

DEVELOPMENT NO.:	24033963
APPLICANT:	Nic Design Studio Pty Ltd
AGENDA ITEM NO:	3.1
ADDRESS:	81 South Terrace, Adelaide
NATURE OF DEVELOPMENT:	Construct 14 level mixed use building comprising tourist accommodation, dwellings and shop
ZONING INFORMATION:	Zones: • Capital City Sub Zones: • City Frame Overlays: • Airport Building Heights (Regulated) (All structures over 70 metres AHD) • Affordable Housing • Building Near Airfields • Design • Hazards (Flooding - Evidence Required) • Noise and Air Emissions • Prescribed Wells Area • Regulated and Significant Tree Technical Numeric Variations (TNVs): • Maximum Building Height (Metres) (Maximum building height is 36m)
LODGEMENT DATE:	1 November 2024
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	Version 2024.19 – Consolidated 24 October 2024
CATEGORY OF DEVELOPMENT:	Code Assessed – Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	SB
REFERRALS STATUTORY:	The Secretary of the relevant Commonwealth Department responsible for administering the Airports Act 1996 (Adelaide Airport)
REFERRALS NON-STATUTORY:	Waste Engineering / Traffic Urban elements Arboriculture

CONTENTS:

ATTACHMENT 1:	Application Documents	ATTACHMENT 5:	Representations
ATTACHMENT 2:	Site Map	ATTACHMENT 6:	Response to Representations
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ATTACHMENT 4:	Representation Map	APPENDIX 1:	Relevant P&D Code Policies

All attachments and appendices are provided via [Link 1](#)

PERSONS SPEAKING BEFORE THE PANEL

Representors

- Matthew Hutson of 17 Hamilton Place, Adelaide
- Michelle Lindblom of Unit 603/83 South Terrace, Adelaide

Applicant

- Future Urban on behalf of the applicant

1. **DETAILED DESCRIPTION OF PROPOSAL**

The application proposes the construction of a 14 level mixed use building comprising:

- Ground – café (shop), tourist accommodation reception, office and linen storage, transformer and services, waste storage and bicycle parking
- Level 1 – five tourist accommodation rooms and gym
- Levels 2 and 3 – six tourist accommodation rooms per floor
- Levels 4 to 12 – seven tourist accommodation rooms per floor
- Level 13 – two apartments and three tourist accommodation rooms
- Roof – lift overrun

Minor earthworks will be required to accommodate the finished floor level as the land falls from the north to South Terrace by approximately 300mm.

2. **BACKGROUND**

Council Administration queried the cost of development during verification. A quantity surveyor report was provided by the applicant supporting the development cost of \$9.54 million.

Council Administration indicated concerns regarding the proposed height during the assessment process. This resulted in the height being reduced from 15 levels to 14 levels after public notification was undertaken. Previous legal advice for similar applications has indicated such a change does not require renotification.

3. **SUBJECT LAND & LOCALITY**

Subject Land

The site comprises a single allotment, known as Allotment 153 in Filed Plan 182615, contained in Certificate of Title Volume 5775, Folio 506. The site is more commonly known as 81 South Terrace, Adelaide.

There are no easements over the subject site.

The site comprises a frontage to South Terrace of 8.99 metres and secondary frontages to Morphett Street and Reeves Street of 30.63 metres and 8.99 metres respectively. The site has an area of approximately 275m².

Vehicle access is provided via a crossover to Morphett Street.

A single storey building used as an office with ancillary car parking to the rear is located on the site.

Locality

The locality is mixed in nature. While predominantly residential, small-scale shops and offices are interspersed along South Terrace and Morphett Street.

The Adelaide Park Lands are a notable landmark in the locality, providing a large, open landscaped area to the south.

Buildings in the locality vary in height. Buildings of two and three storeys front South Terrace and Morphett Street, with some rising to seven storeys. Buildings of one to three storeys in height predominate in surrounding lanes. The locality is predominantly low to medium rise.

Site areas are typically small, with minimal setbacks. Boundary to boundary construction contributes to a strong medium density character along the northern side of South Terrace.

The locality has a moderate level of amenity which is positively impacted by the natural backdrop of the Park Lands but is negatively impacted by the width and traffic generated by South Terrace and Morphett Streets.



Photo 3.1 – View of subject and adjacent site looking north



Photo 3.2 – View of subject site and adjacent sites looking northwest from Parklands



Photo 3.3 – View of subject site looking northeast from Parklands (western corner of South Terrace and Morphett Street)



Photo 3.4 – Looking east from western side of Morphett Street



Photo 3.5 – Looking south from eastern side of Morphett Street



Photo 3.6 – Looking east along Reeves Street from Morphett Street

4. **CONSENT TYPE REQUIRED**

Planning Consent

5. **CATEGORY OF DEVELOPMENT**

PER ELEMENT:

Tourist Accommodation: Code Assessed - Performance Assessed

Dwelling: Code Assessed - Performance Assessed

Shop: Code Assessed - Performance Assessed

OVERALL APPLICATION CATEGORY:

Code Assessed - Performance Assessed

REASON:

'Tourist Accommodation', 'Dwelling', and 'Shop' are listed in Table 3 of the Capital City Zone and therefore have a performance assessed pathway.

6. **PUBLIC NOTIFICATION**

REASON:

The proposed development does not satisfy Table 5 (3) of the Capital City Zone as it exceeds the maximum building height of 36 metres specified in Capital City Zone DTS/DPF 4.1.

Table 6.1 – List of Representations		
No.	Representor Address	Request to be Heard
1	Sharon Gerrard, Unit 6A/100 South Terrace, Adelaide	No – Opposes
2	Peter Wells, 10-12 Hamilton Place, Adelaide	No – Opposes
3	Maree Dalla Valle, 11/72 Cliff Road, Wollongong NSW	No – Opposes
4	Damien Trethewey, PO Box 58, Parndana SA	No – Opposes
5	Matthew Hutson, 17 Hamilton Place, Adelaide	Yes – Opposes
6	Jessica Loan, 104/83 South Terrace, Adelaide	No – Opposes
7	Richard Tamits, 11 Hamilton Place, Adelaide	No – Supports with some concerns
8	Jan Bailey and Andrew Cannon, 32 Halls Place, Adelaide	No – Opposes
9	David Garland, 1905/156 Wright Street, Adelaide	No – Opposes
10	Richard Burton, Unit 103/83 South Terrace, Adelaide	No – Opposes
11	Byryn Bruce, 82 South Terrace, Adelaide	No – Opposes
12	Alan Crook, Unit 602/83 South Terrace, Adelaide	No – Opposes
13	Community Corp 28423, Unit 201/83 South Terrace, Adelaide	No – Opposes
14	Mark DeNichilo, 39 Dauncey Street, Kingscote SA	No – Opposes
15	Michelle Lindblom, Unit 603/83 South Terrace, Adelaide	Yes – Opposes
16	Bob and Joan Huxtable, 35 Halls Place, Adelaide	No – Opposes
17	Susan Churchman, Unit 201/83 South Terrace, Adelaide	No – Opposes

One representation was marked as invalid for failing to meet the requirements for representations pursuant to Regulation 50(1) of the Planning, Development and Infrastructure (General) Regulations 2017.

Table 6.2 – Summary of Representations

Oppose

- Excessive height and scale
- Overshadowing
- Overlooking
- Noise
- Pollution
- Internal amenity for guests
- Poor sustainability
- Wind generation
- Traffic and loading impacts
- Removal of on-street parking spaces to South Terrace
- Ability of building to withstand structural damage from wind
- Odour from bin pickup location on South Terrace
- Water-borne disease spread due to air conditioners
- Smokers using footpath
- Increased risk of flood to adjacent buildings
- Damage to surrounding buildings during and after construction
- Construction impacts
- Impact to street trees
- Loss of views
- Lack of off-street parking and increased demand for on-street parking
- Lack of soft landscaping/greening
- Unrealistic development cost
- Reliance on public land (e.g. convert on-street parks to loading zone) to function

Note: The full representations and the applicant's response to the representations are included in Attachments 5 and 6.

7. **AGENCY REFERRALS**

The Secretary of the relevant Commonwealth Department responsible for administering the Airports Act 1996 (Adelaide Airport)

- No objections, with condition imposed.

Full referral response included in Attachment 7.

8. **INTERNAL REFERRALS**

Waste

- Waste management plan provided is sufficient.

Engineering /Traffic

- No objections noting the traffic report and updated plans showing corner splay at northwestern corner of the site.
- Internal transitions not shown on the plans should match internal and external levels. A condition should be imposed for boundary levels to match existing back of footpath levels.
- Works on Council land require Council approval prior to commencement.

Urban Elements

- Requests for bicycle hoops in the public realm should be made to Council's Infrastructure Assets Team separate to the development assessment process. Installation at the applicant's cost.

Arboriculture

- Street trees to Morphett Street and South Terrace are regulated and need to be protected.
- The canopies have been reduced in response to earlier Arboriculture advice to preserve the street trees.

9. PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning and Design Code, which are contained in Appendix 1.

9.1 Summary of City Frame Subzone Assessment Provisions

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	• Primarily medium to high rise residential development supported by a mix of ground level shops, personal services, restaurants and community and hospitality uses, to create an active and visually continuous edge to the Adelaide Park Lands Zone.		
Land Use			
PO 1.1	• Tourist accommodation, dwelling and shop desired land uses.	☒	☐
Design and Appearance			
PO 2.1	• Setbacks to street frontages will provide the desired uniform streetscape. • Adjacent regulated street trees protected.	☒	☒
PO 2.2	• Morphett Street and South Terrace frontages provide active and visual interest at ground.	☒	☐

9.2 Summary of Capital City Zone Assessment Provisions

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	• A zone that is the economic and cultural focus of the state supporting a range of residential, employment, community, educational, innovation, recreational, tourism and entertainment facilities generating opportunities for population and employment growth.		
DO 2	• High intensity and large-scale development with high street walls reinforcing the distinctive grid pattern layout of the city with active non-residential ground level uses to positively contribute to public safety, inclusivity and vibrancy. Design quality of buildings and public spaces is a priority in this zone.		

Land Use			
PO 1.1	Tourist accommodation, dwelling and shop envisaged land uses.	☒	☐
Activation			
PO 2.1	Non-residential use proposed at ground level.	☒	☐
PO 2.2	A café (shop) and staff/reception areas will contribute to pedestrian activation and vibrancy of the public realm.	☒	☐
Built Form and Character			
PO 3.1-3.7	Refer Section 8.5.	☒	☒
PO 3.11	Refer Section 8.5.	☒	☒
PO 3.13	Achieved.	☒	☐
Building Height			
PO 4.1-4.3	Refer Section 8.5.	☒	☒
Interface			
PO 5.1	- Site orientation minimises overshadowing and detrimental visual impacts to properties in the City Living Zone. - Land uses will not unduly impact residential amenity.	☒	☐
PO 5.2	3.5 metre wide separation provided by Reeves Street ensures height of the building will be mitigated when viewed from residential properties in the City Living Zone almost 30 meters to the northeast.	☒	☐
Movement			
PO 6.1	Achieved.	☒	☐
Public Realm			
PO 10.1	Canopy encroachment over Morphett Street and South Terrace will provide appropriate shelter over footpath without presenting risk to safety or interrupting movement.	☒	☐

9.3 Summary of Applicable Overlays

The following Overlays are not considered relevant to the assessment of this application:

- Affordable Housing Overlay – no affordable housing and not applicable as less than 20 additional dwellings proposed.
- Building Near Airfields Overlay – not located near an airfield.
- Design Overlay – value of development is not over \$10 million.
- Noise and Air Emissions Overlay – sensitive receivers do not adjoin a Type A, B or R road, or a train or tram corridor.
- Prescribed Wells Area Overlay – no groundwater concerns.

The following Overlays are considered relevant to the assessment of the application:

Airport Building Heights (Regulated) Overlay

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	Management of potential impacts of buildings and generated emissions to maintain operational and safety requirements of registered and certified commercial and military airfields, airports, airstrips and helicopter landing sites.		
Built Form			
PO 1.1	Application referred to Adelaide Airports and no objection raised.	☒	☐

Hazards (Flooding – Evidence Required) Overlay

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	Development adopts a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment from potential flood risk through the appropriate siting and design of development.		
Flood Resilience			
PO 1.1	Council's Stormwater Engineer supports finished floor in terms of risk of entry of potential floodwaters.	☒	☐

9.4 General Development Policies

The following General Development Policies are relevant to the assessment:

Clearance from Overhead Powerlines

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.		
PO 1.1	Declaration provided for the purposes of the <i>Electricity Act 1996</i>.	☒	☐

Design in Urban Areas

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	Development contextual, durable, inclusive and sustainable.		

All Development			
External Appearance			
PO 1.1	Proposal reinforces corner via setbacks and architectural expression.	☒	☐
PO 1.2	Shelter over parts of Morphett Street and South Terrace.	☒	☐
PO 1.3	Building entrances from South Terrace and Morphett Street.	☒	☐
PO 1.4	Airconditioning equipment screened.	☒	☐
PO 1.5	Waste store in building and not visible from public view.	☒	☐
Safety			
PO 2.1	Passive surveillance maximised with opportunity for views over all three street frontages.	☒	☐
PO 2.2	- Apartments to share common facilities with tourist accommodation. - While not desirable, only two studio apartments proposed.	☐	☒
PO 2.3-2.5	Design of ground level maximises opportunity for passive surveillance and provides clear and direct access from public streets.	☒	☐
Landscaping			
PO 3.1	Landscaping or tree planting not proposed.	☐	☒
Environmental Performance			
PO 4.1	Building orientated north and maximises access to natural sunlight via window fenestration.	☒	☐
PO 4.2-4.3	- ESD report provided, detailing initiatives and measures to minimise energy consumption. - Opportunity for photovoltaic cells at roof level.	☒	☐
Site Facilities/Waste Storage (excluding low rise development)			
PO 11.1	Dedicated area for on-site waste collection provided.	☒	☐
PO 11.2-11.3	Waste storage screened from view and away from habitable rooms.	☒	☐
PO 11.5	Non-residential waste and recycling storage provides opportunity for food waste recovery.	☒	☐
All Development – Medium and High Rise			
External Appearance			
PO 12.1-12.8	Refer Section 8.5.	☒	☐
Landscaping			
PO 13.1-13.3	Landscaping and tree planting not proposed.	☐	☒

Environmental			
PO 14.1	Orientation of site and canopies ensure detrimental microclimatic impacts on adjacent land minimised.	☒	☐
PO 14.2	Refer Section 8.5.	☒	☐
PO 14.3	Podium not proposed, however canopies over pedestrian footpaths.	☒	☒
Overlooking/Visual Privacy			
PO 16.1	- Proposal mitigates 'direct overlooking' of adjacent residential uses with 30 metre separation to City Living Zone. - Windows/balconies not proposed to eastern elevation.	☒	☐
All Residential Development			
Outlook and Amenity			
PO 18.1	All living areas have windows and provide good external outlook for occupants.	☒	☐
PO 18.2, PO 28.1	Bedrooms separated from active communal areas, noting apartments interface with three hotel rooms and shared lobby on level 13.	☐	☒
Residential Development – Medium and High Rise			
Private Open Space			
PO 27.1	Balconies 14-15m² and provide minimum dimension of 1.8 metres.	☒	☐
Residential amenity in multi-level buildings			
PO 28.1	Apartment balconies separated to provide visual and acoustic privacy.	☒	☐
PO 28.2	Balconies designed to integrate with the architectural form.	☒	☐
PO 28.3	Balconies a sufficient size and directly accessed from living areas.	☒	☐
PO 28.4	Not less than 6m³ metres of storage for occupants.	☒	☐
Common Areas			
PO 30.1	- Apartment occupants will share lift lobbies and corridors with tourist accommodation guests. - Building entries will allow movement of strollers and mobility aids.	☐	☒
Group Dwellings, Residential Flat Buildings and Battle axe Development			
Amenity			
PO 31.1	Apartments have floor areas of 35m².	☒	☐
PO 31.2- 31.3	Orientation of apartments will maximise outlook and visual privacy.	☒	☐
Site Facilities/Waste Storage			
PO 35.1	Mailboxes provided for apartments within bicycle storage area.	☒	☐
PO 35.3- 35.6	Residential waste and common services (gas and water) shared with tourist accommodation.	☒	☐

Infrastructure and Renewable Energy Facilities

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity.		
PO 11.2	Dwellings connected to mains water.	☒	☐

Interface between Land Uses

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	Development designed to mitigate adverse effects on or from neighbouring and proximate land uses.		
General Land Use Compatibility			
PO 1.1	Achieved.	☒	☐
Overshadowing			
PO 3.3	- Proposal will cast a shadow over the abutting properties solar panels only during the afternoon. - Overshadowing of panels not considered undue or unreasonable noting access to morning sunlight will still be available and the zone seeks large-scale development.	☒	☐
Solar Reflectivity / Glare			
PO 7.1	The schedule of materials and extent of glazing will not cause undue reflective glare.	☒	☐

Site Contamination

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	Ensure land is suitable for the proposed use in circumstances where it is, or may have been, subject to site contamination.		
PO 1.1	A PSI has been provided that has confirmed the site is suitable for its intended use.	☒	☐

Transport, Access and Parking

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.		

Sightlines			
PO 2.1	Corner cut-off provided at the corner of Morphett Street and Reeves Street, ensuring line of site maintained.	☒	☐
Access for People with Disabilities			
PO 4.1	Ramp access into building provided.	☒	☐
Bicycle Parking in Designated Areas			
PO 9.1	- Three on-site bicycle parks provided for tourist accommodation employees, which meets <i>Table 3 – Off Street Bicycle Parking Requirements</i> for ‘tourist accommodation’. - Dedicated bicycle parking for dwellings which require one space each. - A bicycle hoop within the public realm shown on the plans within Morphett Street footpath. This will be treated separately to the development application process.	☒	☒
PO 9.2	Bicycle parking will be secure and in a location providing opportunity for casual surveillance.	☒	☐
PO 9.3	End of trip facilities not provided.	☐	☒
Corner Cut-Offs			
PO 10.1	A corner cut-off provided at corner of Morphett and Reeves Street intersection, ensuring drivers can safely turn into and out of this road junction.	☒	☐

9.5 Detailed Discussion

Land Use

Tourist accommodation, dwelling and shop are land uses expressly envisaged in Capital City Zone PO/DPF 1.1, with non-residential land uses at ground level anticipated in City Frame Subzone PO 1.1. This is reinforced by the Desired Outcomes of the Zone and Subzone which specifically seek high scale, mixed use development maximising passive surveillance of the street and Adelaide Park Lands.

Environmental Performance and Micro-Climatic Impacts

A key consideration of the Design in Urban Areas Desired Outcome is sustainable development. Sustainable design techniques, including the design and siting of the building and measures to minimise energy consumption should be implemented.

An ESD report has been provided detailing design measures to be implemented to increase the environmental performance of the building. The proposal targets a 4-star Green Star rating, exceeding the baseline National Construction Code (NCC) Section J requirements to provide a ‘substantial sustainability gain’. Specific measures to increase energy performance include:

- west facing fins and hoods, to shield western sun and reduce heat gain
- high performance double glazing
- mechanical operated glass louvres
- use of high-efficiency lifts and standby power mode
- fixtures and tapware with a minimum 5 star WELS rating
- various hydraulic services such as central hot water plant
- opportunity for photovoltaic energy to roof.

The wind report has referred to a lack of a podium and it is expected wind will be diverted from the upper levels to the ground level, altering the wind environment. However, the wind environment is anticipated to meet recommended safety criteria. A further study is recommended during the detailed design stage. A reserved matter has been recommended in Section 11 seeking evidence the wind environment at ground meets the relevant walking criterion.

Landscaping

A landscaped, deep soil area capable of accommodating trees as sought by Design in Urban Areas PO 13.1 is not proposed. This PO is inconsistent with several zone and subzone POs which seek uniform streetscapes and no front setbacks to reinforce the city grid pattern and establish a strong built form edge. It is considered inappropriate for a landscaped area to be established.

Building Height

The policy framework for building height is largely focussed on satisfaction of applicable PO. The Capital City Zone includes three POs relating to building height.

PO 4.1 guides maximum building height, stating '*Building height is consistent with the maximum height expressed in any relevant Maximum Building Height (Levels) Technical and Numeric Variation layer and Maximum Building Height (Metres) Technical and Numeric Variation layer or otherwise positively responds to the local context and achieves the desired outcomes of the Zone,*'

Fulfilment of the PO is informed by prescriptive quantitative guidelines of the Designated Performance Feature (DPF) and satisfaction of the broader desired outcomes of the Zone. Zone DPF 4.1 specifies a maximum building height of 36 metres.

A building height of 46.2 metres (to the top of the lift overrun) is proposed, however the building will have an apparent height of 44.3 metres to the top of the parapet. Notwithstanding this, the proposal exceeds the maximum height guideline by 10.2 metres or 28.3%.

PO 4.3 guides minimum building height, seeking to optimise building height and floor area yields and to avoid underdevelopment in the zone. DPF 4.3(b) states '*within the City Frame Subzone: 3 building levels (with a minimum of 11.5m), or 4 building levels (with a minimum of 15m) on sites fronting South Terrace.*' With a building height of 46.2 metres and 14 building levels, PO 4.3 is achieved.

The proposal seeks to take advantage of over height concessions in PO 4.2 (b), where the building incorporates measures that provide for a substantial additional gain in sustainability (as outlined above). The proposal demonstrates at least four criteria are met as follows:

- provides higher amenity through provision of private open space exceeding the minimum requirements by 25 percent for at least 50% of dwellings (100% for this proposal)
- no on-site car parking provided
- building has frontage to a public road abutting the Adelaide Park Lands
- impact on adjacent properties is no greater than a building of the maximum height on the Maximum Building Height (Levels) Technical and Numeric Variation layer and Maximum Building Height (Metres) Technical and Numeric Variation layer in relation to sunlight access and overlooking.

Whilst PO 4.2 is met, irrespective of the deviation from over height criteria, further interrogation of how the building *positively responds to the local context and achieves the desired outcomes of the Zone* in PO 4.1 is required. This is discussed in further detail below. Considering the high-rise nature of the proposal, Capital City Zone DO 2 and City Frame Subzone DO 1 are achieved with respect to building height.

Contextual Response / Design and Appearance

Both the Capital City Zone and Design in Urban Areas provisions ensure buildings appropriately recognise and respond to their context and exhibit a high standard of design. PO 3.3 of the Zone seeks building facades strongly modelled and incorporating a vertical composition and architectural detailing that can be read in the round.

The building is proposed to all site boundaries, with no upper-level setback or podium proposed above the street wall. Noting no setback above the street-wall is proposed, the building incorporates a four level podium expression to ground the base and maintain a corner edge. The brick tile base and use of masonry up to level 4 will define a 'podium' in relation to the glazed expression at the upper levels. Excluding the eastern elevation, the façades are strongly modelled through extensive glazing, shading fins (which meet Council's Encroachment Policy) that provide vertical composition and expressed floors which add visual interest. Noting the concrete wall to the eastern elevation will be readily visible, an expressed finish will provide some relief and interest via the use of two different coloured pre-finished concrete panels.

The canopies will be located 3.3 metres above the footpath and extend approximately 2.2 metres over the Morphett Street footpath which will create shelter and contribute to an attractive and pedestrian friendly street frontage. The canopy to South Terrace will define the entrance and has been designed around the street tree in this location. The canopy to Morphett Street has been designed to ensure no tree-damaging activity occurs to the adjacent regulated street tree. Capital City Zone PO 3.3 and 10.1, and Design in Urban Areas PO 12.2 and 12.6 are therefore achieved.

PO 3.2 of the zone seeks buildings that reinforce the prevailing datum heights and parapet levels of the street through a clear distinction between levels above and below the prevailing datum line. Where located in an existing low-rise context, buildings should be designed to include a podium and street wall height that relates to the scale and context of adjoining built form, provides a human scale, defines street corners to maintain the grid and contribute to pedestrian interest and security. The lower scale, inconsistency in architectural styles and setbacks in the locality make it difficult for the development to reinforce a prevailing datum height and parapet levels.

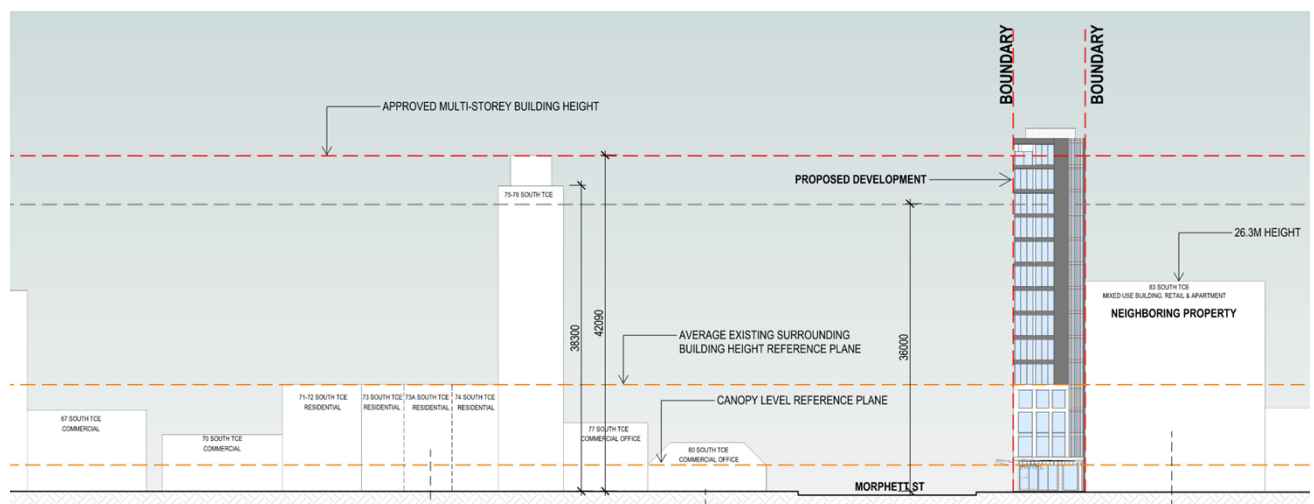


Figure 9.5.1 – South Terrace streetscape elevation

The applicant has provided a streetscape elevation in Figure 9.5.1, demonstrating how the building will relate to the wider context and provide a visual link to the datum/parapet heights of existing buildings. It also shows the recently approved development at 75 South Terrace, with a building height of 42.1 metres. Whilst the proposed building will have a height of 46.2 metres to the top of the lift overrun, it will have an apparent height of 44.3 metres to the top of the parapet and will provide a similar visual relationship with the emerging pattern of development in this locality.

Noting the height and lack of podium, the building expression is considered to provide an appropriate architectural response in this context which does not display a strong character or prevailing datum heights.

Interface

Overlooking

Design in Urban Areas PO 16.1 seeks development mitigate direct overlooking of habitable room windows and private open spaces of adjacent residential uses in neighbourhood-type zones. To mitigate direct overlooking does not imply a right to absolute privacy. 'Direct overlooking' is defined in Part 8 of the Planning and Design Code as follows -

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.

Figure 9.5.2 demonstrates the nearest residential land use in a neighbourhood-type zone is 13 Hamilton Place, a dwelling in the City Living Zone. The distance between the rear of the proposal to the private open space of 13 Hamilton Place is approximately 30 metres.

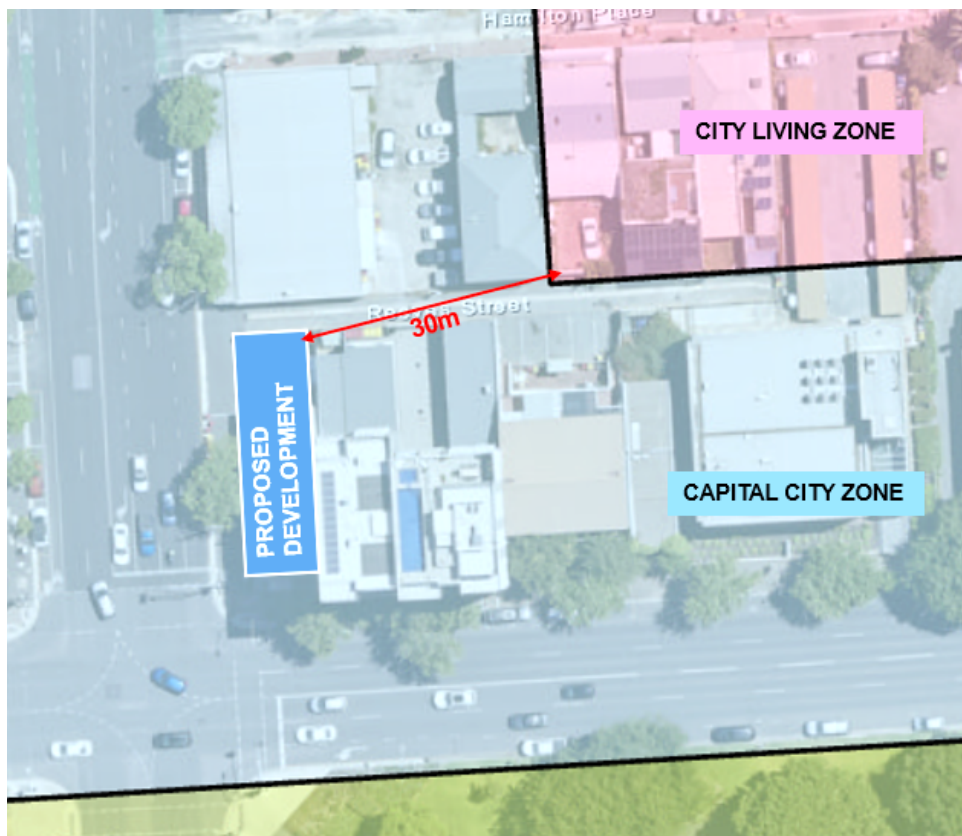


Figure 9.5.2 – Distance between development and nearest residential use in a neighbourhood-type zone

Figure 9.5.2 demonstrates all adjoining properties within 15 metres of the site are in the Capital City Zone where there are no provisions requiring direct overlooking to be mitigated as this is not a 'neighbourhood-type zone'. Balconies are only proposed to the western façade, allowing views westward over the Capital City Zone and southward toward the Park Lands. It will not be possible to directly overlook the habitable room windows or private open space areas of adjacent residential uses in neighbourhood-type zones.

Overshadowing

Shadow diagrams demonstrate the most extensive overshadowing will occur to the south, extending over South Terrace and the Park Lands. The diagrams demonstrate on 21 June, overshadowing of the adjacent residential flat building to the east will occur in the afternoon hours but allow for direct sunlight access in the morning. The extent of overshadowing is not considered excessive.

The impact of overshadowing created by the 10.2 metre portion of the building over the maximum 36 metre height requirement will be limited to an area over the Park Lands as demonstrated by the shadow diagrams comparing the shading impact of the proposed building with a building 36 metres in height. Consequently, Interface between Land Uses PO 3.1 and 3.2 are achieved.

The adjoining building to the east at 83 South Terrace has solar panels on its roof. As this building is 26 metres in height, overshadowing from the proposal is inevitable. However, medium to high rise development is envisaged in the Zone, with height limits up to 36 metres along South Terrace. It is therefore conceivable higher development will occur within proximity of 83 South Terrace, further overshadowing the existing solar panels. The shadow diagrams indicate overshadowing of these solar panels will occur in the afternoon hours only allowing the panels a reasonable opportunity for sunlight access. On balance, the proposal does not unduly reduce the generating capacity of adjacent solar energy facilities, satisfying Interface between Land Uses PO 3.3.

Waste Collection, Traffic and Hotel Pick-Up/Drop-Off

On-site car parking is not proposed and there is no minimum car parking rate prescribed for 'All classes of development' under Table 2 – Off-Street Car Parking Requirements in Designated Areas.

However, to service the development, alterations to existing on-street parking restrictions are proposed, including conversion of two on-street spaces for a loading zone to South Terrace for waste collection for 'No Parking Passenger Loading at All Times' for hotel pick-up and drop-off.

For waste collection, it is intended staff and occupants of the dwellings will access all points of user disposal and transport waste from the waste room. Figure 9.5.3 shows the collection path of bins by a private contractor that will use a rear-lift truck up to 10 metres in length. The contractor will stop at the front of the property on South Terrace.

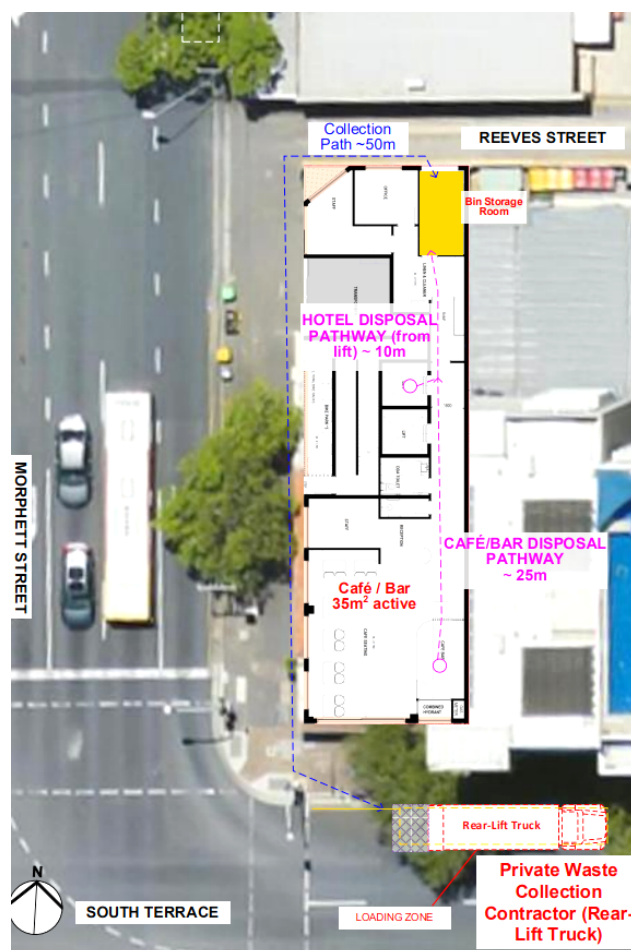


Figure 9.5.3 - Overview of waste storage area and bin collection

Council's Waste Officer and Traffic Engineer have reviewed the Traffic Impact Assessment report and Waste Management Plan and have confirmed the proposed waste storage, bin size/number/type, collection location and changes to on-street controls are appropriate.

Seriously at Variance

The Courts have previously determined the assessment of whether a development is seriously at variance with the provisions of the Planning and Design Code should focus on the nature of the proposed land use and the relevant performance outcomes concerning whether an application is seriously at variance or not.

Considering tourist accommodation, dwelling and shop are uses envisaged within medium to high scale development in both the Zone and Subzone, it is considered the proposal is acceptable in this context and therefore is not seriously at variance.

10. CONCLUSION

While several quantitative provisions of the Planning and Design Code are not achieved by the proposal, it ultimately achieves a majority of provisions and the relevant performance outcomes and warrants support, albeit finely balanced as:

- the proposed land uses are expressly envisaged in the Zone
- a high scale and intensity development is encouraged in the Zone to frame the city grid pattern and the Adelaide Park Lands
- the design and appearance of the building will be reasonable quality and the architectural expression is suitable noting the response to the local context
- there will be a substantial additional gain in sustainability to justify the envisaged maximum building height being exceeded
- interface impacts including overlooking and overshadowing are not unreasonable and will be appropriately mitigated.

11. RECOMMENDATION

It is recommended the Council Assessment Panel resolve that:

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

It is recommended the Council Assessment Panel resolve that:

2. Development Application Number 24033963 by Nic Design Studio Pty Ltd is GRANTED Planning Consent subject to the following reserved matter, conditions and advices:

RESERVED MATTER

Pursuant to Section 102 (3) of the *Planning, Development and Infrastructure Act 2016*, the following matter(s) shall be reserved for further assessment, to the satisfaction of Council's Assessment Manager, prior to the granting of Development Approval:

1. A further wind study demonstrating and confirming the wind environment at ground meets the relevant walking criterion.

Pursuant to Section 127 of the *Planning, Development and Infrastructure Act 2016*, Council's Assessment Manager reserves a decision on the form and substance of any further condition/s of Planning Consent considered appropriate to impose in respect of the Reserved Matter outlined above.

CONDITIONS

1. The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any)
 - Site Plan, Ground Floor Plan, Levels 1-13 and roof plans by Nic Design Studio, Drawing No. 24054 SD012 and SD031 to SD036, Rev J, dated 12 June 2025
 - Proposed Elevations by Nic Design Studio, Drawing No. 24054 SD041 to SD043, Rev J, dated 12 June 2025
 - Proposed Section by Nic Design Studio, drawing no. 24054 SD051, Rev J, dated 12 June 2025
 - Section Detail by Nic Design Studio, drawing no. 24054 SD071, Rev J, dated 12 June 2025
 - Stormwater Management Report by Matter Consulting Structural Engineers, project no. 23245A, Rev No. 4, dated 31 January 2025
 - Civil and Stormwater Plans by Matter Consulting Structural Engineers, project no. 23245A, Rev No. 6, dated 31 January 2025
 - Principal's Project Requirements – ESD by LBS Pty Ltd, ref. no. LBS30205, dated 3 December 2024
 - Waste Management Plan by Colby Phillips Advisory, dated 5 December 2024
 2. The applicant or the person having the benefit of this consent shall ensure that all storm water run-off from the development herein approved is collected and then discharged to the storm water discharge system. All down pipes affixed to the development which are required to discharge the storm water run-off shall be installed within the property boundaries of the land to the reasonable satisfaction of the Relevant Authority.
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3. The finished floor level at the boundary of the site at all access locations must match the existing back of footpath levels at the boundary.

4. Sustainable initiatives as outlined in Section 2 of the Principal's Project Requirements – ESD by LBS Pty Ltd, ref. no. LBS30205, dated 3 December 2024 report shall be incorporated into the building design and implemented.

5. The proposed awning shall comply with the City of Adelaide's Encroachment Policy:
 - Be set back at least 600mm from the kerb line; and
 - The proposed awning shall be designed to be easily removed if required in future; and
 - The awning shall include pedestrian lighting (Category V1, V3, V5, P1, P2, P3, P4, P6, P7, P9, P7-AS1158); and
 - Shall be maintained and owned by the property owner(s); and
 - The owner shall maintain, modify or remove the structure at any time if given notification by Council to do so; and
 - The lighting shall operate dusk until dawn and not be obtrusive or shine into any adjoining residences.

6. Only background music is permitted to be played in the shop and shall be played at a level where patrons can comfortably hold a conversation without having to raise voices, to the reasonable satisfaction of the Relevant Authority.

ADVISORY NOTES

1. Development Approval Required

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

2. Expiration of Consent

Pursuant to the provisions of Regulation 67 of the Planning, Development and Infrastructure (General) Regulations 2017, this consent / approval will lapse at the expiration of 2 years from the operative date of the consent / approval unless the relevant development has been lawfully commenced by substantial work on the site of the development within 2 years, in which case the approval will lapse within 3 years from the operative date of the approval subject to the proviso that if the development has been substantially or fully completed within those 3 years, the approval will not lapse.

3. Appeal Rights

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal.

The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone 8204 0289).

4. Commencement and Completion

Pursuant to Regulation 93 of the Planning, Development and Infrastructure (General) Regulations 2017, the Council must be given one business days' notice of the commencement and the completion of the building work on the site. To notify Council, contact City Planning via d.planner@cityofadelaide.com.au or phone 8203 7185.

5. Fences Act 1975

The applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works include work involving a shared boundary, a 'Notice of Intention' must be served to adjoining owners. Please contact the Legal Services Commission for further advice on 8463 3555.

6. Crane Operations

Any crane operations associated with the construction of the development will need to be undertaken with prior consultation with Adelaide Airport Limited.

7. City Works Permit

Any activity in the public realm, whether it be on the road or footpath (including the Adelaide Park Lands), requires a City Works Permit. This includes activities that have received Development Approval. The City Works Guidelines detailing the requirements for various activities and fee calculator and online application form can all be found on Council's website at <https://www.cityofadelaide.com.au/business/permits-licences/city-works/> When applying for a City Works Permit you will be required to supply the following information with the completed application form:

- a. A Traffic Management Plan/Site Plan (a map which details the location of the works, street, property line, hoarding/mesh, lighting, pedestrian signs, spotters, distances etc.);
 - b. Description of equipment to be used;
 - c. A copy of your Public Liability Insurance Certificate, noting the City of Adelaide as an interested party (minimum cover of \$20 Million required);
 - d. Copies of consultation with any affected stakeholders including businesses or residents. Applications will require a minimum notice period of five business days. For more information, contact cityworks@cityofadelaide.com.au .
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8. Encroachment Permit

An Encroachment Permit will be separately issued for the proposed encroachment into the public realm when Development Approval is granted. In particular your attention is drawn to the following: • An annual fee may be charged in line with the Encroachment Policy. • Permit renewals are issued on an annual basis for those encroachments that attract a fee. •

Unauthorised encroachments will be required to be removed. • Lighting under the canopy over the footpath is to be provided to Council standards (PP3- AS1158). The lighting must not be obtrusive and should be designed so that it does not shine into any adjoining residences and shall be operational during the hours of darkness at all times to the reasonable satisfaction of Council. Please contact Permits on 8203 7421 or permits@cityofadelaide.com.au for further information.

9. Signage Indicative Only

The applicant is reminded that any signage shown on renders in the plan set is shown indicatively only. Any signage may be subject to a future Development Application.
