements of the Code, in that it:
- 27.1. is not low-density;

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Adjoining land owners

28. Turning then to specific impacts on the adjoining properties at 147, 161 and 163A Childers Street, the Proposed Development shows total disregard for these adjoining landowners. In this regard we note the following:

- 28.1. The proposed buildings will result in a significant bulk and scale for the dwelling to the east and the dwellings to the west. They will all be presented with large three-storey buildings which run along a significant portion of the site, with little in the way of articulation and little done to soften the appearance of the buildings.
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 - 28.5.1. 161 and 163A Childers Street (and other properties) at the winter solstice (and it is similar at the summer solstice) having no sunlight to any of its private open space save for a small period of time at or

around midday (noting that prior to midday it will be overshadowed by the proposed development and, from some time between 1 and 3, this area will be in shadow as a result of the existing dwellings on these land parcels.

- 28.5.2. This will cause the additional issue of the solar panels on these properties being rendered close to useless given the extensive hours of being in shade.

Parking

29. It has been suggested that the proposed development provides sufficient parking in providing 19 covered parking spaces. This is not correct.
30. As identified in the response provided by the City of Adelaide, there is in fact a requirement for 19 parking spaces and 2 visitor car parks. Whilst there is sufficient car parking for residents, there is no parking provided for visitors.
31. This is contrary to the specific provisions which call for 2 visitor car parking spaces.
32. It is also contrary to common sense, as one would expect there to regularly be more than two 'visitors' attending the Proposed Development, given the likelihood of regular attendance by carers as well as other visitors to the residents. This will all take place in a street setting in which on-street car parking is already at a premium for various reasons.

Building form

33. It has been suggested that the 'form' of the Proposed Development is appropriate as it is comparable to a large Georgian residence.
34. That may be the case, but what this suggestion overlooks is that these types of residences are not prominent in Childers Street. This demonstrates again that the proponent has given little consideration to the actual character of this particular locality.

150 Childers Street

35. The final issue to address is the residential flat building at 150 Childers Street, which is diagonally opposite the Proposed Development.
36. It is inappropriate to suggest that this might 'set the bar' for the Proposed Development. The residential flat building is much smaller in size and scale, particularly as a result of its much smaller width of 13.5 metres.
37. It is not a development which erodes the overall character of the locality. It is something which can now be seen as being inappropriate in the locality, but despite this it has not eroded the character to such an extent that the provisions of the Code cannot be achieved.
38. The courts⁸ have reiterated on many occasions that it is inappropriate to approve a development because of an earlier approval- or, put another way, a previous bad

⁸ See, for example, *Nadebaum v City of Mitcham* [1995] EDLR 587; *City of Charles Sturt v Hatch* [1999] SASC 523.

planning decision should not be used as a justification or reason to make another one which is inconsistent with the Code. What is relevant is the effect on the character and amenity of a particular locality- in this instance the residential flat building does not have the impact of so altering the character and amenity of the locality that the Code provisions are unable to be properly applied.

39. Based on all of the above, what is proposed is in complete contrast to both what is sought by the Code for this locality and what is evident in the locality itself.

Summary

40. It is plain that the Proposed Development has significant shortcomings when assessed against fundamental, relevant policies within the Code and there is simply no basis upon which it could properly be approved.
41. We consider that the Proposed Development fails to achieve the relevant requirements of the Code, particularly relating to building height, density, parking, form, overlooking, overshadowing and consistency with the streetscape and built form characteristics of the locality.
42. The Proposed Development will present as a blocky, large element, with minimal landscaping or setback, and will be an incongruous element in the locality. It will be a dominant and discordant building within the locality if approved.
43. This is the classic case of an overdevelopment of the site- rather than adopting an approach of balancing out the Zone requirements, the Proposed Development pushes the limits on all of them. For example, if what was sought was a building which is over the height limit, one would expect it would have greater setbacks than the surrounding buildings and a greater amount of landscaping. Conversely, if what was sought was less landscaping and a smaller front setback, a good planning approach would be to have a more modest building fronting Childers Street. Instead, what has occurred here is to have a design with minimal front setback, minimal landscaping, a building which exceeds the two-storey height limit and is of significant bulk with minimal articulation- it pushes the boundary in every possible way and is clearly contrary to the Code.
44. Our clients each seek to be heard (either personally and/or through their representatives) in respect of their representations and, accordingly, we ask that you please advise us as to the time and date for the State Commission Assessment Panel ('**SCAP**') meeting in due course.

Assessment by SCAP

45. It is not clear as to the basis upon which this is being assessed by SCAP rather than by The Corporation of the City of Adelaide ('**the Council**').
46. As you would be aware, section 93(1)(a) of the *Planning, Development and Infrastructure Act 2016* ('**the Act**') makes a Council Assessment Panel the relevant authority for all development applications within an area of the relevant council, save for where otherwise set out in the Act.
47. In this instance, the only potentially relevant provisions are section 94(1)(a), which makes SCAP the relevant authority if the proposed development comes within a class of development designated by the Code or prescribed by the regulations, and section 94(2) if the Minister considers the proposed development is of significance to the State.

-
48. Regulation 23 of the *Planning, Development and Infrastructure Regulations 2017* (**‘the Regulations’**) sets out that SCAP is the relevant authority for development of a class prescribed in Schedule 6.
49. Schedule 6 of the Regulations stipulates that SCAP is the relevant authority for development within the area of the Council where the total amount to be applied to any work exceeds \$10 million.
50. One of our clients has had discussions with the relevant planning officer and been advised that no information has been furnished by the applicant in support of its assertion that the Proposed Development will cost in excess of \$10 million (which is set out in clause 6.5 of the planning statement from Ekistics).
51. In the absence of this information being provided, SCAP is unable to properly satisfy itself that it is the relevant authority to assess the Application. Until this information is provided, SCAP should refrain from assessing the Application.
52. Furthermore, to the extent this estimate is based on this development being part of a larger staged development which will cumulatively exceed \$10 million, as things stand presently the Application is not a ‘staged’ development in the proper sense. The Application does not seek approval for an overall development, with it being implemented in stages. What is sought is approval for a stand-alone development comprising 12 Independent Living Units comprising two, three-storey apartment buildings. Any future development is entirely hypothetical and is irrelevant when considering the development costs.
53. Our clients reserve their rights to bring an application in the courts challenging the jurisdiction of SCAP to hear the matter should it proceed with determining the matter.

Yours faithfully
MELLOR OLSSON



ANTHONY KELLY
Partner
Email: akelly@molawyers.com.au
Phone: 8414 3449 (Adelaide)

Representations

Representor 24 - Glenn - Loreto Burrett - Mallari

Name	Glenn - Loreto Burrett - Mallari
Address	163A Childers Street NORTH ADELAIDE SA, 5006 Australia
Submission Date	05/02/2025 05:47 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	Yes
My position is	I oppose the development
Reasons See attached	

Attached Documents

Representation-Letter-5-February-2030-1460306.pdf

Our Ref: AK:A250200

5 February 2025

Teagan Lewis
State Planning Commission
Via: Plan SA Portal**ALSO BY EMAIL: spcapplications@sa.gov.au**

Dear Sir/Madam

**PROPOSED DEVELOPMENT AT 157 CHILDERS STREET, NORTH ADELAIDE
DEVELOPMENT APPLICATION NUMBER 24040803**

1. We refer to the above development application (**'the Application'**) for 157-163 Childers Street (**'the Subject Land'**), which seeks development approval for 12 Independent Living Units comprising two, three-storey apartment buildings (**'the Proposed Development'**), and which is currently out on public notification.
2. We act for the following registered proprietors/residents and have been asked to lodge a representation on their behalf in respect of the Application:
 - 2.1. Rose Debbie De Palma, James Thomas Wardlaw Birchall and Georgina Rose Wardlaw Birchall (134 Childers Street, which is a single storey dwelling on the opposite side of Childers Street and to the east of the Subject Land);
 - 2.2. Carolyn Roesler and Christopher Page (138 Childers Street, which is a single storey dwelling on the opposite side of Childers Street and to the east of the Subject Land);
 - 2.3. Malcolm John Mead and Andrea Jane Mead (147 Childers Street, which is currently being redeveloped and is on the same side of Childers Street and is immediately to the east of the Subject Land);
 - 2.4. Van Van Vu, Ms Phuong Do, Alyshia Vu and Anneliese Vu (156 Childers Street, which is which is a single storey dwelling on the opposite side of Childers Street and directly opposite the Subject Land);
 - 2.5. Scott Griffin and Jacqueline Griffin (161 Childers Street, which is which is a single storey dwelling on the same side of Childers Street and is immediately to the west of the Subject Land); and

AdelaidePirie house, Level 6, 89 Pirie Street
Adelaide SA 5000
GPO Box 74 Adelaide SA 5001
P 08 8414 3400**Port Lincoln**11 Mortlock Terrace
Port Lincoln SA 5606
PO Box 411 Port Lincoln SA 5606
P 08 8682 3133**Clare**165 Main North Road
Clare SA 5453
PO Box 671 Clare SA 5453
P 08 8842 1833**Barossa Valley**41 Tanunda Road
Nuriootpa SA 5355
PO Box 339 Nuriootpa SA 5355
P 08 8561 1000**Regional Offices (By appointment only)**

P 1300 414 414

Balaklava, Burra, Bordertown, Ceduna, Cleve, Cummins, Elliston, Kadina, Keith, Kimba,
McLaren Vale, Riverton, Streaky Bay, Wudinna

- 2.6. Glenn Burrett and Loreto Mallari (163A Childers Street, which is which is a single storey dwelling on the same side of Childers Street and is immediately to the west of the Subject Land, being located behind/south of 161 Childers Street).
3. Rather than submitting multiple copies of the same representation, we ask that you accept this as a separate representation from each of our above clients. Where necessary we will speak to the differing impacts on each of our clients below.
4. Our clients are opposed to the proposed development for the reasons set out below.
5. Our clients have also had the benefit of reviewing the separate representations lodged on behalf of Mr and Mrs Mead and Mr and Mrs Griffin and agree with the matters raised in those representations. This representation is also lodged on behalf of Mr and Mrs Mead and Mr and Mrs Griffin to supplement those matters raised in the representations they have already lodged.

The development application

6. The development application is described as being for the *'demolition of existing residential buildings and construction of a retirement facility in the form of two, three-storey residential flat buildings comprising twelve units, ground floor carparking, fencing, landscaping, solar panels and communal facilities including a community garden'*.
7. The most pertinent elements of the Proposed Development are as follows:
 - 7.1. The main façade of the 'front' building of the Proposed Development is set back 5.9 metres at all levels and sits in line with the 1 storey building at 161 Childers Street, although there is a covered terrace area which sits forward of the main façade, almost to the boundary of the property. The Proposed Development sits forward of the building at 147 Childers Street
 - 7.2. The side setbacks for the front building at all levels are 6 metres to the east and 3.708 metres to the west (noting that the site tapers from the front to the rear).
 - 7.3. The side setbacks for the rear building at all levels are 6 metres to the east and between 3.193 and 2.8 metres to the west (noting that the site tapers from the front to the rear).
 - 7.4. The buildings are both three-storey and have a height of 11.4 metres and have a width of 22 metres.
 - 7.5. Landscaping is proposed in a relatively small area at the front (north) of the Subject Land, predominantly incorporated into the terrace area of the Proposed Development.
8. A lot is made of future stages (stages 3 through 7), but they cannot be considered as part of this application. It would be improper to consider any benefit (or otherwise) that the Proposed Development might obtain from those future developments, particularly given those future stages may never eventuate. In short, what is required is for the Application to be assessed on its own merits.

The Planning and Design Code ('the Code')

9. The Subject Land is located within the City Living Zone ('the Zone').
10. It is accepted that the proposed use as a retirement facility is an envisaged use within the Zone.
11. Relevantly the Zone provides as follows (our emphasis):

11.1. DO 1

Predominantly low-rise, low to medium-density housing, with medium rise in identified areas, that supports a range of needs and lifestyles located within easy reach of a diversity of services and facilities that support city living. Small scale employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising residential amenity.

11.2. PO 1.3

Non-residential development sited and designed to complement the residential character and amenity of the neighbourhood.

11.3. PO 2.2

Development contributes to a predominantly low-rise residential character, except when located in the Medium - High Intensity Subzone or East Terrace Subzone where it contributes to a predominantly medium rise residential character...

The associated DTS/DPF seeks a maximum building height of two levels.

11.4. PO 2.3

New buildings and structures visible from the public realm consistent with:

- (a) valued streetscape characteristics of the area
- (b) prevailing built form characteristics, such as floor to ceiling heights, of the area.

11.5. PO 3.1

Buildings are set back from primary street boundaries to complement the existing streetscape character.

11.6. PO 3.3

Buildings setback from side boundaries to provide:

- (a) separation between buildings in a way that is consistent with the established streetscape of the locality.
- (b) access to natural light and ventilation to neighbours.

12. The Zone contains three subzones: Medium-High Intensity Subzone; North Adelaide Low Intensity Subzone; and East Terrace Subzone. It is evident from the terms of each

of these subzones that they seek to control where higher intensity development can occur.

13. In respect of the North Adelaide Low Intensity Subzone (**‘the North Adelaide Subzone’**), it contains the following provisions which make it clear that low-intensity development is sought:

13.1. DO1

Predominantly low-rise low density housing on large allotments in an open landscaped setting.

13.2. PO 1.1

Buildings sited and designed to complement the low-density or very-low density character of the neighbourhood, in locations where an open landscape setting is the prevailing character.

13.3. PO 2.1

Building footprints consistent with the character and pattern of the prevailing open landscaped character of the neighbourhood, in locations where an open landscaped setting is the prevailing character.

The associated DTS/DPF seeks that development does not result in a site coverage exceeding 50%.

14. The North Adelaide Subzone applies to the Subject Land.

15. What is sought by the Zone can therefore be summarised as being:

- 15.1. low-density development;
- 15.2. which is also low rise (two levels or less);
- 15.3. which has an open, landscaped setting;
- 15.4. that complements the residential character and amenity of the neighbourhood;
and
- 15.5. is consistent with the streetscape and built form characteristics of the locality.

Legal context

16. Before considering any assessment of the Proposed Development against the provisions of the Code, it is important to establish the correct legal framework within which this should occur.

17. The comments made by his Honour Justice Bleby in *Alexandrina Council v Strath Hub Pty Limited*¹ are a reminder of the weight to be attributed to the planning objectives and

¹ (2003) 129 LGERA 318 at [27].

principles in the then Development Plans and now the Code.² His Honour said as follows:

'[The Development Plan] contains statements of planning objectives and principles to be applied sensibly and flexibly to particular circumstances. However, that does not mean that its objectives and principles may be ignored because it may seem convenient to do so in a particular case.'

18. In this regard we note that the following important matters can be taken from the case law:³

18.1. There is not a presumption in favour or against a development application and it falls to be assessed taking into consideration all relevant issues;

18.2. Even if there is no express conflict between the proposal and the provisions of the Code, it does not necessarily follow that the proposed development warrants consent as there may be factors implicit in the Code which require a planning judgment to be made- that is, it is necessary to look at the intent and purpose of the provisions and the policy behind the principle/performance outcome; and

18.3. Compliance with minimum standards is not the sole relevant criteria and regard must also be had to the qualitative provisions in the Code when deciding whether it is proper to grant development consent. We note the comments of his Honour Justice DeBelle in *City of Mitcham v Terra Equities Pty Ltd*⁴ in which he said that:

'Prescribed minimum standards are not a statement of desired standards. They are no more than minimum standards... the Commissioner has approached this issue on the footing that, if a proposal complies with the minimum quantitative standards it must be approved. That is not necessarily so. Compliance with minimum standards rarely leads to a grant of development consent, regard must also be had to the qualitative provisions in the Plan when deciding whether it is proper planning to grant development consent.'

19. In terms of the application of the Code, it is instructive to note the following:

19.1. In *Parkins v Adelaide Hills Council Assessment Manager*,⁵ Commissioner Dyer observed that (our emphasis in bold):

69. *To assist with the performance assessment process DPFs have been included in the Code.*

² In this regard see *Garden College v City of Salisbury* [2022] SAERDC 10.

³ See, for example, *City of Mitcham v Freckmann & Ors* [1999] SASC 234; *City of Mitcham v Terra Equities Pty Ltd* [2007] SASC 244; *Town of Gawler v Impact Investments* [2007] SASC 356; *AG Building & Developments Pty Ltd v City of Holdfast Bay & Tanti* [2009] SASC 11 and, in respect of the PDI Act, *Rymill Park Apartments Pty Ltd v Rymill House Foundation Pty Ltd & Anor* [2023] SASC 107.

⁴ [2007] SASC 244 at [13].

⁵ [2022] SAERC 12 at [69]-[77].

70. The rules – “Policies – Desired Outcomes and Performance Outcomes, Designated Performance Features” provides the following:

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

....

73. A DPF is neither a complying standard nor a Principle of Development Control. It is its own assessment tool to be applied as per the rules.

...

75. **The question becomes what guidance does a DPF provide if not met?** The rules are silent on the issue of quantum departure. However, they do provide that a DPF “...does not derogate ... from the need to assess development on its merits against all relevant policies”. [My underlining]

76. **A DPF is a relevant policy and must therefore form part of the assessment. On my reading, whilst quantum departure from the terms of a DPF is not, of itself, grounds for refusal, I am not convinced that quantum departure can be completely ignored. It will, if nothing else, be a flag to the relevant authority to carefully ensure that, by way of alternative or the specific facts and circumstances of the matter, the performance outcome is met.**

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 - 28.5.1. 161 and 163A Childers Street (and other properties) at the winter solstice (and it is similar at the summer solstice) having no sunlight to any of its private open space save for a small period of time at or

around midday (noting that prior to midday it will be overshadowed by the proposed development and, from some time between 1 and 3, this area will be in shadow as a result of the existing dwellings on these land parcels.

- 28.5.2. This will cause the additional issue of the solar panels on these properties being rendered close to useless given the extensive hours of being in shade.

Parking

29. It has been suggested that the proposed development provides sufficient parking in providing 19 covered parking spaces. This is not correct.
30. As identified in the response provided by the City of Adelaide, there is in fact a requirement for 19 parking spaces and 2 visitor car parks. Whilst there is sufficient car parking for residents, there is no parking provided for visitors.
31. This is contrary to the specific provisions which call for 2 visitor car parking spaces.
32. It is also contrary to common sense, as one would expect there to regularly be more than two 'visitors' attending the Proposed Development, given the likelihood of regular attendance by carers as well as other visitors to the residents. This will all take place in a street setting in which on-street car parking is already at a premium for various reasons.

Building form

33. It has been suggested that the 'form' of the Proposed Development is appropriate as it is comparable to a large Georgian residence.
34. That may be the case, but what this suggestion overlooks is that these types of residences are not prominent in Childers Street. This demonstrates again that the proponent has given little consideration to the actual character of this particular locality.

150 Childers Street

35. The final issue to address is the residential flat building at 150 Childers Street, which is diagonally opposite the Proposed Development.
36. It is inappropriate to suggest that this might 'set the bar' for the Proposed Development. The residential flat building is much smaller in size and scale, particularly as a result of its much smaller width of 13.5 metres.
37. It is not a development which erodes the overall character of the locality. It is something which can now be seen as being inappropriate in the locality, but despite this it has not eroded the character to such an extent that the provisions of the Code cannot be achieved.
38. The courts⁸ have reiterated on many occasions that it is inappropriate to approve a development because of an earlier approval- or, put another way, a previous bad

⁸ See, for example, *Nadebaum v City of Mitcham* [1995] EDLR 587; *City of Charles Sturt v Hatch* [1999] SASC 523.

planning decision should not be used as a justification or reason to make another one which is inconsistent with the Code. What is relevant is the effect on the character and amenity of a particular locality- in this instance the residential flat building does not have the impact of so altering the character and amenity of the locality that the Code provisions are unable to be properly applied.

39. Based on all of the above, what is proposed is in complete contrast to both what is sought by the Code for this locality and what is evident in the locality itself.

Summary

40. It is plain that the Proposed Development has significant shortcomings when assessed against fundamental, relevant policies within the Code and there is simply no basis upon which it could properly be approved.
41. We consider that the Proposed Development fails to achieve the relevant requirements of the Code, particularly relating to building height, density, parking, form, overlooking, overshadowing and consistency with the streetscape and built form characteristics of the locality.
42. The Proposed Development will present as a blocky, large element, with minimal landscaping or setback, and will be an incongruous element in the locality. It will be a dominant and discordant building within the locality if approved.
43. This is the classic case of an overdevelopment of the site- rather than adopting an approach of balancing out the Zone requirements, the Proposed Development pushes the limits on all of them. For example, if what was sought was a building which is over the height limit, one would expect it would have greater setbacks than the surrounding buildings and a greater amount of landscaping. Conversely, if what was sought was less landscaping and a smaller front setback, a good planning approach would be to have a more modest building fronting Childers Street. Instead, what has occurred here is to have a design with minimal front setback, minimal landscaping, a building which exceeds the two-storey height limit and is of significant bulk with minimal articulation- it pushes the boundary in every possible way and is clearly contrary to the Code.
44. Our clients each seek to be heard (either personally and/or through their representatives) in respect of their representations and, accordingly, we ask that you please advise us as to the time and date for the State Commission Assessment Panel ('**SCAP**') meeting in due course.

Assessment by SCAP

45. It is not clear as to the basis upon which this is being assessed by SCAP rather than by The Corporation of the City of Adelaide ('**the Council**').
46. As you would be aware, section 93(1)(a) of the *Planning, Development and Infrastructure Act 2016* ('**the Act**') makes a Council Assessment Panel the relevant authority for all development applications within an area of the relevant council, save for where otherwise set out in the Act.
47. In this instance, the only potentially relevant provisions are section 94(1)(a), which makes SCAP the relevant authority if the proposed development comes within a class of development designated by the Code or prescribed by the regulations, and section 94(2) if the Minister considers the proposed development is of significance to the State.

-
48. Regulation 23 of the *Planning, Development and Infrastructure Regulations 2017* (**‘the Regulations’**) sets out that SCAP is the relevant authority for development of a class prescribed in Schedule 6.
49. Schedule 6 of the Regulations stipulates that SCAP is the relevant authority for development within the area of the Council where the total amount to be applied to any work exceeds \$10 million.
50. One of our clients has had discussions with the relevant planning officer and been advised that no information has been furnished by the applicant in support of its assertion that the Proposed Development will cost in excess of \$10 million (which is set out in clause 6.5 of the planning statement from Ekistics).
51. In the absence of this information being provided, SCAP is unable to properly satisfy itself that it is the relevant authority to assess the Application. Until this information is provided, SCAP should refrain from assessing the Application.
52. Furthermore, to the extent this estimate is based on this development being part of a larger staged development which will cumulatively exceed \$10 million, as things stand presently the Application is not a ‘staged’ development in the proper sense. The Application does not seek approval for an overall development, with it being implemented in stages. What is sought is approval for a stand-alone development comprising 12 Independent Living Units comprising two, three-storey apartment buildings. Any future development is entirely hypothetical and is irrelevant when considering the development costs.
53. Our clients reserve their rights to bring an application in the courts challenging the jurisdiction of SCAP to hear the matter should it proceed with determining the matter.

Yours faithfully
MELLOR OLSSON



ANTHONY KELLY
Partner
Email: akelly@molawyers.com.au
Phone: 8414 3449 (Adelaide)

Representations

Representor 25 - Christopher Sumner

Name	Christopher Sumner
Address	194 Childers St NORTH ADELAIDE SA, 5006 Australia
Submission Date	05/02/2025 06:13 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I oppose the development
Reasons The development in its current form should not be supported because it is not compliant with the Code with respect to number of stories and height, there is inadequate attention to the problems of parking and the proposed built form does not recognise the special heritage zone of this part of North Adelaide.	

Attached Documents

Representations

Representor 26 - suzanne roux

Name	suzanne roux
Address	194 childers street, NORTH ADELAIDE SA, 5006 Australia
Submission Date	05/02/2025 07:33 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I oppose the development

Reasons

The development in its current form should be refused. 1. It is not consistent with the Code with respect to the number of stories and the height of the buildings. It would seem reasonable that if a planning Code exists then developments should comply. 2. The area has been designated an heritage zone and the development has not taken the heritage of the area into consideration. Many residents in the area have spent money and time to ensure the restoration and continued maintenance of their home enriches the heritage value of the area. 3. Parking in the street will be considerably increased. There is provision for only 2 visitor spaces. Considering this property is for aged care residents there would be regular visitors such as carers, physiotherapists and other associated medical professionals as well as family. Two visitor spaces would seem a considerable underestimation. At the same time I am aware of the necessary work that the Helping Hand Centre carries out for the aged community and would hope that they value the heritage zone of which they are a part.

Attached Documents

Representations

Representor 27 - Jeremy Kwan

Name	Jeremy Kwan
Address	124 Childers Street NORTH ADELAIDE SA, 5006 Australia
Submission Date	05/02/2025 07:43 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	Yes
My position is	I oppose the development

Reasons

We refer to the above development application for 157-163 Childers Street. We reside at 124 Childers Street and have the following comments in relation to the proposed development, we do not support this development as we feel the proposal is inconsistent with the Planning Submission:-

- We see this as a Stand Alone Development - The proposed development has been put forward in the Planning Statement as a facility to support the long term intuitional remit of the Helping Hand Centre however the development proposal is for the stand alone development of high quality residential accommodation. There are indications of how this could contribute to a longer term development of the North Adelaide Helping Hand Centre but there is nothing in the proposal that says this is just for aged care or residents transitioning to aged care, it could and appears to be an opportunistic residential development that should be considered on its own merits not as part of an Institutional development proposal.
- SCAP assessment - As this is being assessed by SCAP rather than by The Corporation of the City of Adelaide - SCAP is the relevant authority for development within the area of the Council where the total amount to be applied to any work exceeds \$10 million. The Application does not seek approval for an overall development, with it being implemented in stages. What is sought is approval for a stand-alone development comprising 12 Independent Living Units comprising two, three-storey apartment buildings. Any future precinct development is entirely hypothetical and is irrelevant when considering the development costs.
- Parking - as a long term resident of North Adelaide, parking is an issue and one that is unfortunately becoming increasingly challenging. Whilst there is sufficient car parking for residents, there is no parking provided for visitors. Given the stand alone nature of this development with no indication on timing of future Helping Hand Centre staging the lack of visitor parking is inconsistent with the requirement for the provision of visitor and potentially emergency vehicle parking which would be required to support residents of an aged care facility. It would appear the Helping Hand Centre is looking to leverage its position as an intuitional aged care accommodation provider while exploring the opportunity to be a developer of residential accommodation which could support its mission but would also be very attractive to the wider residential sector if offered on the open market. The Planning Statement should be clear not just on the objectives of the proposed development but also on the ownership and management model proposed and how it will support those options.

Attached Documents



THE NORTH ADELAIDE SOCIETY Inc.

Post Office Box 295, North Adelaide, Sth Aust., 5006

Email is the preferred mode of correspondence.
northadelaidesociety@gmail.com

State Planning Commission (SPC)

05 Feb. 2025

Attention: State Commission Assessment Panel
(SCAP)

By email: scapreps@sa.gov.au
spcapplications@sa.gov.au

Representor

THE NORTH ADELAIDE SOCIETY INC.

PO Box 295, North Adelaide 5006

email: northadelaidesociety@gmail.com

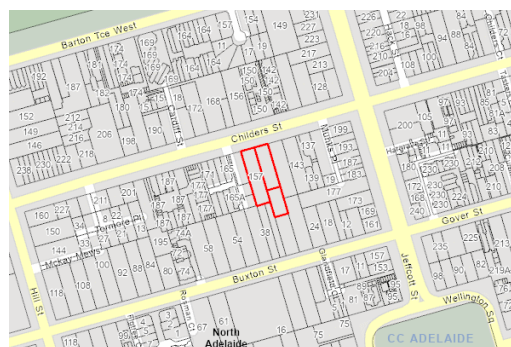
Application ID 24040803

Council Adelaide

Property address

157 CHILDERS ST NORTH ADELAIDE SA 5006

LOT 893 BUXTON ST NORTH ADELAIDE SA 5006



Source: PlanSA-PDC Policies

Applicant Helping Hand Aged Care

Description Demolition of existing residential buildings and construction of a retirement facility in the form of two (2), three (3) storey residential flat buildings comprising twelve (12) units, ground floor carparking, fencing, landscaping, roof mounted solar photovoltaic panels and communal facilities including a community garden.



Source: Applicant's Planning Statement, p 58

PROPERTY ZONE DETAILS

Zone City Living

Sub Zone North Adelaide Low Intensity

Overlay

Design Historic Area (Adel1) Heritage
Adjacency Local Heritage Place (310)

Local Heritage Place (311) Regulated and
Significant Tree Urban Tree Canopy

Local Variation (TNV)

Concept Plan (Concept Plan 33 - Helping Hand Aged Care)

Maximum Building Height (Levels) (Maximum building height is 2 levels)

Hearing Representation	Representor requests to be heard (per Elbert Brooks, or nominee). The representor acknowledges the long standing and continuing residential care and facilities provided by the Applicant, its prior consultation, and improvements, and its intention to continue within this community. However, consequent on the extent of exceedance (height/levels), variance from the valued and prevailing characteristics of this historic area and locality and this low intensity zone, and (respectfully) incompatible design, the representor does NOT SUPPORT the application.
Contention	Planning consent SHOULD BE REFUSED .

REASONS¹

City Living Zone Assessment Provisions (AP)

Desired Outcome DO 1	Not Achieved
Predominantly low-rise, low to medium-density housing, with medium rise in identified areas, that supports a range of needs and lifestyles located within easy reach of a diversity of services and facilities that support city living. Small scale employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising residential amenity.	Not low-rise. PDC Part 8 “low rise” means “ <i>In relation to development, means up to and including 2 building levels.</i> ” The proposal is for medium rise development. PDC Part 8 “medium rise” as “ <i>In relation to development, means 3 to 6 building levels.</i> ” The site is not within an identified location for Medium rise. It appears that the proposal is within low to medium density. ²
Performance Outcome (PO) Built Form and Character	
PO 2.2 Development contributes to a predominantly low-rise residential character ...	Not Achieved Not low-rise. Exceeds the max. building height of 2 levels (DTS/DPF 2.2)
PO 2.3 New buildings and structures visible from the public realm consistent with: (a) the valued streetscape characteristics of the area	Not achieved New buildings not consistent with (a) & (b). The valued and prevailing characteristics are one and two level residential, generally freestanding, bluestone, heritage or

¹ The reasons (and details) herein do not purport to be exhaustive. An absence of a reference to a relevant topic or matter within an aspect of the Planning and Design Code or an opinion expressed in the applicant's supporting material, is not a concession or condonation thereof, or that a performance or desired outcome of the Code is met.

² Net residential density Is calculated by dividing the total number of dwellings by the area of residential land that they occupy (excluding other land uses, roads, public open space and services) and expressed as dwelling units per hectare (du/ha)

High net residential density Means greater than 70 dwelling units per hectare.

Medium net residential density Means 35 to 70 dwelling units per hectare.

Low net residential density Means less than 35 dwelling units per hectare

(b) prevailing built form characteristics, such as floor to ceiling heights, of the area.

characteristic to the immediate and wider locality, voided roof forms.

POs – Building Setbacks

It is not clear whether the DTS/DPFs concerning building setbacks have been achieved or sufficiently achieved, albeit it is acknowledged that there is some boundary separation: east side driveway and west side footpath, however subjected to three rather than two level structures throughout the site.

POs – Site Dimensions and Land Division

The proposed structures are not sufficiently compatible with the housing pattern consistent to the locality.

Car parking and access

Car parking is not at basement level.

PO 5.2 Car parking associated with development on an institutional or college site identified on a concept plan is provided at basement level to minimise the streetscape impact.

Acknowledge that the proposed car parking is not street facing.

Concept Plans

Not achieved

PO 7.1 Development is compatible with the outcomes sought by any relevant Concept Plan contained within Part 12 - Concept Plans of the Planning and Design Code.

The application is not in accord, or sufficiently compatible, with the outcomes sought in Concept Plan 33 – Helping Hand Aged Care.

North Adelaide Low Intensity Subzone Assessment Provisions (AP)

DO1 Predominantly low rise low density housing on large allotments in an open landscaped setting.

Not achieved

The application is not for low rise low density housing on large allotments in an open landscaped setting, nor predominantly to that effect, nor consistent with the outcomes sought in Concept Plan 33 – Helping Hand Aged Care.

DO2 An important part of the town plan of Adelaide and the city grid layout, containing large grand dwellings on landscaped grounds.

Not achieved

Albeit that Concept Plan 33 – Helping Hand Aged Care does not contemplate DO2, the application does not achieve and otherwise is not sufficiently consistent with the outcomes sought in Concept Plan 33 – Helping Hand Aged Care.

Built Form and Character

Not achieved

PO 1.1 Buildings sited and designed to complement the low-density or very low density

The application is not for low-density residential dwellings or use as is the general prevailing

character of the neighbourhood, in locations where an open landscape setting is the prevailing character.

PO 2.1 Building footprints consistent with the character and pattern of the prevailing open landscaped character of the neighbourhood, in locations where an open landscaped setting is the prevailing character.

character of the neighbourhood and locality; and is of significantly greater density than is contemplate in Concept Plan 33 – Helping Hand Aged Care.

Not achieved

The application is for a development that results in a site coverage exceeding 50% (DTS/DPF 2.1)

Design Overlay Assessment Provisions (AP)

DO1 Development positively contributes to the liveability, durability and sustainability of the built environment through high-quality design.

Respectfully, not achieved

“High-quality design” must mean more than merely satisfactory or good architectural design.

Roman architect Vitruvius described “good architecture” as having three characteristics:

>Durability (Firmatis): robust and remain in good condition

>Utility (Utilitas): useful and function well for the people using it

>Beauty (Venustatis): delight people and raise people’s spirits.

Surely then, “high-quality design” ought to be understood as meaning a standard of design than is excellent, first-rate, superior, very good, both objectively and as importantly, when considered in context, temporally and applying humanistic, creative, and environmental values.

A consideration in this historic urban area with local heritage places is whether in the future the design is reasonably likely to be capable of being listed as heritage of its time.

Respectfully, this respondent suggests not, albeit acknowledging that the design has improved.

Quaere whether the use of what appears to be dark roofing material contributes to liveability, durability and sustainability in the City of Adelaide, which is subjected to high temperatures and heatwaves

Heritage Adjacency Overlay Assessment Provisions (AP)

DO1 Development adjacent to State and Local Heritage Places maintains the heritage and cultural values of those Places.

Not achieved.

The ordinary meaning of “adjacent” is nearby, near, next to. It is not confined to contiguous.³

The subject site and proposed structures are near and next to heritage places.

Respectfully, this respondent does not perceive the design of the structures in the application as maintaining the heritage and cultural values of those places, vis a vis street-frontage, the structures on the site, nor having regard to the Historic Area Statement re Childers Street.

Historic Area Statement applicable to this application:

“Childers Street

Victorian, Edwardian and Inter-war housing.

Large, low density detached single storey Local Heritage places.”

“Building height

Single and two storey residential.

Note: Concept Plan.”

“Materials

Victorian Houses

Bluestone, limestone or sandstone, with brick or rubble side and rear walls.

Timber framed windows and doors.

Cast iron or timber posts to the verandahs elaborated with moulded capitals and trim, and widely used cast iron brackets and frieze decoration.

Fencing consisting of masonry base and piers with cast iron panels or railings, timber railing, timber picket fencing for smaller houses.

Edwardian Houses

Face brick walls with decorative brick detailing, ashlar stone with brick dressings or moulded render or 'rock face' sandstone (or freestone) for wall material.

Unglazed terracotta Marseilles roof tiles, corrugated iron roof cladding.

³ PDI Act, s 3(1) *adjacent land in relation to other land, means land that is no more than 60 metres from the other land*

Timber framed windows and doors. Windows often grouped and doors often divided into three or four horizontal panels.

Masonry fencing with cast iron palisade, or timber (picket).

Inter-War Houses

Australian-made Wunderlich roof tiles.

Timber joinery with some use of metal framed windows.

Typically low masonry walls, built from materials matching the main building.

Stone and cast-iron fencing.”

The building height, and the material, esp. applicable to the third storey, are, respectfully, wholly incompatible with the values and context, including as expressed in the Historic Area Statement in respect of this most relevant locality.

PO 1.1 Development adjacent to a State or Local Heritage Place does not dominate, encroach on or unduly impact on the setting of the Place.

Ditto

Historic Area Overlay Assessment Provisions (AP)

DO1 Historic themes and characteristics are reinforced through conservation and contextually responsive development, design and adaptive reuse that responds to existing coherent patterns of land division, site configuration, streetscapes, building siting and built scale, form and features as exhibited in the Historic Area and expressed in the Historic Area Statement.

Not achieved when having regard to the location and the Historic Area Statement applicable to this application re: Childers Street. (see above)

PO 1.1 All development is undertaken having consideration to the historic streetscapes and built form as expressed in the Historic Area Statement.

The respondent acknowledges the apparent belief of the Applicant, designers and advisers that such consideration has been given. That is self-evident from the Applicant’s Doc. 8 “Heritage Impact Assessment”.

The respondent respectfully does not consider that the consideration and proposed development sufficiently achieve the performance outcome sought.

POs Built Form, Context and Streetscape
Amenity

PO2.1-2.5; 6.2

Not achieved.

The form, scale, building and wall heights, design, detailing and materials, and landscape are not consistent or sufficiently consistent with the prevailing characteristics of, or within, the historic area.

The representor does not suggest that mimicry is required.

The representor submits that the three storey 'block form' of the proposal and its 3 levels is less than empathetic to the local character and heritage places within sight of the proposed structure.

The third level ("Penthouse") will be readily seen from across and along Childers Street, which is a wide street with lengthy sight lines. This is most evident from the Architect's Streetscape Elevation. Although the third level can also be expected to be seen from Buxton Street, subsequent stages contemplated by the Applicant will likely mask or ameliorate the impact of that level from that direction. Respectfully, alternative conducive and creative design option/s for the north elevation may provide opportunities for re- consideration.

Local Heritage Place Overlay Assessment Provisions (AP)

DO1 Development maintains the heritage and cultural values of Local Heritage Places through conservation, ongoing use and adaptive reuse.
POs Built Form

Not achieved

As already indicated, the respondent considers that the application and its structures do not, or not sufficiently, maintain the heritage values of nearby heritage places.

Other matters

A relatively small (southernmost) portion of CT5845/885 (Lot 893, Buxton Street) appears to fall within the area of "*Taller Built Form up to 4 building levels*" within Concept Plan 33 Helping Hand Aged Care. That is not a basis for approving the proposed 3 building level residential development within the area of "*Low Scale Built Form up to 2 building levels*" indicated in that Concept Plan.

The applicant refers to and apparently seeks to rely on 3-storey residential flat buildings permitted under previous planning or approval regimes as a basis for its proposed two (2), three (3) storey residential flat buildings comprising twelve (12) units. Those existing 3-storey flats have not so altered the character of the locality as to bring into question the relevance of current planning policies. Thus, the any reference or reliance is misplaced and irrelevant to the consideration of this

application, which is to be considered on its merits in the context of current planning policies (cf. *Dal Pra v City of Happy Valley* (1995) EDLR 107).

The Applicant, in aid of its application, also refers to⁴ and seeks to rely on a policy document of the City of Adelaide (“City Plan – Adelaide 2036”, Sep 2024). That is self-described as a “framework”. It is not a planning policy document for the purposes of the PDI Act. It is irrelevant to consideration of an application for planning approval. In any event, the Applicant draws attention to and seeks to draw support from broad aspiration content about the City of Adelaide. But the Applicant omits the more specific content relevant to the locality of the proposed development. “Local Area 1: Wellington Square” includes the following. “*The Wellington Square Local Area will have improved resident experiences ... while retaining its character as a predominantly low density historic residential area. Recognising it as one of the most intact heritage areas of South Australia, growth will primarily be achieved through heritage adaptation and sensitively designed infill development that is consistent and complementary to the prevailing historic character. ... The townscape character comprises a high proportion of heritage listed buildings with large garden settings and high tree canopy coverage. ... The place principles for the local area are: • Retain the predominantly low rise, low density historic residential character of the local area, whilst supporting opportunities to improve access to amenities and services.*” (emphasis added)

Nothing herein is intended to infer any adverse consideration in respect of the work and contribution to the local community of The Helping Hand Inc., its residents or staff. Rather, this representation is confined to the proposed built form development the subject of the application and matters of merit and content vis a vis the representor’s consideration of the Planning and Design Code.

The representor reserves the right to correct any error or oversight.

A development proposal for this site that accords with, and contributes to, the desired and performance outcomes of the Planning and Design Code for the site, locality, and zones, would be capable of being supported.

Thank you for your consideration of this representation.

Please confirm receipt.

Yours sincerely,

The North Adelaide Society Inc. (est. 1970)

⁴ See 4.2.2 North Adelaide Context, Planning Statement