

DEVELOPMENT NO.:	23029228
APPLICANT:	Maria Favaro
AGENDA ITEM:	3.1
ADDRESS:	333 Carrington Street, Adelaide SA 5000
NATURE OF DEVELOPMENT:	Change of use from dwelling to office (retrospective)
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • City Living <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Design • Historic Area • Heritage Adjacency • Hazards (Flooding – Evidence Required) • Local Heritage Place • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height – 8.5 metres • Minimum Site Area – detached dwelling is 200 m²; semi-detached dwelling is 200 m²; row dwelling is 200 m²; group dwelling is 200 m²; residential flat building is 200 m²) • Maximum Building Height – 2 levels
LODGEMENT DATE:	16 October 2023
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	Version 2023.14 – 12 October 2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	PC
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Heritage Architect

CONTENTS:

ATTACHMENT 1:	Application Documents	ATTACHMENT 5:	Representations
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 6:	Response to Representations
ATTACHMENT 3:	Zoning Map	APPENDIX 1:	Relevant P&D Code Policies
ATTACHMENT 4:	Representation Map		

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

PERSONS SPEAKING BEFORE THE PANEL

Representor:

- Jennifer Boisvert of 10 Corryton Street, Adelaide

Applicant:

- Greg Vincent on behalf of the applicant, Ms Maria Favaro

1. DETAILED DESCRIPTION OF PROPOSAL

1.1 This application proposes a retrospective change of use from dwelling to office within an existing building at 333 Carrington Street, Adelaide. No building work is proposed.

2. BACKGROUND

2.1 The application is retrospective as the change of use occurred prior to a development approval being sought.

2.2 Council Administration sought legal advice regarding the assessment of this proposal and another application involving a change of use to consulting rooms at 337 Carrington Street Adelaide. Further detail regarding this advice is included in Section 9.4.

2.3 The applicant originally proposed to undertake a minor building addition and alterations to incorporate an entry ramp. Council's Heritage Architect raised concerns regarding this ramp as the property is a Local Heritage Place.

2.4 The applicant then obtained advice from their private certifier who confirmed an application for Building Rules Consent would be assessed against the Minister's Building Standard 001 (MBS 001) pursuant to the National Construction Code and the *Planning, Development and Infrastructure Act 2016*. MBS 001 outlines where there are no alterations or building work associated with a change of use, there is no requirement to upgrade accessibility to and within the existing building.

2.5 The applicant amended the proposal to remove any building work as the change of use and the number of occupants does not trigger a need for internal alterations to toilet facilities or external accessibility upgrades.

3. SUBJECT LAND & LOCALITY

Subject Land

3.1 The subject site is located on the southern side of Carrington Street at the intersection between Corryton Street and Allen Place, approximately 50 metres east of Hutt Street.

3.2 The site is rectangular with a total area of approximately 180m².

3.3 The existing building is listed as a Local Heritage Place and the western wall is located on the Corryton Street frontage.

3.4 The site is located at the interface between the City Living Zone and the City High Street Subzone, within the City Main Street Zone to the west.

3.5 The roller door located on the Corryton Street frontage has no associated crossover for vehicular access.

Locality

3.6 Built form in the locality is generally low scale with a high proportion of historic and/or character attributes with several Local and State Heritage Places.

3.7 There is a mix of land uses in the locality. Carrington Street includes low rise dwellings and small-scale commercial uses. Hutt Street to the west includes commercial uses, with restaurants and the General Havelock hotel nearby. The site is one of four row dwellings, two of which are already used for commercial purposes.

3.8 Carrington Street has relatively high amenity with several mature street trees providing shade to the street.

3.9 Corryton Street is narrow and has a dual role of providing a frontage to row dwellings to the east and service yards for businesses fronting Hutt Street to the west. It is a one-way street, with a north to south traffic flow.

Photo 3.1 – View of subject site from northern side of Carrington Street



Photo 3.2 – View of roller door on Corryton Street frontage



Photo 3.3 – Residential property to south of subject site in Corryton Street



Photo 3.4 – View of Corryton Street looking south



Photo 3.5 – View of Corryton Street looking east



Photo 3.6 – Southern side of Carrington Street looking west to Hutt Street



Photo 3.7 – Restaurant on corner of Carrington and Hutt Streets



Photo 3.8 – Northern side of Carrington Street opposite subject site



4. CONSENT TYPE REQUIRED:

Planning Consent

5. CATEGORY OF DEVELOPMENT:

PER ELEMENT:

Change of use: Code Assessed – Performance Assessed

Office: Code Assessed – Performance Assessed

OVERALL APPLICATION CATEGORY:

Code Assessed – Performance Assessed

REASON:

A change of use is not classified as Accepted or Deemed-to-Satisfy Development and therefore the defaults to Code Assessed – Performance Assessed Development.

6. PUBLIC NOTIFICATION

REASON:

An office that does not fulfill the criteria of DTS/DPF 1.4 is not an excluded type of development in Table 5 – Procedural Matters (PM) – Notification of the City Living Zone and therefore public notification is required and has been undertaken.

Table 6.1 – List of Representations

No.	Representor Address	Request to be Heard
1	Philip Hitchcock – 335 Carrington Street, Adelaide	No – Support
2	Jennifer Boisvert – 10 Corryton Street, Adelaide	Yes – Opposes
3	Louise Burslem – 20 Corryton Street, Adelaide	No – Supports with concerns

Table 6.2 – Summary of Representations

- Support development.
- Prefer property remain residential.
- Existing car park being used for storage.
- Always used as a dwelling in the past.
- Should only be used as offices and not functions, parties or late night social events.
- Parking issues using inappropriate zones and overstaying.

Note: A full version of the representations and the Applicant's response to representations are included in Attachments 5 and 6.

7. AGENCY REFERRALS

Nil required.

8. INTERNAL REFERRALS

Local Heritage

No further comment required as building works have been removed from the application.

9. PLANNING ASSESSMENT

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

9.1 Summary of City Living Zone Assessment Provisions

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none">Small scale employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising amenity.		
Land Use and Intensity			
PO 1.1	<ul style="list-style-type: none">Office an envisaged land use.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 1.2	<ul style="list-style-type: none">Small scale commercial uses such as offices suitable.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 1.3	<ul style="list-style-type: none">Location of site at interface between City Living Zone and a City Main Street Zone considered appropriate.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 1.4	<ul style="list-style-type: none">Refer Section 9.4.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

9.2 Summary of Applicable Overlays

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

- Airport Building Heights (Regulated) Overlay – existing built form.
- Design Overlay – value of development below \$10 million.
- Hazards (Flooding - Evidence Required) Overlay – existing built form.
- Prescribed Wells Area Overlay – no groundwater concerns.
- Regulated and Significant Tree Overlay – no regulated or significant trees impacted.
- Stormwater Management Overlay – existing built form.
- Urban Tree Canopy Overlay – not a new dwelling.

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

Heritage Adjacency Overlay

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none"> Development adjacent Local Heritage Places maintains heritage and cultural values of the Places. 		
Built Form			
PO 1.1	<ul style="list-style-type: none"> No change to existing built form. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Historic Area Overlay

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none"> Historic themes and characteristics reinforced through conservation and contextually responsive development. 		
All Development			
PO 1.1	<ul style="list-style-type: none"> No impact on streetscape. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Local Heritage Place Overlay

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none"> Development maintains heritage and cultural values of Local Heritage Places through conservation, ongoing use and adaptive reuse. 		
Built Form			
PO 1.7	<ul style="list-style-type: none"> No change to existing built form. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

9.3 Summary of General Development Policies

The following General Development policies are relevant to the assessment:

Interface between Land Uses

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none"> Development located and designed to mitigate adverse effects on or from neighbouring and proximate land uses. 		
General Land Use Compatibility			
PO 1.1	<ul style="list-style-type: none"> Not a sensitive land use. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 1.2	<ul style="list-style-type: none"> Scale and operation will not result in adverse impacts. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Hours of Operation			
PO 2.1	<ul style="list-style-type: none"> Hours of operation meet DTS/DPF 2.1 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Transport, Access and Parking

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none"> A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users. 		
Vehicle Parking Rates			
PO 5.1	<ul style="list-style-type: none"> Refer Section 9.4. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>

9.4 Detailed Discussion

Land Use

The subject site is in the City Living Zone and this zone supports several forms of residential development as the primary use. However, PO 1.1 contemplates a range of compatible non-residential uses to be achieved without adversely impacting upon residential amenity in the zone. DTS/DPF 1.1 lists offices as one of these uses. Furthermore, PO 1.2 and 1.3 seek non-residential land uses located and designed where community accessibility is improved and siting that complements the residential character and amenity of the neighbourhood.

The subject site is located at the interface between the City Living Zone and the City High Street Subzone within the City Main Street Zone. This location ensures the office will be located close to other commercial uses in Hutt Street on the periphery of the City Living Zone instead of being entrenched further within the zone where the impact would likely be greater.

The property directly to the east at 335 Carrington Street has existing use rights as an office and which predate implementation of planning controls in the City of Adelaide on 15 June 1972. Further to the east at 337 Carrington Street, planning consent was recently granted for consulting rooms (ID 23033821). This use had been occurring at this site for several years prior to being formalised through this recent development application. If granted consent, the proposal at 333 Carrington Street would result in three of the four row dwellings being used for non-residential purposes.

The proposed use is small in scale and designed and sited to complement the residential character of the neighbourhood as it is within an existing row dwelling and no external alterations are proposed. The office use is considered to satisfy zone PO 1.1, 1.2 and 1.3.

Zone PO 1.4 stipulates the circumstances and locations where commercial activities are appropriate in the zone. It refers to home-based activities, reuse and adaptation of existing commercial premises, as well as listing particular locations that are considered to already display a mixed-use character as follows:

<p>PO 1.4</p> <p>Commercial activities improve community access to services are of a scale and type to maintain residential amenity, and primarily comprise:</p> <ul style="list-style-type: none"> (a) home-based business activities (b) the reuse and adaption of existing commercial premises (c) new businesses along street frontages with an established mixed use character, particularly the following: <ul style="list-style-type: none"> (i) within the Medium-High Intensity Subzone and fronting: <ul style="list-style-type: none"> A. Gilles Street / Gilbert Street B. Sturt Street C. Carrington Street (west of Hurtle Square) D. Archer Street E. Ward Street (ii) Tynte Street (west of Bevis Street) 	<p>DTS/DPF 1.4</p> <p>A <u>consulting room, office or personal or domestic services establishment</u> (or any combination thereof) satisfies any one of the following:</p> <ul style="list-style-type: none"> (a) comprises a change in the use of an existing building that is lawfully used as a <u>consulting room, office or personal or domestic services establishment</u> (or any combination thereof) (b) is located on the ground floor and associated with a <u>dwelling</u> where at least 50% of the <u>total floor area</u> of the ground floor is used for residential purposes (excluding any garage or carport associated with residential development) (c) it is wholly located on the ground floor of a building and satisfies one of the following: <ul style="list-style-type: none"> (i) the building is in the Medium-High Intensity Subzone and has a <u>primary street</u> frontage to any of the following: <ul style="list-style-type: none"> A. Gilles Street / Gilbert Street B. Sturt Street C. Carrington Street (west of Hurtle Square) D. Archer Street E. Ward Street (ii) the building has a <u>primary street</u> frontage to Tynte Street (west of Bevis Street).
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Whilst the site is not located west of Hurtle Square as desired in PO 1.4, the location is considered appropriate given its mixed-use character. The small-scale of the proposal is unlikely to result in undue impact to adjacent residential uses and PO 1.4 of the zone is therefore considered satisfied.

Council sought legal advice regarding this application and the other application at 337 Carrington Street referred to previously. The advice particularly focused on appropriate weighting of PO 1.4 considering it specifically refers to locations in the zone suitable for commercial uses. The advice suggested there is nothing in the Code or PO 1.4 specifically requiring the relevant authority to ascribe any additional weight to the provisions of PO 1.4, or to apply it to this application in any way other than how the relevant authority would apply any other performance outcome in the Code.

The advice confirmed references to 'primarily comprise' and 'Carrington Street' are positive obligations (i.e. development of that form is envisaged in that locality and should be looked on favourably, especially in the specific locations) but it does not exclude other forms of development from being approved in the Zone, nor does it exclude the envisaged form of development from being sited outside the specific locations identified within the Zone. The advice concluded the proposal generally satisfies PO 1.4. Planning consent has recently been granted for the change of use at 337 Carrington Street.

The office is proposed to operate from Monday to Friday from 9am to 5pm. It is not anticipated this use will generate noise, odour or any other nuisance. Considering the nature of the proposal, it is not expected to unreasonably impact on the amenity of adjacent dwellings. For this reason, General Development "Interface between Land Uses" PO 1.2 and 2.1 are satisfied.

Parking

The applicant has acknowledged there is a shortfall in parking, as the use requires three off-street parking spaces as prescribed by PO 2.1 and Table 2 – 'General Off-Street Car Parking Requirements in Designated Areas'. It has been advised the property currently has access to one on-site car park via Corryton Street and there is a shortfall of two parking spaces. There is a roller door on the Corryton Street frontage, however there is no crossover associated with this access. This detail was questioned by Council Administration during the assessment process, however no crossover is proposed. Consequently, the existing use has been assessed as having no existing on-site parking and this will remain the same for the proposed office use.

The applicant suggested the proposal is acceptable as the small-scale office use will be directly associated with administration of the nearby Chianti Restaurant and thus car parking associated with the office use is supported by the adjacent City Main Street Zone, as well as the availability of shared 2-hour on-street parking along Carrington Street.

There is no onsite car parking and this will result in an overall shortfall of three car parking spaces, however there is already an existing shortfall of one car parking space for the dwelling use, so the shortfall associated with this proposal will be two car parking spaces. Whilst the applicant has used the association of the office with the Chianti Restaurant, this may not always be the case and cannot be used as justification for the shortfall.

Whilst not ideal, the additional shortfall of two car parking spaces is considered acceptable when allowing for the small scale nature of the use, location adjacent the City Main Street Zone, nearby public transport and the adaptive reuse of a Local Heritage Place. On balance General Development "Transport, Access and Parking" PO 5.1 is satisfied.

Heritage

As external alterations have been removed from the proposal, there will be no visual impact and therefore the development does not unduly dominate, encroach on or impact the adjacent Local Heritage row dwellings and achieves Heritage Adjacency Overlay PO 1.1.

There is also no impact on the Local Heritage listing of the building, nor on the historic streetscape character as the existing building will not be altered, satisfying Local Heritage Place Overlay PO 1.7 and Historic Area Overlay PO 1.1.

Other Matters

Other issues raised by the representations include:

- rear yard being used for storage
- use of existing car park as storage area
- parking difficulties and issues in association with the subject site
- maintenance of current fencing to common lane.

The applicant has advised storage of certain items had been occurring during renovation of Chianti Restaurant and this is now complete. The area the representation describes as a car park is not accessible due to a lack of a crossover and any on-street parking difficulties or infringements are not a planning assessment matter. The applicant has confirmed removal of the fence is not proposed. These matters are generally unrelated to the planning assessment.

Seriously at Variance

The application is not considered to be seriously at variance with the provisions of the Planning and Design Code as the City Living Zone envisages non-residential land uses that do not adversely impact upon the residential amenity as being appropriate in the zone. The proposal aligns with the Planning and Design Code with respect to appropriate hours of operation for offices in the zone.

10. CONCLUSION

This application proposes a retrospective change of use of the existing dwelling at 333 Carrington Street, Adelaide to an office. There will be no alterations to the existing built form.

The proposal is considered to mostly achieve the relevant policies within the Planning and Design Code. The small-scale nature of the office and operation within standard business hours is not expected to unreasonably impact on residential amenity.

There are several other small-scale commercial premises in the immediate locality. The location at the interface between the City Living Zone and City Main Street Zone will ensure the small car parking shortfall is also considered to be acceptable.

11. **RECOMMENDATION**

It is recommended that 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

It is recommended that the Council Assessment Panel resolve that:

2. Development Application Number 23029228, by Maria Favaro is granted Planning Consent subject to the following conditions and advices:

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).**
 - **Plans drafted by Danvers.Studio – Architects, DWG Nos. A01B, A02E, A03E, all dated 8/12/23**
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2. **The hours of operation for the office on the Land shall be limited to 9.00am to 5.00pm – Monday to Friday.**

ADVISORY NOTES

1. **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.

2. **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 number 8204 0289).

3. Commencement and Completion

Pursuant to Regulation 93 of the Planning, Development and Infrastructure Act, 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.

4. Building Consent for Approval

Development Approval will not be granted until Building Rules Consent has been obtained. A separate application must be submitted for such consent. No building work or change of classification is permitted until the Development Approval has been obtained.

5. Residential Parking Permits

No on-street residential parking permits will be issued for use by occupants of, or visitors to, the development herein approved (unless the subject site meets the relevant criteria). Please visit <https://www.cityofadelaide.com.au/transport-parking/parking/residential-parking/> or contact the Customer Centre on 8203 7203 for further information.