



Development Assessment Panel Meeting Agenda

Tuesday 02 May 2017 at 6pm

Council Chambers, 401 Greenhill Road, Tasmore

Members:	Bill Chandler (Presiding Member) Don Donaldson (Deputy Presiding Member) Ross Bateup, Graeme Brown, Peter Cornish, Mark Osterstock and Di Wilkins
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1 APOLOGIES

Nil

2 KAURNA ACKNOWLEDGEMENT

The Presiding Member will take the opportunity to acknowledge the Kurna people.

3 CONFIRMATION OF MINUTES

Recommendation: That the minutes of the meeting held on Tuesday 04 April 2017 be taken as read and confirmed.

4 APPLICATIONS WITHDRAWN FROM THE AGENDA

Nil

5 DEVELOPMENT APPLICATIONS FOR CONSIDERATION – PERSONS WISH TO BE HEARD

(A) NON-COMPLYING DEVELOPMENT APPLICATIONS (HEARING)

Nil

(B) CATEGORY 3 DEVELOPMENT APPLICATIONS (HEARING)

Nil

(C) CATEGORY 2 DEVELOPMENT APPLICATIONS (HEARING)

Recommendation: As the opportunity to make a verbal presentation for Category 2 applications is at the Panel's discretion, that the Panel provide an opportunity to be heard.

Report Number:	5716.1
Page:	5
Application Number:	180\1181\16
Applicant:	Mr B Gregg
Location:	2-4 Borrow Drive, Burnside
Proposal:	Three-storey detached dwelling including in-ground swimming pool and earthworks greater than 9 cubic metres
Recommendation:	Development Plan Consent be granted
Representors:	<ul style="list-style-type: none"> • Alice Minney - 3 Borrow Drive, Burnside (to be heard) • Ann Maree Ramsay - 6 Borrow Drive, Burnside (to be heard) • Mr and Mrs Bensted - 1 Kurralta Drive, Burnside (not to be heard)
Applicant:	• 262 Melbourne Street, North Adelaide

6 DEVELOPMENT APPLICATIONS FOR CONSIDERATION – NO PERSONS TO BE HEARD**(A) NON-COMPLYING DEVELOPMENT APPLICATIONS (NO HEARING)**

Report Number:	5716.2
Page:	20
Application Number:	180\0247\17
Applicant:	P D Vial and K L Rosenzweig
Location:	42 Old Norton Summit Road, Skye
Proposal:	Construction of 2m high (max) boundary retaining wall including 1m high fence on top, storage shed and earthworks exceeding 9 cubic metres
Recommendation:	Subject to concurrence from the Development Assessment Commission, that Development Approval be granted

(B) CATEGORY 3 DEVELOPMENT APPLICATIONS (NO HEARING)

Nil

(C) CATEGORY 2 DEVELOPMENT APPLICATIONS (NO HEARING)

Report Number:	5716.3
Page:	31
Application Number:	180\1062\16
Applicant:	A L H Lim
Location:	59 Linden Avenue, Hazelwood Park
Proposal:	Demolition of existing dwelling and construction of two single-storey dwellings including garages, verandahs, retaining walls and fencing
Recommendation:	That the CEO be advised to not accept the compromise

Report Number:	5716.4
Page:	41
Application Number:	180\1153\16
Applicant:	G J Ambrose-Pearce
Location:	27 Davenport Terrace, Hazelwood Park
Proposal:	Construction of two-storey detached dwelling including cellar, store, carport, verandahs, swimming pool, balconies and fencing
Recommendation:	Development Plan Consent be granted

Report Number:	5716.5
Page:	44
Application Number:	180\0497\16
Applicant:	C Bastiras
Location:	102 Alexandra Avenue, Toorak Gardens
Proposal:	Three-storey detached dwelling including basement garage, lift, swimming pool and fencing
Recommendation:	The Panel determines to advise the Chief Executive Officer that the compromise should be accepted

Report Number:	5716.6
Page:	51
Application Number:	180\0977\16
Applicant:	N Qi
Location:	3 & 4 Austin Crescent, St Georges
Proposal:	Construction of three (3) two-storey dwellings
Recommendation:	Development Plan Consent be granted

7 CATEGORY 1 DEVELOPMENT APPLICATIONS FOR CONSIDERATION – NO PERSONS TO BE HEARD

Nil

8 OTHER BUSINESS

Nil

9 ORDER FOR EXCLUSION OF THE PUBLIC FROM THE MEETING TO DEBATE CONFIDENTIAL MATTERS

That, pursuant to Section 56A(12) of the Development Act, 1993, the public be excluded from this part of the meeting of the City of Burnside Development Assessment Panel dated Tuesday 02 May 2017 (with the exception of members of Council staff who are hereby permitted to remain), to enable the Panel to receive, discuss or consider legal advice, or advice from a person who is providing specialist professional advice.

10 CONFIDENTIAL MATTERS

10.1 LEGAL MATTER APPEAL

Nil

NOTES FOR THE READER**Purpose**

The purpose of each report prepared for the Development Assessment Panel is to assist the applicant, those assessing the application and members of the public alike, to understand all of the relevant factors and considerations involved in the assessment of each particular development application.

Development Plan Assessment

Development in South Australia is regulated under the Development Act, 1993 and the Development Regulations, 2008.

This legislation requires Council, which is a relevant planning authority under this legislation, to assess most applications for development against the provisions of Council's "Development Plan".

The Development Plan is a policy document. The policy is formulated by the Council. It uses some "planning language" but is intended to form a useful and practical guide for the public and those responsible for the assessment of development. It is a practical policy document which the planning authority must apply to development assessment in a practical way.

When assessing development, the relevant provisions within the Development Plan are identified. The planning authority will then usually be required to consider whether those provisions speak for or against a proposed development. Quite often the assessment task will require the planning authority to weigh the "pros and cons" of a proposed development by reference to the relevant policies within the Development Plan.

The process involved in the assessment of each development application is contained within the above legislation. Depending on a variety of factors, including the nature of the development and the Zone within which it is proposed, applications may be classified as "complying", "non-complying" or "merit" development. The classification of the application will determine the procedure to be followed under the legislation. Classification will also determine the public notification protocol, that is, whether the planning authority is able to provide public notification and if so, the extent of the public notification.

Representations

Representors will usually be provided with an opportunity to address the planning authority at its relevant meeting if they wish to be heard. In this case the relevant planning authority will hear and consider the representations prior to making its decision. It is the role of the planning authority to act as a mediator or arbitrator between representor(s) and applicant.

The reports prepared by the Council's staff will not separately address the content of each representation, but rather will deal with relevant town planning issues raised in any representation, together with all other relevant considerations involved in the assessment of a proposed development.

DEVELOPMENT APPLICATION

Application Number:	180\1181\16
Applicant:	Mr B Gregg
Location:	2-4 Borrow Drive BURNSIDE SA 5066
Proposal:	Three-storey detached dwelling including in-ground swimming pool and earthworks greater than 9 cubic metres
Zone/Policy Area:	Residential Policy Area 27 – Southern Foothills Development Plan consolidated 28 April 2016
Kind of Assessment:	Merit
Public Notification:	Category 2 Three (3) representations received
Appeal Opportunity	Applicant only, no third party appeal rights
Referrals – Statutory:	N/A
Referrals – Non Statutory:	Traffic Management Engineer Urban Forestry Officer
Delegations Policy:	Unresolved representations
Recommendation:	Development Plan Consent be granted
Recommending Officer:	Jason Cattonar

REPORT CONTENTS

- Assessment report:
 - Appendix 1 – Aerial Locality Map
 - Appendix 2 – Detailed Planning Assessment
 - Appendix 3 – Development Data Table

Please note that due to Federal Copyright Law restrictions, attachments associated with the proposed development are not made available to the public.

Documentation provided as attachments to the report to members of the Development Assessment Panel to facilitate decision making:

- Plans and supporting documents
- Internal agency referral reports
- Representations received
- Photographs

1. DESCRIPTION OF PROPOSAL

The Applicant seeks Development Plan Consent for the construction of a three-storey detached dwelling including in-ground swimming pool and earthworks greater than 9 cubic metres on an existing residential allotment with Residential Policy Area 27 – Southern Foothills (RPA 27).

The proposed dwelling will contain four bedrooms (main with ensuite and walk in robes), main bathroom, water closet, cellar, living room, open plan kitchen, dining and living areas, covered outdoor entertaining area, laundry, four car garage and in-ground swimming pool.

Advanced growth, evergreen landscaping is proposed along the southern and western property boundaries of the subject land to attenuate overlooking from upper level windows.

2. BACKGROUND

Development Application 180\1181\16 was lodged on 16 December 2016 by Mr Benjamin Gregg on behalf the registered owners of the land D N T Romeo and R Romeo.

Pursuant to the *Development Act 1993*, section 35(5) the application was determined to be assessed on merit as a Category 2 form of development in accordance with the Burnside (City) Development Plan, Residential Policy Area 27 – Southern Foothills principle of development control 10(a).

Pursuant to Schedule 2, clause 1(1) and (2)(c), earthworks greater than 9 cubic metres constitutes development in its own right and as such, must be also be assigned a development category for assessment purposes. This component of the proposed of development was deemed to be Category 1 pursuant to Schedule 9, Part 1, Clause 2 (g) of the *Development Regulations 2008* for the following reasons:

- The locality is characterised by steep topographical features both natural and through human interference as a result of residential development.
- Alteration to existing land contours is an inherent feature of the locality with a number of allotments featuring substantial retaining structures on property boundaries.
- The earthworks proposed in this application are predominantly beneath the footprint of the proposed dwelling and are typical in volume and depth for the locality; and
- The building and site works have been executed in a manner that avoids the need to construct boundary retaining structures so as to ensure that the earthworks do not result in unreasonable visual impacts to adjoining land.

The application was made available for public viewing in late January 2017 during which time Council received three written submissions expressing varying degrees of concern in relation to the proposed development. A copy of these submissions was forwarded to the applicant, who has by making minor adjustments to the finished floor level of the ground floor, providing comprehensive shadow diagrams, sightline elevations that demonstrate the visual connection with adjoining land and additional landscaping along the southern and western boundaries to attenuate privacy concerns.

As part of Council's internal assessment process, the proposal was also referred to Engineering Services to assess the impact of development on local infrastructure and to assess the location of the driveway across the road reserve.

Pursuant to Council's Delegation Policy, the application is now presented to the Panel for consideration as a Category 2 development with unresolved representations

3. SUBJECT LAND AND LOCALITY ATTRIBUTES

3.1. Subject Land

The subject land is an irregular shaped allotment at the central section of Borrow Drive, in the suburb of Burnside. The land has an overall area of approximately 842m², a frontage width to Borrow Drive measuring 44.5m and a depth ranging 29.2m and 17.1m.

The Borrow Drive road reserve drops sharply towards the front boundary of the subject land where the contours continue to fall to the southern boundary but in a less dramatic fashion. The land is a vacant allotment with no recorded history of buildings or structures having occupied the land. Existing vegetation on the land comprises grasses and weed species with no regulated trees being present.

3.2. Locality

The locality is wholly contained within the Residential Zone of the City of Burnside, towards the southern end of Residential Policy Area 27 – Southern Foothills (RPA 27). The locality comprises those allotments within a 60m radius from the subject land and having a direct frontage to Borrow Drive, Kurralta Drive and Wyatt Road.

Allotments within this locality are varied between regular and irregular in shape and range in size between 608m² and 3,360m². The local streetscape character is comprised of detached dwellings on individual allotments, with widely varying architectural styles, building heights and set-backs. Many dwellings within the locality have been sited on elevated land and orientated to achieve views across the Adelaide Plains.

The locality is strongly influenced by its proximity to the Hills Face Zone and the steep and varied topographical features. Local amenity is enhanced by wide grassed verges adorned with substantial Eucalyptus trees and well-landscaped front gardens.

4. KIND OF ASSESSMENT

Kind:	Merit
Reason:	Development Act 1993, Section 35(5)
Applicant Appeal Opportunity:	Yes

5. PUBLIC NOTIFICATION

Category:	Category 2
Reason:	Residential Policy Area 27 Principle of Development Control 10 (a)(c) – Dwelling <i>Development Regulation 2008, Schedule 9 (2)(g) – Earthworks</i>
Representations Received:	1 Kurralta Drive, Burnside (do not wish to be heard) 3 Borrow Drive, Burnside (wish to be heard) 6 Borrow Drive, Burnside (wish to be heard)
Third Party Appeal Opportunity:	No

- Representations received are provided as an attachment to the Panel.
- Applicant's response(s) to representations are provided as an attachment to the Panel.

6. AGENCY REFERRALS

- Internal agency referrals are provided as an attachment to the Panel.

7. EXECUTIVE SUMMARY

7.1. Land Use

The site of development is an existing Torrens Title allotment within the Residential Zone that satisfies the relevant land size criteria prescribed in RPA 27 for the accommodation of a single self-contained detached dwelling.

The development will establish the residential use of the subject land in accordance with the primary objective and principles of development control for the zone and policy area. Accordingly, the proposed development is not considered to be seriously at variance with the relevant policies of the Burnside (City) Development Plan.

7.2. Character and Amenity

The Development Plan seeks to maintain and enhance a residential character primarily derived from low density allotments with dwellings in a variety of styles that are medium to large in scale of split-level or multi-storeyed construction. Many dwellings are constructed on elevated land and orientated to take advantage of views across the Adelaide Plains which is a design response that is envisaged and encouraged by the policy area.

In terms of architectural style and form, the proposed building offers a Contemporary façade to the streetscape of Borrow Drive. Although the immediate locality includes some dwellings of generally modest proportions of the post-war era and conventional architecture, the streetscapes of Kurralta Drive, Wyatt Road and Berry Crescent, in proximity to the subject land, contain numerous examples of two-storey development which include buildings of increasingly Contemporary architectural style.

From an architectural perspective, the proposed dwelling contributes to the character of the policy area which, through Objective 1, calls for the enhancement of the established character which is derived from:

“the topographic and other natural features of the foothills location, and dwellings in a variety of architectural styles (typically, detached dwellings, medium-to-large in scale, with split-level or multi-storeyed construction);”

The western facing windows together with the balconies take advantage of the elevated siting and achieve panoramic views of the Adelaide Plains. This design feature is a common approach to housing design in the locality and is a positive response to the primary objectives for the policy area.

In terms of siting, the proposed dwelling fails to achieve an 8 metre front set-back as envisaged for the policy area, but remains generally compatible with the open streetscape character due in part to the sharp drop in land contours across the road reserve and front portions of the subject land. The split-level design follows the land contours resulting in a finished floor level that sits between 1.5m to 4m below the top of kerb. This design approach is considered to reasonably maintain the cascading proportions of adjoining buildings thereby enhancing the relationship between the existing buildings to the east and west and making a positive contribution to the streetscape of Borrow Drive.

The dwelling is suitably set back from side and rear property boundaries thereby maintaining the established patterns of space that can be observed throughout the locality. As with the main façade, the proposed dwelling exhibits a high degree of

fenestration and articulation, which reduces the visual massing of the building, while the horizontal proportions of each level reflect the scale and massing of residential development within the locality.

For processing requirements to determine whether a proposed building exceeds a non-complying height threshold, the building height is the measurement between the lowest natural ground contours contained within the proposed building footprint to the highest/tallest part of the building. When measured in this manner both D1 and D2 measure 11.9 metres in height.

For processing requirements to determine whether a proposed building exceeds a non-complying height threshold, the building height is the measurement between the lowest natural ground contours contained within the proposed building footprint to the highest/tallest part of the building. When measured in this manner, the dwelling measures 11.7 metres in height which is 300mm below the non-complying threshold.

When building height is measured in the more traditional sense (i.e. the vertical distance between the roof and the finished floor level immediately below that point on the roof), the dwelling measures 10.7 metres tall through the tallest portion of the building. This measurement is taken at the western end of the building where the elevation is comprised of various architectural and functional elements that interrupt the perceived visual mass of the dwelling. When viewed from adjoining, lower land, the proposed dwelling offers a vertical profile that is constricted by plausible sightlines and respectful of the scale of local built form.

The overall design is considered to be appropriate within the context of the locality in terms of the scale, height, form, style and materials. Based on the proposed plans and orientation of adjoining buildings and the negligible benefit of increasing set-backs to Borrow Drive, the proposal is considered to be an acceptable planning outcome for the subject land and locality in this instance.

7.3. Site Functionality

The extent of the building footprint occupies 24% of the total site area therefore satisfying RPA 27 principle of development control 6 which prescribes maximum ground floor site coverage of 33% of the total site area. When measuring the total floor area of the dwelling, the development represents of 57% of the total site area thereby representing a departure from the Council Wide guideline of 50%.

The building envelope is generally acceptable in the context of its relationship with the streetscape and adjoining buildings and does not impose unreasonable visual impacts on adjoining residents. The extent and configuration of private open space allocated to the western and south-eastern sides of the dwelling are generally compatible with the prescribed criteria and achieve the 50% area guideline for private open space as a percentage of the total dwelling floor area. The private open space is largely configured to achieve northern sunlight access and provides a satisfactory distribution of space for the future occupants of the dwelling.

The development also retains sufficient off-street vehicle parking provisions in excess of Table Bur/5 guidelines for residential development, which assists in minimising parking congestion along nearby Council roads. The proposed crossover on Borrow Drive is to be constructed in accordance with the requirements of Council's Urban Forestry Officer to as to ensure the protection of regulated trees within the Council road reserve. This aspect of

the proposal will be formalised through the Section 221 process which has already been initiated by the applicant.

7.4. Public Notification

The proposal was made available for public viewing on account of the two storey form and finished floor level siting relative to existing ground levels. During the notification period Council received three (3) written submissions from the owners of adjoining land to the south (1 Kurralta Drive) and east (3 and 6 Borrow Drive).

The neighbour to the south identified concerns regarding the potential for overlooking from upper level balconies and windows. Neighbours to the east raised concerns with the proposed density, building height, proportions, bulks and scale as well as overlooking.

The applicant has provided amended plans that acknowledge these concerns by making the following improvements:

- Lowering of the finished floor level of the ground floor by 500mm to 300mm thereby decreasing the vertical profile of the dwelling when viewed from adjoining or nearby land;
- Proposing landscaping along the southern boundary with a mature height between 5-6m;
- Proposing landscaping along the western boundary with a mature height between 3-4m;
- Sightline diagrams that demonstrate the visual relationship between upper level windows and balconies, and adjoining sensitive areas (i.e. swimming pool at 1 Kurralta Drive); and
- Shadow diagrams that detail the shadow lines of existing buildings within the locality and those that will be cast by the proposed dwelling.

Council is satisfied with the applicant's response to these concerns and is of the view that the proposal is sufficiently in accordance with the relevant policies of the Development Plan to warrant consent. Direct and unreasonable overlooking to the rear yard of 1 Kurralta Drive, 48 Wyatt Road and 50 Wyatt Road will be restricted by lines of sight due to local topography together with extensive landscaping to be planted along the perimeter of the subject land. The degree of shadow cast by the proposed development is not considered excessive or likely to unreasonably impact adjoining land outside the standards of the Development Plan based on details submitted for assessment.

Council is satisfied that the proposal is sufficiently in accordance with those policies of the Development Plan which address building form, style, height and siting. The land is located in RPA 27, one of only two policy areas within the City of Burnside that envisage "*detached dwellings, medium-to-large in scale, with split-level or multi-storeyed construction*" and "*many dwellings on elevated land and orientated to take advantage of views across the Adelaide Plains*" as the primary objectives. The raised level of the dwelling relative to adjoining dwellings to the south and west is also considered somewhat typical of properties within the immediate locality. Whilst the dwelling sits above adjoining dwellings to the south and west, it will remain sunken below the level of Borrow Drive and considerably lower than properties further to the north and east of the subject land.

7.5. Agency Referrals

Although no statutory referrals were required under Schedule 8 of the *Development Regulations 2008*, Council did seek internal advice from Council's Principal Traffic

Engineer and Urban Forestry Officer to assist in determining the suitability of the development against certain provisions of the Development Plan concerning driveway gradients, stormwater management and Council street trees.

Council is satisfied that all matters arising through this process have been addressed and resolved with the Urban Forestry Officer confirming that regulated trees within the road reserve will not be impacted provided appropriate construction management techniques are implemented.

Given the challenging topography of the land and inherent difficulties of discharging stormwater to the Council infrastructure within Borrow Drive, a reserved matter has been added to this recommendation seeking from the applicant a completed stormwater management/civil plan prior to them pursuing an assessment against the Building Code. This will give Council the ability to further assess the performance of the stormwater management plan against relevant Council policies and the Development Plan.

7.6. Conclusion

Having regard to all of the relevant Objectives and Principles of Development Control of the Burnside (City) Development Plan, the proposed development is not considered seriously at variance with, and is generally in accordance with, the policies of the Development Plan.

8. RECOMMENDATIONS

It is recommended that the Development Assessment Panel resolve that:

1. The proposed development is not seriously at variance with the policies in the Development Plan; and
2. That Development Application 180\1181\16, by Mr B Gregg, is **granted** Development Plan Consent subject to the following conditions and reserved matters:

Conditions

- 1 The development granted Development Plan Consent shall be undertaken in accordance with the stamped approved plans, drawings, specifications and other documents submitted to the Council that are relevant to the consent to the reasonable satisfaction of the Council, except where varied by conditions below.

Reason:

To ensure the development is undertaken in accordance with the plans and details submitted.

- 2 The landscaping delineated on the stamped and approved plans shall be established within 3 months from the date substantial completion of the dwelling and maintained in good health and condition at all times to the reasonable satisfaction of Council.

Reason:

To provide privacy and amenity for the occupants of buildings and those of adjacent buildings through the provision of landscaping as part of the development.

Reserved Matters

- 1 That pursuant to Section 33(3) of the *Development Act 1993*, the applicant shall submit detailed plans for the following reserved matter requiring further assessment by the City of Burnside,

prior to seeking an assessment against the Building Code:

- 1.1 The applicant shall supply a detailed stormwater management plan that demonstrates how stormwater catchment from on-site to the reasonable satisfaction of Council's Principal Civil Engineer.

Reserved Conditions

1. Pursuant to Section 33(1) of the *Development Act 1993* the DAP reserves its decision on the form and substance of any further conditions of Development Plan Consent that it considers appropriate to impose in respect of the reserved matters, and this is delegated to the Manager of City Development & Safety.

Engineering Advisory Notes:

Stormwater Detention

- Due to the significant increase of the impermeable area, detention shall be provided to limit post development flows. Calculations shall be provided to verify the ability of the proposed detention quantity to meet the Council's default detention and discharge requirements below:
 - The volume of any detention device shall be equal to the volume of water generated on the site with an impervious ($C_p = 0.9$) site coverage of 75% and pervious ($C_p = 0.1$) area of 25%, during a 1 in 20 year flood event for a 10 minute duration.
 - The maximum rate of discharge from the site shall be equal to the volume of water generated on the site with an impervious ($C_p = 0.9$) site coverage of 40% and pervious ($C_p = 0.1$) area of 60%, during a 1 in 5 year flood event for a 10 minute duration.
- For stormwater management purposes, it is desirable that:
 - The development utilises permeable paving for the proposed external paving work within the development site.

Open Space Advisory Notes:

Street Trees

- Minimum distances of 2 metres from the street tree to the west of the proposed crossover and 3.5 metres from the street tree to the east of the proposed crossover, are to be maintained from the closest point of the trenching to the adjacent street tree.
- The applicant will be liable for any damage to the street trees as direct or indirect result of development. Cost of any remedial works will be determined at the discretion of Council and borne by the applicant.
- For the duration of the on-site construction works the road reserve / verge is to remain protected in accordance with figure 3 of AS4970-2009 Protection of Trees on Development Sites. No excavation, construction activity, grade changes, surface treatment, vehicle access or storage of materials is permitted within the road reserve.
- Soft dig (hand digging / hydro-vac) methods must be used for the formation of the underground services that encroach within the Tree Protection Zones as defined by AS 4970-2009 Protection of Trees on Development Sites.
- Any works that are proposed, by the applicant, within 3 metres of the street tree requires a Tree Protection Plan (TTP) in accordance with AS4970-2009 Protection of Trees on Development Sites. The TTP will need to be submitted to Councils Arborist for approval prior to the commencement of any site works. The approved TTP and its recommended conditions shall form part of the conditions of this approval.

RECOMMENDING OFFICER



Jason Cattonar
Team Leader – Planning

APPENDIX 1

AERIAL LOCALITY MAP



Legend

-  Subject Land
-  Representor's Land

APPENDIX 2

DETAILED PLANNING ASSESSMENT

Summary of Policy Area Objectives and Principles

Primary Residential Policy Area 27 Objectives:

Objective 1:

Enhancement of the low density, open residential and foothills character that is derived from:

- (a) the topographic and other natural features of the foothills location, and dwellings in a variety of architectural styles (typically, detached dwellings, medium-to-large in scale, with split-level or multi-storeyed construction);*
- (b) many dwellings on elevated land and orientated to take advantage of views across the Adelaide Plains;*
- (c) moderate to deep building set-backs from roads, well-vegetated and generally unfenced front gardens;*
- (d) proximity to the natural character of the adjoining Hills Face Zone;*
- (e) a pattern of development, including the division of land, that varies considerably with the topography (the Policy Area contains some of the steepest land in the Council area), commonly imposing significant constraints on efficient development, access and servicing (to the extent that on some steep sites, a carport may need to be located between a dwelling and the road, subject to siting and design to minimise visual impact); and*
- (f) a transition in character and dwelling density between steep land near the Hills Face Zone, where allotments are large and irregularly-shaped, and lower slopes, where there are more regular, compact patterns of land division and generally consistent building set-backs and orientation towards roads.*

Acknowledged, significant variations from the desired character, or the prevailing character or environmental conditions, forming, nevertheless, part of the character that is to be enhanced, are found:

- (a) on land which, due to its elevation, gradient and aspect, is visible from the Adelaide Plains or main public vantage points in the foothills;*
- (b) on land adjacent to the Hills Face Zone, or other open land where there may be significant risk of bushfire;*
- (c) on sites containing or affected by historic mining works;*
- (d) on filled land, such as the former Dashwood Road Dump at Beaumont;*
- (e) on land containing remnant indigenous vegetation;*
- (f) on steep land with limited development and access opportunities, in particular, land fronting the section of Sunnyside Road between Gill Terrace and Wheal Gawler Street, on the eastern side of Wheal Gawler Street; and*
- (g) in the "Burnside Park Estate" (centred on Ifould Drive and Burnalta Crescent), where specific encumbrance provisions apply.*

Objective 2:

Development designed and sited so that the appearance of the foothills visible from the Adelaide Plains is not impaired.

Subject:	Assessment:
DP Ref	
Desired Land Use O 1-2	Satisfied. <ul style="list-style-type: none"> • Residential land use. • No change in density given that the allotment already exists. • The development will not impair the appearance of the foothills when viewed from the Adelaide Plains.
Local Compatibility PDC 1	Satisfied. <ul style="list-style-type: none"> • The proposal involves the construction of a new detached dwelling of medium-to-large scale and of multi-storeyed construction as per Objective 1(a). • The dwelling will be sited on elevated land and orientated to take

	<p>advantage of the Adelaide Plains as per Objective 1(b).</p> <ul style="list-style-type: none"> • The development is sufficiently compatible with the “moderate to deep building set-backs” envisaged, and provides a well landscaped and generally unfence front garden as per Objective 1(c). • The land is situated at sufficient distance from the Hills Face Zone and is not anticipated to impair the appearance of the foothills when viewed from the Adelaide Plains.
<p>Site Areas and Frontages PDC 3–5</p>	<p>Satisfied.</p> <ul style="list-style-type: none"> • Existing allotment with sufficient area and frontage to accommodate development in accordance with the objectives of the policy area.
<p>Site Coverage PDC 6</p>	<p>Departure.</p> <ul style="list-style-type: none"> • The development satisfies the 33% guideline for the building footprint (24%). • The extent of site coverage proposed is not considered out of character for the locality and has not impaired the development’s ability to secure appropriate built form set-backs.
<p>Building Set-backs PDC 7</p>	<p>Departure.</p> <ul style="list-style-type: none"> • PDC 7 states that buildings should be set back not less than 8 metres from the boundary of a road. • The proposed development fails to provide an 8 metre set-back, however is generally compatible with the siting of nearby dwellings within the locality.

Summary of Residential Zone Objectives and Principles

Primary Residential Zone Objectives:

Objective 1:

A zone primarily for residential use with a range of dwelling types in appropriate policy areas to accommodate varied socio-economic needs.

Objective 2:

Protection and enhancement of the amenity of residential areas, with particular reference to the objectives for the relevant policy area.

Objective 3:

Residential densities varied having regard to topography, the objectives for the relevant policy area, and proximity to centres and major transport routes.

Objective 4:

Provision of residential and community facilities and services for the aged community.

Objective 5:

Enhancement of the attractive qualities of streetscapes and particularly areas of cohesive character or visual sensitivity, through good design.

Objective 8:

Use of design, management and other techniques to improve all aspects of the environmental performance of development.

Subject:	Assessment:
DP Ref	
Zoning and Land Use O 1-8 PDC 1	Satisfied. <ul style="list-style-type: none"> See policy area comments for further detail.
Building Appearance PDC 2-4	Satisfied. <ul style="list-style-type: none"> The development is sited to permit long-term landscaping along the southern and western boundaries to provide privacy and soft landscaping that will improve the visual amenity of adjoining residents. The dwelling will be finished in a combination of cement render and other feature materials across each building facade. Although light in colour, the cement render does not have highly reflective properties and therefore, is not anticipated to cause unreasonable nuisance to residents in the locality. The design steps down from three-storey form to single storey at the eastern section of the building (garage), which assists with the visual transition to the dwelling to the east. The ground floor of the proposed dwelling has been sited substantially lower than the road reserve, but above that of the neighbouring dwellings to the south and west. This is a satisfactory outcome and avoids extensive earthworks around the dwelling curtilage.
Design for Topography PDC 5-6	Satisfied.

Summary of Council Wide Objectives and Principles

Primary Residential Development Objectives:

Objective 11:

Development of a high design standard and appearance that responds to and reinforces positive aspects of the local environment and built form.

Objective 52:

A compact metropolitan area.

Objective 53:

A variety and choice of dwelling types to meet the needs and preferences of all sections of the community.

Objective 54:

Containment of housing costs through the encouragement of a full range of design and development techniques.

Objective 55:

Safe, pleasant, accessible and convenient residential areas.

Objective 56:

Residential development which moderates adverse climatic conditions, takes advantage of solar energy, does not unreasonably overshadow adjacent development, and protects the natural environment.

Subject:	Assessment:
DP Ref	
Zoning and Land Use O 52-60	Satisfied.
Design and Appearance O 11 PDC 14-18, 23-28	Satisfied.
Building Set-backs PDC 161-163	<p><u>Side Set-backs</u> Satisfied.</p> <p><u>Rear Set-backs</u> Satisfied/Departure</p> <ul style="list-style-type: none"> The ground floor fails to provide a 4 metre rear set-back to the southern boundary; however this is a common feature within this residential block which includes irregularly shaped allotments and steep topographical features. The siting of the dwelling is not anticipated to put the neighbouring property to the south at any substantive disadvantage as the neighbouring dwelling incorporates a split-level design that includes floor levels that reasonably correspond with that of the subject land.
Building Height PDC 164	<p>Departure.</p> <ul style="list-style-type: none"> The building height measures 10.7m tall which exceeds the 9m guideline prescribed by the Council Wide provisions. RPA 22 envisages medium-to-large scale dwellings which are evident through a visual observation of existing built form within the locality. The proposed dwelling is considered to be of appropriate mass and vertical profile so as to achieve the desired built form outcome for RPA 22 and complement the existing scale of development within the locality.

<p>Site Coverage PDC 165</p>	<p>Departure.</p> <ul style="list-style-type: none"> • The total floor area of the proposed dwelling exceeds the 50% guideline (57%). • The extent of the departure is not considered fatal given that the development maintains adequate boundary set-backs and is not visually imposing or out of scale with its surroundings.
<p>Private Open Space PDC 166, 169</p>	<p>Satisfied.</p>
<p>Amenity O11, 20–22 PDC 14–18, 52-69, 170-173</p>	<p>Satisfied.</p>
<p>Privacy PDC 22, 174–176</p>	<p>Satisfied.</p> <ul style="list-style-type: none"> • RPA 22 envisages medium-to-large scale, split-level or multi-storeyed dwellings sited on elevated land to take advantage of views across the Adelaide Plains. • The proposed dwelling has been designed and sited so as to achieve one of the primary objectives of RPA 22. • The local topography and siting of existing dwellings contribute to an inherent degree of overlooking into adjoining land. • The application includes substantial landscaping along the south and east property boundaries that will obstruct direct lines of sight to sensitive private open space areas. Sightline drawings provided by the applicant confirm that overlooking will be appropriately managed so as to not be direct or unreasonable.
<p>Access and On-Site Car Parking PDC 177–182</p>	<p>Satisfied.</p>
<p>Access to Sunlight PDC 21, 183–186</p>	<p>Satisfied.</p>
<p>Fences and Retaining Walls PDC 190–194</p>	<p>Satisfied.</p>
<p>Safety and Security PDC 195–198</p>	<p>Satisfied.</p>
<p>Water Conservation PDC 200–201</p>	<p>Satisfied.</p>
<p>Energy Conservation PDC 31-32</p>	<p>Satisfied.</p>

APPENDIX 3
DEVELOPMENT DATA TABLE

Site Characteristics	Proposed	Guideline
<i>Site Area</i>	842m ²	750m ²
<i>Street Frontage</i>	44.5m	20m
Design Characteristics	Proposed	Guideline
<i>Site Coverage</i>		
- Buildings only	24%	40%
- Buildings and driveways	39%	50%
- Total floor area	57%	50%
<i>Building Height</i>		
- storeys	3 storeys	2 storeys
- metres	10.7m	9m
<i>Set-backs</i>		
<i>Lower Level</i>		
- front boundary	3m	8m
- side boundary	1.5m (east) 6m (west)	1.5m 2.0m
- rear boundary	4m	4m
<i>Upper Level</i>		
- front boundary	3m	8m
- side boundary	5m (east) 6m (west)	4m 4m
- rear boundary	6m	8m
<i>Boundary Wall</i>	n/a	
<i>Private Open Space</i>		
- percentage	64%	50%
- dimensions	m x m	5m x 8m
<i>Car Parking and Access</i>		
- number of parks	4	2
- width of driveway	5m	4.5m
- width of garage/carport door	23%	33%

DEVELOPMENT APPLICATION

Application Number:	180\0247\17
Applicant:	<i>P D Vial and K L Rosenzweig 42 Old Norton Summit Road SKYE SA 5072</i>
Location:	<i>42 Old Norton Summit Road SKYE SA 5072</i>
Proposal:	<i>Construction of 2m high (max) boundary retaining wall including 1m high fence on top, storage shed and earthworks exceeding 9 cubic metres</i>
Zone/Policy Area:	<i>Hills Face Zone (HFZ) Development Plan Consolidated 28 April 2016</i>
Kind of Assessment:	<i>Non-complying</i>
Public Notification:	<i>CAT 1</i>
Appeal Opportunity	<i>Applicant only, no third party appeal rights</i>
Referrals – Statutory:	<i>Nil</i>
Referrals – Non Statutory:	<i>Nil</i>
Delegations Policy:	<i>Development Delegations Policy 60.1.2</i>
Recommendation:	<i>Subject to concurrence from the Development Assessment Commission, that Development Approval be granted</i>
Recommending Officer:	<i>Jake Vaccarella</i>

REPORT CONTENTS

- Assessment report:
 - Appendix 1 – Aerial Locality Map
 - Appendix 2 – Detailed Planning Assessment
 - Appendix 3 – Development Data Table

Please note that due to Federal Copyright Law restrictions, attachments associated with the proposed development are not made available to the public.

Documentation provided as attachments to the report to members of the Development Assessment Panel to facilitate decision making:

- Plans and supporting documents
 - Photographs
1. 28 March 2017 delegated report to proceed

DESCRIPTION OF PROPOSAL

The proposal includes the construction of a 2m high boundary retaining wall with associated 1m high fencing and storage shed which requires earthworks in excess of 9 cubic metres. The proposed height of the finished floor level for the shed exceeds the non-complying threshold for the Hills Face Zone.

2. BACKGROUND

Development Application 180\0247\17 was lodged on 09 March 2017 by Peter and Kirsty Vial.

The proposal was determined to be a Non-Complying form of development pursuant to Hills Face Zone Principle of Development Control 27 of the Burnside (City) Development Plan, which states:

*“The following kinds of development are **non-complying** in the Hills Face Zone:*

Excavation where the depth of excavation of land exceeds 2.0 metres below natural ground level, except for the portion of a building that is fully underground, underground homes, pools, underground tanks, cellars, pipelines and waste disposal and treatment systems”

The Planning Team Leader determined to proceed to an assessment of the application on 28 March 2017 under delegated authority. The application was processed as a Category 1 development pursuant to Schedule 9, Part 1, 3, (b) of the *Development Regulations 2008* and therefore no public notification was undertaken. No additional external or internal referrals were required due to the minor nature of the development, nor was a Statement of Effect required under Section 17 of the *Development Act 1993* (the Act).

The proposal is now presented to the Panel for consideration as a non-complying development with a staff recommendation that Development Plan Consent be granted, subject to the concurrence of the Development Assessment Commission (DAC).

3. SUBJECT LAND AND LOCALITY ATTRIBUTES

3.1. Subject Land

The subject land comprises a large irregular shaped residential allotment fronting Old Norton Summit Road in the suburb of Skye. The land has an approximate area of 4370 square metres and a single frontage to the public road measuring approximately 78 metres. The topography of the land ascends steeply to the southwest and is densely covered by native vegetation. The existing dwelling is a single storey detached dwelling constructed during the late 1960s.

3.2. Locality

The locality is characterised by large irregular shaped allotments on the northeast Council boundary abutting Adelaide Hills Council. The locality assumes a predominantly natural character with the varied topographical nature of the Hills Face Zone and low scale residential development at very low density.

4. KIND OF ASSESSMENT

Kind:	Non-complying
Reason:	Burnside (City) Development Plan, Hills Face Zone Principle of Development Control 27

Applicant Appeal Opportunity:	No
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5. PUBLIC NOTIFICATION

Category:	Category 1
Reason:	Development Regulations 2008, Schedule 9, Part 1, 3(b)

6. AGENCY REFERRALS

- Nil

7. EXECUTIVE SUMMARY

7.1. Land Use

In relation to the current proposal, the following comments are made:

- The proposed development is consistent with the established use of the land for residential purposes;
- The proposed shed is of typical single storey form, proportions, bulk and scale and will be largely inconspicuous when viewed from the streetscape,
- The proposed retaining wall and fencing is appropriate within the context of the natural topography of the site and will not result in any unreasonable impact to neighbouring properties.
- The proposal will have no adverse impacts on the natural character of the zone; and
- If it can be demonstrated that the proposed development has minimal or no unreasonable external impacts, then consent could reasonably be expected.

The proposed development is therefore not considered to be seriously at variance to the Burnside (City) Development Plan.

7.2. Character and Amenity

The proposed development is considered to be minor in nature despite the non-complying classification, and is not anticipated to have any adverse impact on the natural character of the zone.

The proposed shed and associated retaining walls/fencing are well setback from Old Norton Summit Road and will be largely screened by the established mature vegetation along the road verge, so as to have minimal impact on the streetscape amenity of the area. Given the generous separation between the subject land and the adjacent property at 38-40 Old Norton Summit Road, the proposed amount of fill for the shed will not result in any unreasonable impacts in terms of bulk and scale or visual amenity for the occupiers of the neighbouring site.

7.3. Conclusion

Having regard to all of the relevant Objectives and Principles of Development Control of the Burnside (City) Development Plan, the proposed development is not considered seriously at variance with, and is generally in accordance with, the policies of the Development Plan.

8. RECOMMENDATIONS

It is recommended that the Development Assessment Panel resolve that:

1. The proposed development is not seriously at variance with the policies in the Development Plan; and
2. Subject to concurrence from the Development Assessment Commission, that Development Application 180\0247\17, by P D Vial and K L Rosenzweig is **granted** Development Plan Consent subject to the following conditions:

Conditions

- 1 The development granted Development Plan Consent shall be undertaken in accordance with the stamped approved plans, drawings, specifications and other documents submitted to the Council that are relevant to the consent to the reasonable satisfaction of the Council.

Reason:

To ensure the development is undertaken in accordance with the plans and details submitted.

RECOMMENDING OFFICER

Jake Vaccarella
Development Officer – Planning

AERIAL LOCALITY MAP



Legend

 Subject Land

DETAILED PLANNING ASSESSMENT

Summary of Policy Area Objectives and Principles

Primary Hills Face Zone Objectives:

Objective 1:

natural character is re-established in order to:

- (a) *provide a natural backdrop to the Adelaide Plains and a contrast to the urban area;*
- (b) *preserve and develop native vegetation and fauna habitats close to metropolitan Adelaide;*
- (c) *provide for passive recreation in an area of natural character close to the metropolitan area;*
- (d) *provide a part of the buffer area between metropolitan districts and prevent the urban area extending into the western slopes of the ranges; and*
- (e) *ensure that the community is not required to bear the cost of providing services to land within the zone.*

Objective 2:

A zone accommodating low-intensity agricultural activities and public/private open space and one where structures are located and designed in such a way as to:

- (a) *preserve and enhance the natural character or assist in the re-establishment of a natural character in the zone;*
- (b) *limit the visual intrusion of development in the zone, particularly when viewed from roads within the zone or from the Adelaide Plains;*
- (c) *not create, either in themselves, or in association with other developments, a potential demand for the provision of services at a cost to the community; and*
- (d) *prevent the loss of life and property resulting from bushfires.*

Subject:	Assessment:
DP Ref	
Desired Land Use O 1	Satisfied
Local Compatibility PDC 1	Satisfied
Site Areas and Frontages PDC 2–5	Satisfied
Building Set-backs PDC 6	Satisfied

Summary of Council Wide Objectives and Principles

Primary Residential Development Objectives:

Objective 11:

Development of a high design standard and appearance that responds to and reinforces positive aspects of the local environment and built form.

Objective 52:

A compact metropolitan area.

Objective 53:

A variety and choice of dwelling types to meet the needs and preferences of all sections of the community.

Objective 54:

Containment of housing costs through the encouragement of a full range of design and development techniques.

Objective 55:

Safe, pleasant, accessible and convenient residential areas.

Objective 56:

Residential development which moderates adverse climatic conditions, takes advantage of solar energy, does not unreasonably overshadow adjacent development, and protects the natural environment.

Objective 57:

Medium and high density residential development in areas close to activity centres, public and community transport and public open spaces.

Objective 58:

The revitalisation of residential areas to support the viability of community services and infrastructure.

Objective 59:

Affordable housing, student housing and housing for aged persons provided in appropriate locations.

Objective 60:

Increased affordable housing opportunities through land division and the conversion of buildings to a residential use.

Subject:	Assessment:
DP Ref	
Zoning and Land Use O 52–60	Satisfied
Design and Appearance O 11 PDC 14–18, 23-28	Satisfied The proposed outbuilding is of typical single storey form and proportions and will be largely inconspicuous when viewed from the streetscape and surrounding properties.
Building Set-backs PDC 161–163	Satisfied
Building Height PDC 164	Satisfied
Site Coverage PDC 165	Satisfied
Private Open Space PDC 166, 169	Satisfied
Amenity O11, 20–22 PDC 14–18, 52-69, 170-173	Satisfied
Privacy PDC 22, 174–176	Satisfied

Access and On-Site Car Parking PDC 177–182	Satisfied
Access to Sunlight PDC 21, 183–186	Satisfied
Domestic Outbuildings PDC 187–189	Satisfied
Fences and Retaining Walls PDC 190–194	Satisfied Although the proposed concrete sleeper retaining walls are relatively substantial in size with a maximum height of 2.4m, they are typical of the area due to the unique natural topography of the Hills Face Zone. The proposed 2.4m high retaining with 1m high fence on top is not considered to result in issues of bulk and scale or visual amenity given that they are well setback from neighbouring properties and well setback and largely obscured by dense vegetation from the streetscape.
Safety and Security PDC 195–198	Satisfied

DEVELOPMENT APPLICATION

Application Number:	180\0247\17
Applicant:	P D Vial and K L Rosenzweig
Location:	42 Old Norton Summit Road SKYE SA 5072
Proposal:	(Non-complying) Construction of 2m high (max) boundary retaining wall including 1m high fence on top, storage shed and earthworks exceeding 9 cubic metres
Zone/Policy Area:	Hills Face Zone (HFZ) Development Plan Consolidated 28 April 2016
Kind of Assessment:	Non-complying
Public Notification:	Category 1
Appeal Opportunity	Applicant only, no third party appeal rights
Delegations Policy:	Development Delegations Policy 60.1.2
Recommendation:	That the Council proceeds with the assessment of the non-complying development
Recommending Officer:	Jason Cattonar

DESCRIPTION OF PROPOSAL

The proposal includes the construction of a 2m high boundary retaining wall with associated 1m high fencing and storage shed which requires earthworks in excess of 9 cubic metres. The proposed height of the finished floor level for the shed exceeds the non-complying threshold for the Hills Face Zone.

KIND OF ASSESSMENT (COMPLYING / NON-COMPLYING / MERIT)

Hills Face Zone Principle of Development Control 27 states:

The following kinds of development are **non-complying** in the Hills Face Zone:

- Excavation where the depth of excavation of land exceeds 2.0 metres below natural ground level, except for the portion of a building that is fully underground, underground homes, pools, underground tanks, cellars, pipelines and waste disposal and treatment systems

The proposal involves the construction of a domestic outbuilding together with retaining walls, and earthworks greater than 9 cubic metres that includes a portion of excavation to a depth greater than 2.0 metres below natural ground level .

The proposal is therefore non-complying pursuant to Hills Face Zone Principle of Development Control 27.

CATEGORISATION

For the purposes of categorisation, Hills Face Zone Principle of Development Control 28 states:

The following kinds of development are assigned to **Category 1**:

Outbuilding

except where:

(a) the development has a solid wall located on a side or rear boundary, but excluding a fence or wall of less than two metres building height above natural ground level;

in which case the development is assigned to **Category 2**.

The proposed development includes an outbuilding which is captured as being Category 1 development by principle of development control 28. The application also includes the development component of earthworks which is not assigned a development category by the Burnside (City) Development Plan.

Administration has deemed that the proposal is to be processed as a Category 1 form of development given that it satisfies Schedule 9, Part 1, (3)(b) of the *Development Regulations 2008*.

PLANNING ASSESSMENT

At this stage, it is not necessary to assess the proposal in detail against the provisions of the Development Plan. Council is only required to make a decision on whether to proceed with the assessment.

In essence the question is “is it possible that this proposal may be found to be sufficiently in accordance with the Development Plan?” If no, then assessment should not be undertaken. If yes, then the Council should allow an assessment to proceed against the relevant provisions of the Development Plan.

The locality, which is wholly contained within the Hills Face Zone, is characterised by the shared relationship between the natural landscape character and detached dwellings of varying styles and scales. Dense vegetation often screens views of existing dwellings from local roads and adjoining public and private land. The subject land is sited on Old Norton Summit Road and is not readily visible from the streetscape due to the densely vegetated road reserve and front yard area. The subject land is not visible from the Adelaide Plains.

The proposed retaining wall, fencing and storage shed is well setback from Old Norton Summit Road and will be largely inconspicuous when viewed from the streetscape due to the densely vegetated road verge and front yard of the subject land. The proposed earthworks and raised finished floor level of the shed will not likely translate into issues of bulk and scale or impact upon views of the natural landscape when viewed from Old Norton Summit Road.

Given the potential likelihood that the proposed development will not unreasonably impact adjoining properties of the character of the locality it seems reasonable to conclude that the proposed development could be found sufficiently consistent with the relevant provisions of the Development Plan to warrant consent.

With respect to the processing of the application, it is deemed that the proposal is to be processed as a Category 1 non-complying development given that it satisfies Schedule 9, Part 1 (3)(a) of the *Development Regulations 2008*.

Pursuant to Clause 17 (6)(b) of the *Development Regulations 2008*, Council has determined that the Applicant is not required to submit a Statement of Effect.

DECISION

That pursuant to Development Regulation 17(3), the City of Burnside **proceeds** with an assessment of the application.

DELEGATE



Jason Cattonar
Team Leader – Planning

AERIAL LOCALITY MAP



Legend



Subject Land

DEVELOPMENT APPLICATION

Application Number:	<i>180\1062\16</i>
Applicant:	<i>A L H Lim</i>
Location:	<i>59 Linden Avenue HAZELWOOD PARK SA 5066</i>
Proposal:	<i>Demolition of existing dwelling and construction of two single-storey dwellings including garages, verandahs, retaining walls and fencing</i>
Zone/Policy Area:	<i>Residential Zone Residential Policy Area 22 Development Plan consolidated 28 April 2016</i>
Kind of Assessment:	<i>Merit</i>
Public Notification:	<i>Category 2</i>
Appeal Opportunity	<i>This application is the subject of an appeal by the applicant</i>
Delegations Policy:	<i>Chief Executive Officer discretionary</i>
Recommendation:	<i>That the CEO be advised to not accept the compromise</i>
Recommending Officer:	<i>Jason Cattonar</i>

REPORT CONTENTS

- Assessment report.

Please note that due to Federal Copyright Law restrictions, attachments associated with the proposed development are not made available to the public.

Documentation provided as attachments to the report to members of the Development Assessment Panel to facilitate decision making:

- Compromise proposal - plans and supporting documents
- Environment, Resources and Development Court - Appeal Notice
- Decision Notification Form
- 07 February 2017 DAP minutes, report and attachments

1. DESCRIPTION OF PROPOSAL

The applicant seeks development plan consent for the demolition of an existing single storey 1960s dwelling on a residential allotment at the intersection of Linden Avenue and Seaforth Avenue, Hazelwood Park, and the construction of two single storey dwellings in its place.

The southernmost dwelling (Dwelling 1) will present to Linden Avenue as the primary frontage with a secondary frontage to Seaforth Avenue. The dwelling will contain three bedrooms, two bathrooms, study, open plan living/dining/kitchen area and a double garage with panel lift door facing Seaforth Avenue. A front verandah and rear pergola are also proposed.

The northernmost dwelling (Dwelling 2) will present to Seaforth Avenue as its primary and only frontage. This dwelling will contain the same features as Dwelling 1 (i.e. number of bedrooms, bathrooms, etc.), but in a different floorplan configuration. A front verandah and rear pergola are also proposed.

To achieve the desired bench and finished floor levels, retaining walls are proposed along the western boundary, the eastern boundary, the northern boundary and the internal boundary separating the two dwellings. 1.8 metre high Good Neighbour fencing is proposed on top of the retaining walls to the sides and rear.

Vehicle access for each dwelling is to be obtained via new crossovers to Seaforth Avenue, requiring the removal of at least one street tree (Bottlebrush).

2. BACKGROUND

Development Application 180\1062\16 was presented to the Development Assessment Panel on 07 March 2016 with a staff recommendation to refuse Development Plan Consent. The Panel resolved in accordance with the officer's recommendation and the application was refused for the following reasons:

The proposal fails to achieve the following Residential Zone Objectives and Principles of Development Control:

1. *Residential Zone Objective 2 in that the proposed density of development is not consistent with the objectives of the relevant policy area.*

The proposal fails to achieve the following Residential Policy Area 22 – Beaumont Common Objectives and Principles of Development Control

2. *Residential Policy Area 22 Principle of Development Control 1 in that the proposed development does not conserve and enhance the low density residential character of the policy area as described in Objective 1;*
3. *Residential Policy Area 22 Principle of Development Control 3 in that the proposed development does not satisfy the minimum site area requirements for subdivision; and*

On 28 March 2017 the City of Burnside received a Notice from the Environment, Resources and Development Court (the Court) to advise the applicant had appealed the decision and that a preliminary conference was scheduled to take place on Monday 24 April 2017.

On 10 April 2017 the applicant presented to Council, without prejudice, an amended scheme for further consideration as a compromise. The amended proposal is intended to respond to some of the issues raised by the Panel at the March meeting.

The application is now presented to the Panel for further consideration on the basis that the Panel made the previous decision under delegated authority. As the Chief Executive Officer (CEO) is the sole delegate in relation to matters before the Court, the resolution of the Panel will be presented to the CEO for his consideration before making a decision on this matter.

3. DISCUSSION

Given that additional land cannot be obtained, the proposed “exclusive site area” for each dwelling remains as follows:

Dwelling 1	Proposed	Guideline	Departure
Detached Dwellings	347	550	37%
Other Dwelling types	347	425	18.6%
Dwelling 2	Proposed	Guideline	Departure
Detached Dwellings	346	550	37.1%
Other Dwelling types	346	425	18.6%

The applicant has made an attempt to respond to some of the concerns raised by planning staff and the members of the Panel at the March meeting. These changes are essentially minor modifications to the siting of the dwellings together with minor reductions to building floor areas, soft landscaping treatments and fencing. Quantitative data now appears as follows with departures marked in **RED**:

Dwelling 1	Original	Amended	Guideline	Departure
Total Floor Area	144	144	n/a	
Site Coverage				
- Building Only	41.5%	41.5%	40%	1.5%
- Building & Driveway	44.3%	44.3%	50%	
Private Open Space	60.4%	48.8%	50%	1.2%
Setbacks				
- Front Boundary	5.0m	5.0m	6.0m	16.7%
- Side Boundary	1.6m	1.6m	2.0m	20%
- Secondary Frontage	2.5m	2.5m	3.0m	16.7%
- Secondary Frontage (Garage)	2.0m	2.0m	2.0m	
- Rear Boundary	5.0m	5.0m	4.0m	

Dwelling 2	Original	Amended	Guideline	
Total Floor Area	145	141	n/a	
Site Coverage				
- Building Only	41.9%	40.7%	40%	0.7%
- Building & Driveway	47.3%	46.1%	50%	
Private Open Space	65.2%	*51.2%	50%	
Setbacks				
- Front Boundary	2.2m	3.0m	6.0m	50%
- Side Boundary	2.0m	1.5m	2.0m	25%
- Rear Boundary	2.2m	2.0m	4.0m	50%

*The applicant asserts that D2 has 77.4% private open space. Staff calculations find 51.2% of private open space for D2.

Having undertaken a further analysis with respect to the application of the term *density* as a measure for planning assessment purposes, it is important to note that Residential Policy Area 22 – Beaumont Common envisages residential development at low density with streetscapes that are enhanced by open, well-established front gardens and buildings which are setback 6m or more.

The State Government publication *Understanding Residential Densities: A Pictorial Handbook of Adelaide Examples* describes Low Density as follows:

Typical Built Form	Low density housing comprises single and 2 storey detached, semi-detached and row dwellings on reasonably large allotments, with small-to-medium setbacks to side boundaries, <u>relatively large setbacks to the street</u> , and reasonable areas of private open space.
Approximate Gross Density	11-22 dwellings per hectare.
Approximate Net Density	17-33 dwellings per hectare.
Typical Locations	Low density housing occurs on greenfield development sites on the fringes of the metropolitan area, within country townships and <u>within established suburban areas throughout metropolitan Adelaide</u> as redevelopment as part of a range of housing densities.

Understanding Residential Densities: A Pictorial Handbook of Adelaide Examples makes general observations of Low Density residential areas as follows:

- Allotment sizes can vary substantially with low density housing.
- The following examples have allotment sizes between 310 and 560 square metres.
- Car parking and driveway provision often take significant site area.
- Visitor parking is contained within the site boundary and often results in wide driveways.
- Front setbacks are often 6 or more metres deep.
- Low density does not always equate with low site coverage. Many of the examples have comparatively small rear gardens.

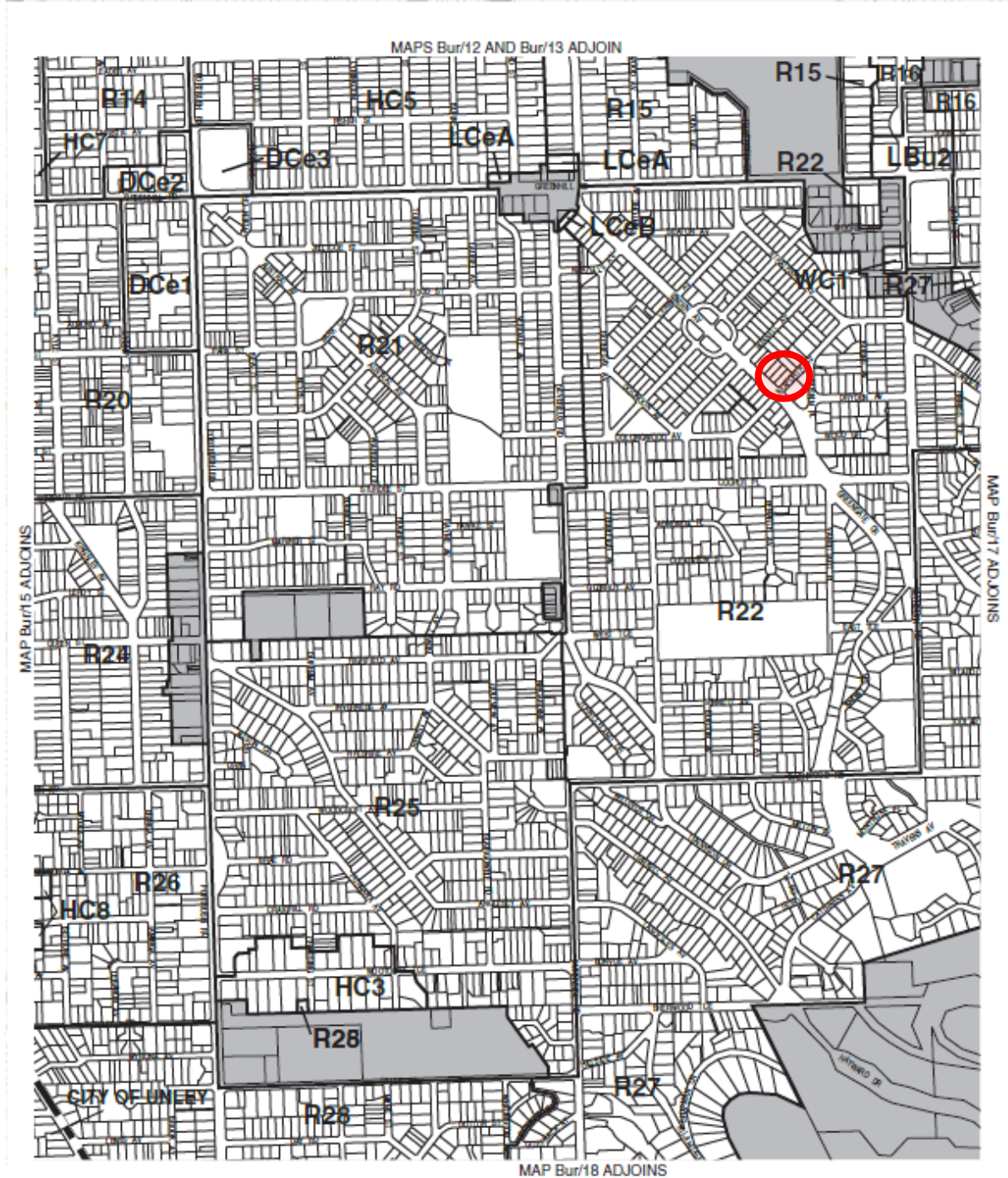
Although the *Understanding Residential Densities* booklet states that low density allotments are generally between 310 and 560 square metres, it would be naïve to assume or conclude that the development proposed in this application satisfies the definition of low density. By applying the arbitrary range for allotment size, one would be missing other important factors that contribute to a low density residential character such as the patterns of space between adjoining buildings, the desire for large to deep building setbacks of 6m or more that seek to encourage open and well-landscaped front gardens.




It should be highlighted at this juncture that the *Understanding Residential Densities* booklet is not a planning assessment tool that should be used when assessing a proposed development against the provisions of the Burnside (City) Development Plan. Rather, the *Understanding Residential Densities* booklet is a guiding document from the State Government that assists the creation of planning policy. Local Government policy planners refer to the booklet when making strategic decisions about the implementation of Development Plan policy for their specific Council area. Development Plans are the relevant tool for development assessment and as such, one's interpretation and application of residential density should be taking within the context of the relevant Development Plan.

At a strategic level, the Burnside (City) Development Plan has considered the manner in which it can best achieve the orderly and economic distribution of residential development across the Council area. Within this orderly and economic distribution, residential density has played an important role. In reviewing the geographical features of the City of Burnside, one immediately observes the decrease in residential density as it transitions from the City fringe suburbs on even topography toward the foothills locations at the escarpment of the Hills Face Zone where topography becomes a prominent feature and services, including public transport and retail become less accessible.

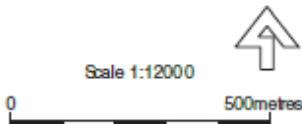
The term *low density* is used frequently in the Burnside (City) Development Plan and yet within the 29 residential policy areas, there is a great variety in minimum allotment sizes that are envisaged. Among the surrounding Residential Policy Areas as shown on MAP Bur/16, the envisaged allotment sizes are as follows:

Policy Area	Described As	Envisaged Min. Allotment Sizes (m²) Other dwelling types – detached dwellings
RPA 15	Low	600 – 625
RPA 20	Low-to-medium	320 – 450
RPA 22	Low	425 – 550
RPA 24	Low	400 – 550
RPA 25	Low	450 – 550
RPA 26	Low	375 – 550
RPA 27	Low	750 – 2000



- | | | | |
|------|---|-----|--|
| DCe1 | District Centre Area 1 | | |
| DCe2 | District Centre Area 2 | | |
| DCe3 | District Centre Area 3 | | |
| HC3 | Historic Conservation Area 3 St George's (Wooloona Tce) | | |
| HC5 | Historic Conservation Area 5 Tasmore | | |
| HC7 | Historic Conservation Area 7 Toorak Gardens (Ferguson Square) | | |
| HC8 | Historic Conservation Area 8 Glenunga Park | | |
| LBu2 | Local Business Area 2 | | |
| LCaA | Local Centre Area A | | |
| LCaB | Local Centre Area B | | |
| R14 | Residential Area 14 Toorak Gardens (South-East) | | |
| R15 | Residential Area 15 First Creek | | |
| R16 | Residential Area 16 Burnside (North) | R25 | Residential Area 25 St Georges |
| R20 | Residential Area 20 Genside (Village) | R26 | Residential Area 26 Glenunga (South) |
| R21 | Residential Area 21 Linder Park | R27 | Residential Area 27 Southern Foothills |
| R22 | Residential Area 22 Beaumont Common | R28 | Residential Area 28 Glen Osmond |
| R24 | Residential Area 24 Glenunga (North) | WC1 | Watercourse Area 1 Gynburn Road |
-  Policy Area Boundary
 Development Plan Boundary
 Not in a Policy Area

Scale 1:12000



BURNSIDE (CITY)
POLICY AREAS
MAP Bur/16

Consolidated - 8 December 2016

Accordingly, the language used by the Development Plan and *Understanding Residential Densities* agree with respect to what is “low density” residential development when examining the allotment area alone.

To achieve orderly and economic development, the Development Plan adds an additional layer of policy for development assessment purposes to ensure the rational distribution of low density allotments can be achieved in a manner that maintains and enhances the unique residential character of each of the 29 residential policy areas.

In regard to maintaining and enhancing the local character of RPA 22, objective 1 and principle of development control 1 provide further guidance as follows:

Objective 1: *Maintenance and enhancement of the low scale, low density residential character that is derived particularly from:*

- (a) *one-storeyed, detached dwellings, predominantly from the post-war period, in a variety of styles, with more recently built dwellings, of one or two storeys, on rising ground towards the south-eastern corner;*
- (b) *streetscapes enhanced by open, well-established, front gardens, grassed verges, and views of public open space;*
- (c) *the existence of Beaumont Common and stands of indigenous trees throughout much of the eastern part of the Policy Area.*

PDC 1: *Development should:*

- (a) *conserve and enhance the character of the Policy Area, described in Objective 1, and significant trees therein; and*
- (b) *complement the scale, bulk, siting and positive elements of existing dwellings where a distinctive and attractive streetscape character exists.*

Extrapolating the key remarks in objective and PDC 1, I would conclude that surrounding streetscapes would not be described as distinctive but can be described as having an attractive character that is particularly derived from deep building setbacks to front property boundaries and dwellings that respond to their secondary frontage so as to permit open and well-vegetated front and side gardens. With the exception of historical examples which are few in number, allotment sizes within the locality encourage low-scale residential development comprising generous floor plans and comfortable spacing between buildings and the public road that maintain, enhance and reinforce the low density character that is specifically characteristic of RPA 22.

Earlier in this report, Panel members were provided with a data table that offers a visual demonstration of where the proposed development meets, or departs from the quantitative guidelines of the Development Plan. In previous judgements handed down by the Environment, Resources and Development Court (the Court), the Courts have frequently remarked that a departure from site area alone is not always fatal. Allotment size should be examined in combination with the way in which the development also performs against important quantitative and qualitative criteria that may be relevant.

In this instance, staff maintain the position that the proposed development does not reinforce the character described by objective 1 and PDC 1 of RPA 22 given that the proposed dwellings represent important, and in some instances substantial departures from building setback guidelines.

Where this proposal fails is the 15m width/depth of the subject land which is the obvious cause of urban design flaws in relation to open and well-landscaped front and side gardens. Although landscaping is proposed along Seaforth Avenue, the buildings are designed to “seek the attention” of the streetscape in a manner that is distinctly different from what would be expected from a single, detached dwelling; These departures highlight the failing capacity of the proposed allotment areas to support residential development of a character that is envisaged by RPA 22.

It is acknowledged that corner sites offer unique and often better opportunities for infill development however corner sites developed in this manner are typically 17m or greater in width. The additional 2m in width permits greater scope for building setbacks from the primary and secondary frontage so as to encourage meaningful spaces between built form with landscaping to soften and enhance the appearance of buildings when viewed from the streetscape.

Land division or Built Form: Which Should Come First?

In the matter *Paior & Anbor v City of Marion & Ors* the Court determined that the relevant authority should only grant approval for built form once land division approval has been granted and the plan of division has been lodged with the Lands Titles Office.

The *Paior* judgement is not necessarily of relevance in all instances however planning staff are of the opinion that the judgement is of particular relevance to the facts of this application.

Given that land division has not been approved, the application before the Panel is for generic “dwellings” rather than detached dwellings; given the lack of exclusive land rights over an individual allotment. The applicant has made it clear that he intends to divide the land into 2 allotments which means that, if approved, the dwellings would ultimately become detached dwellings. In essence, the proposed development represents an 18.6% or 37.1% departure from the minimum low density allotment sizes envisaged by RPA 22.

In the event that this application was approved, the applicant might then submit an application for land division that reflects the hypothetical internal boundary arrangement as demonstrated by the built form application. Approval of that land division would create allotments that substantially depart from the minimum allotment guidelines for RPA 22 with the justification being that appropriate built form has been approved for each allotment.

This suggestion raises a number of concerns as there is no absolute guarantee that the applicant will construct the approved dwellings; used to justify the land division. The newly created allotments could be individually sold with the new owners making an application for dwellings of a completely different type, form and scale.

Development in this manner would not be orderly.

It is posited that to achieve an orderly and economic outcome, an application that represents a substantial departure from minimum allotment guidelines of a Development Plan should be proposed as a complete package. The application should include both the division of land and construction of the built form. An application made in this fashion provides the relevant authority with the absolute ability to assess the proposed development as a complete outcome for the subject land to ensure that the built form used to justify the shortfall in allotment areas will be constructed on the subject land.

Conclusion

The proposed changes to the proposal do achieve slightly better conformity with the relevant Council Wide Principles of Development Control and the development does seek to continue the established residential use of the subject land and as such, in this sense, is not considered to be seriously at variance with the Burnside (City) Development Plan.

The proposed development does however constitute a substantial and detrimental departure in fact and degree from the relevant provisions of the Development Plan which seek to ensure new developments are compatible with the objectives and design principles for their location.

The proposed development is viewed as an overdevelopment of an undersized allotment in an area of the City of Burnside that is earmarked for low density development that maintains and enhances the attractive streetscape qualities of RPA 22. The departure in land size is not conducive to a good planning outcome given the resultant deficiencies in achieving key built form

requirements. The proposed development goes beyond other examples of corner site redevelopment and sets an undesired precedent for others to seek the same.

Refusal is warranted.

4. RECOMMENDATIONS

It is recommended that the Development Assessment Panel resolve that:

1. The Chief Executive Officer should not accept the compromise plans submitted by the applicant Mr A L H Lim in relation to the ERD Court appeal regarding development application 180\1062\16.
2. That the administration advises the ERD Court and the applicant that the compromise has not been accepted.

RECOMMENDING OFFICER

Jason Cattonar
Team Leader – Planning

AERIAL LOCALITY MAP



Legend



Subject Land



Representor's Land

DEVELOPMENT APPLICATION

Application Number:	180\1153\16
Applicant:	G J Ambrose-Pearce
Location:	27 Davenport Terrace Hazelwood Park
Proposal:	Construction of two-storey detached dwelling including cellar, store, carport, verandahs, swimming pool, balconies and fencing
Zone/Policy Area:	Residential Zone Residential Policy Area 15 Development Plan consolidated 08 December 2016
Kind of Assessment:	Merit
Public Notification:	Category 2 Three (3) representations received
Appeal Opportunity	Applicant only, no third party appeal rights
Referrals – Statutory:	N/A
Referrals – Non Statutory:	Engineering Services
Delegations Policy:	Unresolved representations
Recommendation:	Development Plan Consent be granted
Recommending Officer:	Michael Shillabeer

REPORT CONTENTS

- Assessment report:
 - Appendix 1 – Aerial Locality Map
 - Appendix 2 – Detailed Planning Assessment
 - Appendix 3 – Development Data Table

Please note that due to Federal Copyright Law restrictions, attachments associated with the proposed development are not made available to the public.

Documentation provided as attachments to the report to members of the Development Assessment Panel to facilitate decision making:

- Amended plans and supporting documents
- 04 April 2017 DAP minutes, report and attachments

1. DESCRIPTION OF PROPOSAL

The applicant seeks development plan consent for the construction of a contemporary two storey detached dwelling on an existing residential allotment on the northern side of Davenport Terrace, Hazelwood Park.

The proposed dwelling features five bedrooms each with ensuite, triple carport, storeroom, swimming pool, verandahs, balconies, cellar/gym and front fencing.

2. Discussion

Development Application 180\1153\16 was presented to the Development Assessment Panel (the Panel) on 04 April 2017 with a staff recommendation to grant Development Plan Consent.

The Panel resolved:

That the matter be **deferred** to enable the applicant to consider the following:

- Privacy of the dwelling to the west.
- Better landscaping arrangements.
- The setback on how the dwelling accords with the character and the amenity of the streetscape.

In response to the deferral reasons of the Panel, the applicant submitted amended plans together with a supporting statement prepared by Masterplan. The amendments include the following details:

- Construction of a physical 4.3 metres high freestanding privacy screen 1.5 metres setback and parallel to the western boundary of the site. The screen is constructed with structural recycled sleeper columns and spotted gum slats with a 25% transparency. An integrated Star Jasmine will be planted to weave through the slats in addition to the permitter planting of Syzigium "Winter Lights": The screen runs from the rear wall of the adjacent dwelling at 25 Davenport Terrace to the northern boundary and provides an effective combined privacy screening to the adjoining properties;
- The inclusion of a spotted gum slat privacy screen to the northern elevation of the terrace minimising direct views to the property at 7 Maud Street;
- Increase the rear ground level setback from 3.0 metres to 4.0 metres, meeting the minimum rear setback requirements and providing understorey planting to the Syzigium "Winter Lights" trees at the rear of the allotment;
- Change to the perimeter planting species, to comprise Syzigium "Winter Lights" to be a more climate resilient species; and
- Amendments to the external expression of the walls projecting forward of the adjacent dwellings front setbacks to incorporate Spotted gum timber slats and the creation of a full height opening in the masonry wall providing depth, light, shadow and transparency in the eastern and western elevations.

Plans detailing the above amendments have been provided by the applicant for consideration.

The Administration maintains its support for the proposal, subject to conditions.

3. RECOMMENDATIONS

It is recommended that the Development Assessment Panel resolve that:

1. The proposed development is not seriously at variance with the policies in the Development Plan; and
2. Development Application 180\1153\16, by G J Ambrose-Pearce, is **granted** Development Plan Consent subject to the following conditions:

Conditions

- 1 The development granted Development Plan Consent shall be undertaken in accordance with the stamped approved plans, drawings, specifications and other documents submitted to the Council that are relevant to the consent to the reasonable satisfaction of the Council, except where varied by conditions below.

Reason:

To ensure the development is undertaken in accordance with the plans and details submitted.

- 2 The landscaping delineated on the stamped and approved plans shall be maintained in good health and condition at all times to the reasonable satisfaction of Council.

The establishment of all landscaping shall be undertaken within three months of the substantial completion of development and in any event prior to the occupation or use of the development. Such landscaping shall be maintained in good health and condition to the satisfaction of the Council at all times and any dead or diseased plants or trees shall be immediately replaced to the reasonable satisfaction of the Council.

Reason:

To provide privacy and amenity for the occupants of buildings and those of adjacent buildings through the provision of landscaping as part of the development.

- 3 The landscape screening as depicted on the stamped and approved plans granted Development Plan Consent shall be planted prior to the occupation or use of the building herein granted Development Plan Consent and thereafter shall be maintained to the reasonable satisfaction of Council at all times.

Reason:

To ensure the new development does not unreasonably diminish the privacy of residents in adjoining properties.

- 4 All tree protection measures concerning the regulated Willow Myrtle within the front yard of the neighbouring property at 29 Davenport Terrace as outlined in the arborist report prepared by Gary Moran of Arborman Tree Solutions dated 27 September 2016 shall be undertaken and adhered to at all times during construction of the development.

Reason:

To ensure that no adverse impacts result to the regulated tree on adjoining land.

RECOMMENDING OFFICER

Michael Shillabeer
Development Officer – Planning

DEVELOPMENT APPLICATION

Application Number:	180\0497\16
Applicant:	C Bastiras
Location:	102 Alexandra Avenue TOORAK GARDENS SA 5065
Proposal:	Three-storey detached dwelling including basement garage, lift, swimming pool and fencing
Zone/Policy Area:	Historic Conservation Zone Historic Conservation Policy Area 6 – Toorak Gardens (North) Development Plan consolidated 28 April 2016
Kind of Assessment:	Merit
Public Notification:	Category 2 Four (4) representations received
Appeal Opportunity	Applicant only, no third party appeal rights
Referrals – Non Statutory:	Local Heritage Consultant / Traffic Management Engineer / Tree Management Officer
Delegations Policy:	Unresolved representations
Recommendation:	The Panel determines to advise the Chief Executive Officer that the compromise should be accepted
Recommending Officer:	Michael Shillabeer

REPORT CONTENTS

- Assessment report.

Please note that due to Federal Copyright Law restrictions, attachments associated with the proposed development are not made available to the public.

Documentation provided as attachments to the report to members of the Development Assessment Panel to facilitate decision making:

- Compromise proposal - plans and supporting documents
- Environment, Resources and Development Court - Appeal Notice
- Decision Notification Form
- 07 March 2017 DAP minutes, report and attachments

1. DESCRIPTION OF PROPOSAL

The Applicant seeks Development Plan Consent for the construction of a three-storey detached dwelling upon an existing residential allotment at 102 Alexandra Avenue, Toorak Gardens.

At ground level, the proposed dwelling features a spacious, open plan configuration that incorporates a kitchen, dining and living room which are adjoined by two separate courtyards for outdoor living purposes. The family room and study provide supplementary living areas at ground level with amenities being provided in the form of a laundry and powder room. The guest bedroom includes a walk-in robe and ensuite with additional storage areas being located within the entry hall.

The first floor of the dwelling incorporates the main sleeping quarters for the future occupants comprising a master bedroom with walk-in robe and ensuite and three (3) additional bedrooms towards the rear of the building. The first floor also includes a family room and two communal bathroom areas.

The basement level predominantly comprises garaging for four (4) vehicles with adjacent habitable spaces in the form of a gym and theatre room. All three floors are serviced by a lift and stair.

Other works proposed on the land include an in-ground swimming pool to be sited in the south-western corner of the land with adjacent amenities and shower room. Fencing proposed along the front property boundary is to measure 1.5m in height and constructed using sandstone brickwork and anodised aluminium gates.

Vehicular access to the land is to be achieved via the existing crossover to Alexandra Avenue which is located at the north-eastern corner of the property.

2. BACKGROUND

Development Application 180\0497\16 was presented to the Development Assessment Panel (the Panel) on 07 March 2017 with a staff recommendation to grant Development Plan Consent.

The Panel resolved that:

1. The proposed development is not seriously at variance with the policies in the Development Plan; and
2. Development Application 180\0497\16 by C Bastiras, is **refused** Development Plan Consent for the following reasons:

The proposed development is at variance with the following provisions of the Burnside (City) Development Plan:

Historic Conservation Policy Area 6 – Toorak Gardens (North) objectives and principles of development control:

- *The development is at variance with objective 1 in that the development does not conserve and enhance the Established Historic Character*
- *The development is at variance with principle of development control 1 in that the development does not conserve and enhance the Established Historic Character*
- *The development is at variance with principle of development control 3 in that the development does not conserve and enhance the Established Historic Character*

- *The development is at variance with principle of development control 4 in that the development does not complement the Established Historic Character of the Policy Area in terms of siting, scale, massing, proportions, built-form, roof-forms and pitches, boundary setback, materials and external finishes.*
- *The development is at variance with principle of development control 7 in that the development is setback less than 8 metres from the front property boundary.*

Historic (Conservation) Zone objectives and principles of development control:

- *The development is at variance with objective 1 in that the development does not conserve and enhance the Established Historic Character of the relevant Policy Area.*
- *The development is at variance with objective 3 in that the development is not compatible with the historic character of the Zone.*
- *The development is at variance with objective 4 in that the development does not conserve and enhance the historic character of the relevant Policy Area in terms of, overall and detailed design and overall form.*
- *The development is at variance with principle of development control 1 in that the development does not conserve and enhance the Established Historic Character of the relevant Policy Area.*
- *The development is at variance with principle of development control 4 in that the development has not been designed in accordance with the guidelines set out in Table Bur/1.*
- *The development is at variance with principle of development control 5 in that the development does complement the identified heritage values of the Zone as well as specifically identified State and Local Heritage Places and Contributory Items.*
- *The development is at variance with principle of development control 1 in that the development does not conserve and enhance the Established Historic Character of the relevant Policy Area.*
- *The development is at variance with principle of development control 6 in that the development does not incorporate a façade that faces the street that has been designed to be consistent with the historic character of the Policy Area.*
- *The development is at variance with principle of development control 7 in that the development does not incorporate a roof pitch that matches the principal roof pitches within the relevant Policy Area and immediate vicinity.*
- *The development is at variance with principle of development control 8 in that the two-storey dwelling has not been designed in a manner that utilises the roof space to accommodate the first floor, and/or has been designed to complement the architectural character of the Policy Area and has an overall building height and scale that is at odds with existing single-storey dwellings.*
- *The development is at variance with principle of development control 19 in that the new building has not been designed to complement and reinforce the historic character of the Policy Area.*
- *The development is at variance with principle of development control 21 in that the development does not include a palette of materials that are consistent with the historic character of the Policy Area.*

Council Wide objective and principles of development control

- *The development is at variance with objective 11 in that the development does not respond and reinforce the positive aspects of the local environment and built form.*
- *The development is at variance with principle of development control 14 in that the development does not have regard to adjoining buildings with respect to building height,*

mass and proportions, external materials, pattern, colours, decorative elements and roof form and pitch.

On Date March April 2017 the City of Burnside received a Notice from the Environment, Resources and Development Court (the Court) to advise the applicant had appealed the decision and that a preliminary conference was scheduled to take place on DATE

On 13 April 2017 the applicant presented to Council, without prejudice, an amended scheme for further consideration as a compromise.

The application is now presented to the Panel for further consideration on the basis that the Panel made the previous decision under delegated authority. As the Chief Executive Officer (CEO) is the sole delegate in relation to matters before the Court, the resolution of the Panel will be presented to the CEO for his consideration before making a decision on this matter.

3. DISCUSSION

The applicant has responded to the concerns of the Panel and representations in a number of ways which have been comprehensively outlined in the supporting statement supplied by Greg Vincent from Masterplan Pty Ltd, and as outlined below:

The amendments to the plans specifically incorporate the following design changes:

- Reduction in the width of the single storey modern interpretation of the Bungalow Verandah to be in line with the width of the dwelling, removing the portion that projected across the driveway. The proportions of the single-storey element are now more consistent with those of the Gentlemen's Bungalow reflecting the fact that the verandah in a Gentlemen's Bungalow extends the width of the dwelling and was integral to the façade of the dwelling. Gentlemen's bungalows are a built form evident in the locality and form part of the historic context of the zone;
- The roof form has been amended to present a symmetrical form incorporating a pitch that is part way between that of a bungalow and Villa to be consistent with the design guidelines expressed in the Council Development Plan. The second-storey element presents as a gabled roof form, now incorporating the symmetry of adjacent dwellings with the upper-level set back well back behind the prominent gable of the adjacent Bungalow to the east and in line with the Dutch gable in the dwelling to the west. The balcony and recessed glazing in the gable end incorporates light and shadow reflective of the typical eave overhang in the design of a bungalow together with vertically expressed window mullions expressive of the timber battening in the bungalow gables; and
- The alteration to a symmetrical roof form has also resulted in an overall reduction in the height of the buildings ridge by 250mm.

The applicant has also provided clarification on a number of matters raised in representation to the proposal to demonstrate that the quality and nature of the materials reflect the traditional materials derived from the historic built form within the locality:

- The roof cladding is high quality zinc panelling not a corrugated Zinalume. The difference being substantial in the appearance where Zinalume has a highly reflective and bright finish and the zinc cladding having a darker grey and matt lustre to its appearance.

- The ground level external walls comprise a high quality stone brick reflecting the colouring of the sand stone / limestone in Villas within the locality while expressing the traditional brick form exhibited in many of the traditional bungalow's also contributing to the character of the locality.

The amendments are considered to have directly addressed the reasons for refusal in the follow manner:

Land Use

The proposed land use has not changed, however key aspects of the proposal that contributed to its failure to meet the relevant policies of the Development Plan have been addressed by the applicant. These matters will be discussed in further detail below, particularly the width of the bungalow style dwelling, the roof form and height of the building.

Character and Amenity

The Historic Conservation Zone seeks the conservation and enhancement of the relevant Policy Area, which in this instance, is identified as Historic Conservation Policy Area 6 – Toorak Gardens (North) (HCPA 6). The Established Historic Character statement for HCPA 6 describes the character as being derived from the large number of residences dating from the suburbs original period of subdivision during 1909 to 1912. Dwellings are typically large, single-storey detached dwellings with stone or brick being the predominant construction material and large simple roof planes and broad eaves.

The dwelling is considered to be an appropriate built form outcome for the locality and maintains the generally low-scale built form character of the locality.

The original dwelling considered by the Panel had been designed using Contemporary architectural expression that was considered by the Panel to be at odds with the form and proportions considered typical of dwellings on adjoining land and within the locality. The proposed amendments reinforce the proportions and symmetrical built form character of the locality with the dwelling largely presenting to the streetscape of Alexandra Avenue as single-storey dwelling on account of the first floor being set back behind the main façade of the ground floor which obstructs opportunities for a clean sightline to the first floor from the streetscape.

The amendments to the width of the dwelling through removing the portion that projected across the driveway give rise to proportions that are now more consistent with those of a Gentlemen's Bungalow and present a built form that is more consistent with that which exists in the locality and that which is important in forming part of the historic character of the zone.

The roof form has been amended and now presents a pitch reflective of the design guidelines contained in the Development Plan for Villa and Bungalow style dwellings, and now contains a gabled roof form that incorporates the symmetrical design of the adjacent dwellings. The introduction of the symmetrical roof form has also resulted in an overall reduction in the height of the buildings ridgeline by 250mm.

Combined with the setback of the upper level well behind the adjacent dwellings, the two-storey component of the dwelling is in greater accordance with the Development Plan policies relating to the two-storey component utilising roof space and/or being towards the rear of the dwelling.

Changes to the width, roof form and design and overall height, together with the clarification of the materials proposed, better complement the historic streetscape character of Alexandra Avenue in choice of materials, style, form and scale.

4. CONCLUSION

Having regard to all of the relevant Objectives and Principles of Development Control of the Burnside (City) Development Plan, the proposed development is not considered seriously at variance with, and is now considered to be generally in accordance with the policies of the Development Plan.

5. RECOMMENDATIONS

It is recommended that the Development Assessment Panel resolve that:

1. That the Chief Executive Officer should accept the compromise and advise the Environment, Resources & Development Court that the City of Burnside supports Development Application subject to the following conditions:

Conditions

- 1 The development granted Development Plan Consent shall be undertaken in accordance with the stamped approved plans, drawings, specifications and other documents submitted to the Council that are relevant to the consent to the reasonable satisfaction of the Council, except where varied by conditions below.

Reason:

To ensure the development is undertaken in accordance with the plans and details submitted.

- 2 All windows and glazing treatments shown on the side and rear elevations of the dwelling shall be fitted with fixed and obscure glazing to a minimum height of 1.6m when measured from the finished floor level of the first floor.

The fixed and obscure glazing shall be installed prior to the occupation or use of the building and thereafter shall be maintained to the reasonable satisfaction of Council at all times.

Reason:

To ensure the new development does not unreasonably diminish the privacy of residents in adjoining properties.

- 3 The glazing within the stair well shall be fitted with fixed and obscure glazing from the finished floor level of the landing between the ground and first floor up to a height measuring 1.6m when measured from the finished floor level of the first floor.

The fixed and obscure glazing shall be installed prior to the occupation or use of the building and thereafter shall be maintained to the reasonable satisfaction of Council at all

times.

Reason:

To ensure the new development does not unreasonably diminish the privacy of residents in adjoining properties.

1 Reserved Matters

1 That pursuant to Section 33(3) of the *Development Act 1993*, the applicant shall submit detailed plans for the following reserved matter requiring further assessment by the City of Burnside, prior to seeking an assessment against the Building Code:

1.1 The applicant shall supply a detailed stormwater management plan that demonstrates how stormwater catchment from on-site to the reasonable satisfaction of Council's Technical Officer.

Reserved Conditions

1 Pursuant to Section 33(1) of the *Development Act 1993* the DAP reserves its decision on the form and substance of any further conditions of Development Plan Consent that it considers appropriate to impose in respect of the reserved matters, and this is delegated to the Manager of City Development & Safety.

RECOMMENDING OFFICER

Michael Shillabeer
Development Officer – Planning

DEVELOPMENT APPLICATION

Application Number:	180\0977\16
Applicant:	N Qi
Location:	3 & 4 Austin Crescent ST GEORGES SA 5064
Proposal:	Construction of three (3) two-storey dwellings
Zone/Policy Area:	Residential / Community / Historic Conservation / Local Business Zone Residential Policy Area 25 Development Plan consolidated 28 April 2016
Kind of Assessment:	Merit
Public Notification:	Category 2 Five (5) representations received
Appeal Opportunity	Applicant only, no third party appeal rights
Referrals – Statutory:	N/A
Referrals – Non Statutory:	Traffic Management Engineer Urban Forestry Officer
Delegations Policy:	Unresolved representations
Recommendation:	Development Plan Consent be granted
Recommending Officer:	Jason Cattonar

REPORT CONTENTS

- Assessment report:
 - Appendix 1 – Aerial Locality Map
 - Appendix 2 – Detailed Planning Assessment

Please note that due to Federal Copyright Law restrictions, attachments associated with the proposed development are not made available to the public.

Documentation provided as attachments to the report to members of the Development Assessment Panel to facilitate decision making:

- Amended Plans and supporting documents
- 07 March 2017 DAP minutes, report and attachments

1. DESCRIPTION OF PROPOSAL

The applicant seeks development plan consent for the construction of three two storey dwellings across two existing contiguous allotments fronting Austin Crescent, St Georges. The proposed dwellings will each occupy one of three recently approved, soon to be created rectangular shaped allotments in place of the two existing.

All three dwellings will include (albeit in varied configuration) four bedrooms, four bathrooms, open plan living areas, first floor balcony facing the street, a double garage constructed on a side boundary, an entry portico and rear alfresco.

All three dwellings exhibit a style and appearance best described as contemporary, utilising a combination of external building materials including selected brickwork, stone cladding, smooth render aluminium awning windows and Hardies Scyon Matrix cladding system.

The westernmost dwelling (Lot 3) and middle dwelling (Lot 3A) have been designed with a Colorbond iron roof pitched at 4 degree and have a largely consistent appearance, while the easternmost dwelling (Lot 4) incorporates a tiled hip roof beyond a rendered parapet.

2. DISCUSSION

Development Application 180\0977\16 was presented to the Development Assessment Panel (the Panel) on 07 March 2017 with a staff recommendation to grant Development Plan Consent.

The Panel resolved:

That the application be deferred to allow the applicant to consider amended plans which address the following:

- *Bulk and scale, particularly building no. 4.*
- *Site coverage.*
- *Relationship between buildings and contours of the land.*
- *Landscaping being clearly defined.*

In response to the deferral reasons of the Panel, the applicant submitted amended plans that include the following details:

- Split-level design to the ground floors of ALL dwellings resulting in a reduction to required earthworks.
- Driveway is to be constructed using exposed aggregate cement.
- There were also concerns to the Permeable paving which one panel member thought
- Improved landscaping schedule with photos and numbered location of the plantings.
- The total floor area of the dwelling proposed on Lot 4 has been reduced by approximately 30m²; reductions to both the ground and first floors.

The Administration maintains its support for the proposal, subject to conditions.

3. RECOMMENDATIONS

It is recommended that the Development Assessment Panel resolve that:

1. The proposed development is not seriously at variance with the policies in the Development Plan; and

2. That Development Application 180\0977\16, by N Qi, is **granted** Development Plan Consent subject to the following conditions and reserved matters / for the following reasons:

Conditions

- 1 The development granted Development Plan Consent shall be undertaken in accordance with the stamped approved plans, drawings, specifications and other documents submitted to the Council that are relevant to the consent to the reasonable satisfaction of the Council, except where varied by conditions below.

Reason:

To ensure the development is undertaken in accordance with the plans and details submitted.

- 2 The driveway for each dwelling as depicted on the stamped and approved plans granted Development Plan Consent shall be tapered to a maximum width of 4.5m at the property boundary.

Reason:

To ensure minimal impacts to Council verge.

- 3 All side and rear upper level windows for each dwelling as depicted on the stamped and approved plans granted Development Plan Consent shall be fitted with fixed and obscured glazing to a minimum height of 1.6m above the finished floor level.

The fixed and obscured glazing shall be installed prior to the occupation or use of the building herein granted Development Plan Consent and thereafter shall be maintained to the reasonable satisfaction of Council at all times.

Reason:

To ensure the new development does not unreasonably diminish the privacy of residents in adjoining properties.

- 4 The approved works may not commence until such time as the applicant has secured written authorisation for the construction and/or alterations of the proposed driveway crossovers from the Council pursuant to Section 221 of the *Local Government Act 1999*.

Reason:

To ensure the applicant has secured all relevant consents/authorisations required prior to the commencement of development.

Advisory Notes

- 1 **Engineering:**
- Unless approved otherwise, construction of the driveway crossover shall be in accordance with Council's Standard Specification and General Conditions and completed to the reasonable satisfaction of Council.
 - The existing redundant driveway/gutter crossings must be removed and reinstated to kerb upon completion of the proposed gutter crossing.
 - A driveway width of 4.5 metres is permitted across the verge and a crossover width of 5.5 metres (maximum) is permitted at the kerb and gutter.
 - A minimum width of 6 metres must be maintained between all driveway crossovers

to ensure that on-street car parking remains in front of the properties.

- A minimum distance of 3 metres shall be maintained from the closest point of the driveway to the adjacent street trees.
- The existing sections of driveway crossovers that are to be demolished are to be reinstated as per the existing and adjacent road reserve / verge.
- The new driveway crossovers are to be formed using pervious paving to ensure continued filtration into the road reserve.
- If you elect to carry out the works yourself (or via a contractor) evidence of Public Liability Insurance must be provided to Council before any works can commence on the public verge/road.
- Existing footpath levels, grades etc. shall not be altered as a result of the new works associated with the development.
- Due to the significant increase of the impermeable area, detention shall be provided to limit post development flows. Calculations shall be provided to verify the ability of the proposed detention quantity to meet the Council's default detention and discharge requirements below:
 - The volume of any detention device shall be equal to the volume of water generated on the site with an impervious ($C_p = 0.9$) site coverage of 75% and pervious ($C_p = 0.1$) area of 25%, during a 1 in 20 year flood event for a 10 minute duration.
 - The maximum rate of discharge from the site shall be equal to the volume of water generated on the site with an impervious ($C_p = 0.9$) site coverage of 40% and pervious ($C_p = 0.1$) area of 60%, during a 1 in 5 year flood event for a 10 minute duration.
- For stormwater management purposes, it is desirable that:
 - An additional detention storage of 1,000Ltrs be provided in addition to the standard 1,000Ltrs retention tank provided; and
 - The development utilises permeable paving for the proposed external paving work within the development site.
- The stormwater pipe across the road verge should terminate at an approved galvanised steel kerb adaptor.
- If the cover to the stormwater pipe across the Council verge is less than 65mm, steel pipe housing is to be used as per Council's standards.
- The developer is responsible for locating all existing services and to consult with the necessary service providers if there is a conflict when placing stormwater infrastructure.
- Construction of the stormwater infrastructure is in accordance with Council's Standard Specification and General Conditions and to the overall satisfaction of Council.
- Trenching and connections are to be undertaken as per Australian Plumbing Standards.
- Excess stormwater runoff from surfaces within the subject land shall be controlled and managed within the subject land.
- Excess stormwater runoff from the roof catchment shall be discharged to the street water table through a sealed system to the satisfaction of the Council.
- Excess stormwater runoff from the roof catchment shall be connected to the Council's main underground drainage system. Required permits from the Council are to be obtained prior to undertaking the connection to the main drainage pipe.
- A minimum distance of 3 metres is to be maintained from the closest point of the trenching to the adjacent street tree.
- The applicant will be liable for any damage to the street trees as direct or indirect result of development. Cost of any remedial works will be determined at the discretion of Council and borne by the applicant.

- For the duration of the on-site construction works the road reserve / verge is to remain protected in accordance with figure 3 of AS4970-2009 Protection of Trees on Development Sites. No excavation, construction activity, grade changes, surface treatment, vehicle access or storage of materials is permitted within the road reserve.
- Soft dig (hand digging / hydro-vac) methods must be used for the formation of the underground services that encroach within the Tree Protection Zones as defined by AS 4970-2009 Protection of Trees on Development Sites.
- Any works that are proposed, by the applicant, within 3 metres of the street tree requires a Tree Protection Plan (TTP) in accordance with AS4970-2009 Protection of Trees on Development Sites. The TTP will need to be submitted to Councils Arborist for approval prior to the commencement of any site works. The approved TTP and its recommended conditions shall form part of the conditions of this approval.

RECOMMENDING OFFICER

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