



Development Assessment Panel Meeting Agenda

**Tuesday 06 December 2016 at 6pm
Council Chambers, 401 Greenhill Road, Tasmore**

Members:	Bill Chandler (Presiding Member) Don Donaldson (Deputy Presiding Member) Ross Bateup, Graeme Brown, Peter Cornish, Grant Piggott 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 01 November 2016 be taken as read and confirmed.

4 APPLICATIONS WITHDRAWN FROM THE AGENDA

(BY THE ADMINISTRATION)

(BY THE APPLICANT)

Nil

5 DEVELOPMENT APPLICATIONS FOR CONSIDERATION – PERSONS WISH TO BE HEARD

(A) NON-COMPLYING DEVELOPMENT APPLICATIONS (HEARING)

Report Number:	5712.1
Page:	6
Application Number:	180\0571\16
Applicant:	R Davila and L Davila
Location:	321 Portrush Road, Toorak Gardens
Proposal:	Change of use from dwelling to office
Recommendation:	Subject to concurrence from the Development Assessment Commission, that Development Plan Consent be granted
Representors:	<ul style="list-style-type: none"> • 105 Hewitt Avenue, Toorak Gardens (to be heard) • 136 Kensington Road, Toorak Gardens (to be heard) • 138 Kensington Road, Toorak Gardens (to be heard)
Applicant:	• PO Box 229, Magill

(B) CATEGORY 3 DEVELOPMENT APPLICATIONS (HEARING)

Report Number:	5712.2
Page:	20
Application Number:	180\0520\16
Applicant:	H Ratsch

Location:	362 Portrush Road
Proposal:	Alterations and additions to existing child care centre and increase in capacity from 60 to 100 children
Recommendation:	Development Plan Consent be granted
Representors:	<ul style="list-style-type: none"> • 352 Portrush Road, Tusmore (to be heard) • 3 Stirling Street, Tusmore (to be heard)
Applicant:	• C/- Access Planning, 235 Henley Beach Road, Torrensville

(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:	5712.3
Page:	34
Application Number:	180\0733\16
Applicant:	Carlo Dottore & Partners Architects
Location:	247 The Parade, Beulah Park
Proposal:	One (1) two-storey mixed use building (office and residential) including garage, verandah, alfresco and balcony and three (3) two-storey dwellings, each including garage, verandah and alfresco
Recommendation:	Development Plan Consent be granted
Representors:	<ul style="list-style-type: none"> • 245 The Parade, Beulah Park (to be heard) • 5 Dimboola Street, Beulah Park (not to be heard)
Applicant:	• 46 Nelson Street, Stepney

Report Number:	5712.4
Page:	48
Application Number:	180\0773\16
Applicant:	Proske Architects
Location:	145 Swaine Avenue, Toorak Gardens
Proposal:	Two-storey detached dwelling including garage, boundary wall and front fence
Recommendation:	Development Plan Consent be granted
Representors:	<ul style="list-style-type: none"> • 143 Swaine Avenue, Toorak Gardens (to be heard) • 128 Grant Avenue, Toorak Gardens (to be heard) • 143A Swaine Avenue, Toorak Gardens (to be heard)
Applicant:	• 26 Wakeham Street, Adelaide

6 DEVELOPMENT APPLICATIONS FOR CONSIDERATION – NO PERSONS TO BE HEARD

(A) NON-COMPLYING DEVELOPMENT APPLICATIONS (NO HEARING)

Report Number:	5712.5
Page:	66
Application Number:	180/0517/16
Applicant:	Troppo Architect

Location:	73 Tusmore Avenue, Tusmore
Proposal:	Demolition of existing dwelling, pool and pool house and construction of a tree-storey detached dwelling, pool and pool pavilion, tennis court fencing and new front fence
Recommendation:	Subject to concurrence from the Development Assessment Commission, that Development Plan Consent be granted

Report Number:	5712.6
Page:	78
Application Number:	180/0464/16
Applicant:	Precision Homes (Australia) Pty Ltd
Location:	46-50 Coach Road, Skye
Proposal:	Construction of a detached dwelling, garage, swimming pool, pool pavilion/gym, guest suite, fencing, retaining walls, associated earthworks and landscaping
Recommendation:	Subject to concurrence from the Development Assessment Commission, that Development Plan Consent be granted

(B) CATEGORY 3 DEVELOPMENT APPLICATIONS (NO HEARING)

Nil

(C) CATEGORY 2 DEVELOPMENT APPLICATIONS (NO HEARING)

Report Number:	5712.7
Page:	89
Application Number:	180\0674\16
Applicant:	Anthony Donato Architects
Location:	44 Howard Terrace, Hazelwood Park
Proposal:	Construction of a two-storey residential flat building containing two dwellings
Recommendation:	Development Plan Consent be granted

Report Number:	5712.8
Page:	92
Application Number:	180/0543/16
Applicant:	Architects Ink
Location:	6 Dulwich Avenue, Dulwich
Proposal:	Two-storey outbuilding comprising garage, rumpus and bathroom
Recommendation:	Development Plan Consent be granted

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

Report Number:	5712.9
Page:	95
Application Number:	180\0453\16
Applicant:	Masterplan
Location:	1 Fergusson Square, Toorak Gardens
Proposal:	Aluminium gates (two sets of swing gates and one sliding gate)

Recommendation:	Development Plan Consent be refused
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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 06 December 2016 (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 ADVICE PERTAINING TO 6 DULWICH AVENUE

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.

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DEVELOPMENT APPLICATION

Application Number:	<i>180\0571\16</i>
Applicant:	<i>R Davila and L Davila</i>
Location:	<i>321 Portrush Road, Toorak Gardens</i>
Proposal:	<i>Change of use from dwelling to office</i>
Zone/Policy Area:	<i>Historic Conservation Zone Historic Conservation Policy Area 6 – Toorak Gardens (North) Development Plan consolidated 28 April 2016</i>
Kind of Assessment:	<i>Non-complying</i>
Public Notification:	<i>Category 3 Three (3) representations received</i>
Appeal Opportunity	<i>Third party only, no Applicant appeal rights</i>
Referrals – Statutory:	<i>Department of Planning, Transport and Infrastructure</i>
Referrals – Non Statutory:	<i>Traffic Management Engineer</i>
Delegations Policy:	<i>Non-complying development</i>
Recommendation:	<i>Subject to concurrence from the Development Assessment Commission, that Development Plan Consent be granted</i>
Recommending Officer:	<i>James Moss</i>

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:

- Plans and supporting documents
- Delegated report to proceed with assessment
- External agency referral reports
- Internal agency referral reports
- Representations received
- Applicant’s response to representations
- Photographs

1. DESCRIPTION OF PROPOSAL

The applicant seeks Development Plan Consent for a change in the use of an existing property at the intersection of Portrush Road and Kensington Road, Toorak Gardens, from residential to office use.

The proposed land use will comprise bookkeeping and accounting business services trading as 'Red to Black'. Two offices will be provided within the existing single storey building, as well as a store room, meeting room, staff kitchen and bathroom facilities.

The development will provide on-site car parking facilities in the form of seven parking spaces within the southern portion of the allotment, to be accessed via an existing crossover to Portrush Road.

Red to Black employs five staff on a casual basis, however the number of people working from the site at any one time will vary from two to three people depending on peak periods throughout the year. Operating hours will be 9:00am to 6:00pm, Monday to Friday, with no business activity on weekends and public holidays.

2. BACKGROUND

Development Application 180\0571\16 was lodged on 30 June 2016 and determined to be a non-complying kind of development pursuant to Historic Conservation Zone Principle of Development Control 25 which states:

The following kinds of development are non-complying in the Historic Conservation Zone:

Office

Despite this non-complying classification, the proposal was deemed to have sufficient merit to warrant a full assessment, given the eclectic nature of land uses observed within the locality. The Team Leader – Planning subsequently determined to proceed with a full assessment of the application in accordance with Council's development delegations policy.

The development was determined to be a Category 3 development for the purposes of public notification pursuant to Section 38 (2) (c) of the *Development Act 1993*. During the period of public consultation Council received three written submissions from adjoining land owners, each expressing their opposition to the proposal and a desire to address the Development Assessment Panel (the Panel) in person.

The application was referred to Council's Engineering Services Department to assess traffic and vehicle manoeuvrability throughout the site. A statutory referral was also made to the Department of Planning, Transport and Infrastructure (DPTI) on account of the proposed access changes to Portrush Road.

A full assessment of the proposed development has now been undertaken, and the application is presented to the Development Assessment Panel (the Panel) for consideration as a non-complying development with a staff recommendation that Development Plan Consent be granted, subject to conditions.

3. SUBJECT LAND AND LOCALITY ATTRIBUTES

3.1. Subject Land

The subject land is an irregular shaped allotment located at the intersection between Portrush Road and Kensington Road, Toorak Gardens, located wholly within the Historic Conservation Zone (HCZ), at the northeast outer edge of Historic Conservation Policy Area 6 – Toorak Gardens (HCPA 6).

The land has an approximate area of 837 square metres, dual frontage to Portrush Road and Kensington Road and a large corner cut-off towards the northeast. The land is currently occupied by a three bedroom single storey detached dwelling, with off-street parking facilities in the rear yard and vehicle access from Portrush Road.

3.2. Locality

The locality comprises those properties on either side of Portrush Road and Kensington Road extending approximately 200 metres in each direction, based on a direct visual connection to the subject site. Properties on the northern side of Hewitt Avenue to the rear of the subject land as far west as Moore Street are also included.

The locality spans across two metropolitan council jurisdictions and several land use zones. The southwest quadrant comprises the outer limits of the City of Burnside HCZ, the southeast quadrant forms part of the Educational Zone of the City of Norwood, Payneham and St Peters and is occupied by Loreto College, while the northwest and north east quadrants, also within the neighbouring council are zoned Residential Character and Residential Historic.

Given the fragmented nature of the locality and influence on character imposed by the convergence of Portrush Road and Kensington Road, a broad range of land uses can be observed from residential development in the form of single storey detached interwar bungalows of varying heritage value to the south and west, to consulting rooms to the north and an educational establishment to the east.

4. KIND OF ASSESSMENT

Kind:	Non-complying
Reason:	Historic Conservation Zone Principle of Development Control 25
Applicant Appeal Opportunity:	No

5. PUBLIC NOTIFICATION

Category:	Category 3
Reason:	Development Act 1993 Section 38 (2) (c)
Representations Received:	<ul style="list-style-type: none"> • 105 Hewitt Avenue, Toorak Gardens (wish to be heard) • 136 Kensington Road, Toorak Gardens (wish to be heard) • 138 Kensington Road, Toorak Gardens (wish to be heard)
Third Party Appeal Opportunity:	Yes

- 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

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

7. EXECUTIVE SUMMARY

7.1. Land Use

The Historic Conservation Zone reflects the historic residential development of the City of Burnside, containing a variety of buildings including State Heritage Places, Local Heritage Places items which are identified as contributing to the character of the zone (Contributory Items).

Aside from the non-complying land use listing under Principle of Development Control 25, the zone is silent on non-residential land uses. Instead, the policy focus appears directly preoccupied with the physical form of the historic housing stock itself, seeking to preserve those buildings that contribute to the historic character and to ensure new buildings are sympathetically designed.

Looking beyond the zone provisions, the Development Plan speaks more broadly of a rational distribution and arrangement of land uses, the provision of employment opportunities throughout the City of Burnside and the coordination of development with that in surrounding Council areas.

The subject land is located at the outer edge of the zone on the border between the City of Burnside and the City of Norwood, Payneham and St Peters. The character of the locality is influenced by the presence of non-residential activities directly north and east of the subject land within Norwood, Payneham and St Peters Council, as well as pockets of commercial activity further along Portrush Road and Kensington Road in all directions.

In this broader sense the proposal is considered to be a suitable land use outcome for the subject land and locality based on the location of the site and its interaction with adjacent non-residential land uses. On these grounds the proposed land use is not considered seriously at variance with the Development Plan as a whole.

7.2. Character and Amenity

The proposal is viewed to have no adverse impact on the character of the locality, given that there will be no alteration of the existing building on the land and the scale, intensity and operating hours of the proposed office use is such that the enjoyment of adjacent land would not be compromised.

The subject land is located at a busy intersection between two main arterial roads. Portrush Road in particular is subject to heavy vehicle traffic movements throughout the day, generating adverse noise, fume and odour impacts throughout the locality on a regular basis. Solid front fencing utilised to reduce amenity impacts on the occupants of the subject land already restricts the extent to which on site activities are observable within the locality.

The nature and intensity of the business itself, being a small scale bookkeeping enterprise requiring a maximum of only three staff on site at any one time, suggests external impacts on both the streetscape and the neighbouring properties to the south and west are within

reason, as such a land use is typically not associated with excesses in noise, fumes, odours or other negative qualities or factors.

The proposed hours of operation do not extend beyond regular business hours and therefore will not impose adverse impacts on neighbouring properties during early periods of the morning, late periods of the evening or on weekends and public holidays. Furthermore, the applicant seeks to retain all existing landscaping and fencing structures across the site, which ensures minimal disturbance of adjoining residents during the establishment of the proposed land use.

7.3. Public Notification

The proposal was determined to be a Category 3 development due to being an unlisted form of development in either the Burnside (City) Development Plan or Schedule 9 of the *Development Regulations 2008*.

Council received three representations during the public consultation period, all of which expressed an opposition to the proposal and a desire to be heard by the Panel in support of their written submission. Concerns focused primarily on issues of character and amenity derived from the change away from the established residential land use.

With regard to the matter of land use, it should be noted that the primary characteristic of the HCZ is the preservation of streetscape character through the retention of buildings and structures that reflect the historic development of the City of Burnside.

Unlike several adjacent properties to the south and west, the existing dwelling is not identified by the Development Plan as a Contributory Item, nor it is a Local or State heritage place. Regardless of this fact, the proposal in no way seeks to alter the external appearance of the building, but rather to retrofit the internal space to provide a more economically viable alternative for the land while maintaining the existing built form, scale and density.

As suggested above, Council is also satisfied that the nature and scale of the proposed land use will not generate external impacts with the potential to adversely affect neighbouring residences to any significant degree. Should the applicant seek to increase the number of staff operating from the land, alter or supersede the nature of the proposed business to any significant degree, further authorisation would be required from Council and such changes would be then be assessed on their individual merits.

The applicant was provided with a copy of the representations and has responded with additional planning evidence prepared by URPS to accompany the application. Council is satisfied the response appropriately addresses the matters raised through the public consultation process.

7.4. Agency Referrals

As part of the assessment process, Council sought advice from Engineering Services to determine whether the nature and configuration of on-site car parking would be sufficient to accommodate orderly functioning of the proposed land use without impacting on the broader locality.

Provided the number of staff on site is restricted to three people, and provided a section of landscaping is removed to facilitate greater vehicle movements, Council's traffic engineer is satisfied with the proposal. In light of this assessment, City Development and Safety

has deemed fit to introduce a condition of approval restricting the number of staff accordingly (see Condition 4).

The proposal was also referred to DPTI on account of the applicant's intention to alter the existing vehicle access to Portrush Road, a primary arterial road. The retention of the existing access crossover is supported, however it has been recommended that the existing access be extended to no less than 6 metres in width with gates set in from the road boundary to ensure a car can store completely off the road. This would in fact be an improvement to the existing arrangement.

DPTI have also requested various changes to the proposed car parking layout, such as the removal of the stacked parking arrangement and reconfiguration of the remaining spaces. Such matters will need to be addressed by the applicant as reserved matters should the Panel see fit to approve the development. Provided these matters are addressed prior to full development approval being granted, DPTI do not object to the proposal.

7.5. 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\0571\16 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 hours of operation of the premises for the office shall be limited to the following times:
 - 9:00am to 6:00pm Monday to Friday

Reason:

To ensure the development does not unduly diminish the enjoyment of other land in the vicinity.

- 3 All vehicles are to enter and exit the site in a forward direction.

Reason:

To minimise impacts on the free flow of traffic along Portrush Road

- 4 No more than three (3) staff shall operate out of the subject land at any one time.

Reason:

To ensure adequate off-street car parking is provided in accordance with the scale and intensity of the approved land use.

5 **Reserved Matters**

- 1 That pursuant to Section 33(3) of the *Development Act 1993*, the applicant shall submit detailed proposals for the following reserved matters requiring further assessment by the City of Burnside, prior to Development Approval of the application:
- 1.1 All gates shall be setback sufficiently to provide adequate area for a car to store completely on site prior to the gates being opened/closed.
 - 1.2 The Portrush Road access shall be a minimum of 6.0 metres wide at the property boundary with suitable flaring to minimise the disruption to the free flow of traffic.
 - 1.2 All parking shall be designed in accordance with AS/NZS 2890.1:2004 and AS/NZS 2890.6:2009.
 - 1.3 No stormwater from this development is permitted to discharge on-surface to Portrush Road. In addition, any existing drainage of the road shall be accommodated by the development and any alterations to road drainage infrastructure as a result of this development shall be at the expense of the developer.
 - 1.4 The car park shall be modified as follows in order to minimise the potential for conflict adjacent Portrush Road and to ensure that all vehicles exit the site in a forward motion:
 - Car parking spaces 1 and 2 shall be removed;
 - Car parking spaces 3 and 4 shall be general parking; and
 - Car parking spaces 5 and 6 shall be converted to a disabled space and shared area respectively.
 - The section of landscaping running parallel to the western side boundary located 2 metres from the southern rear boundary and extending 5.8 metres to the north shall be removed.

6 **DPTI Requirements**

- 1 The Portrush Road access shall be a minimum of 6.0 metres wide at the property boundary with suitable flaring to minimise the disruption to the free flow of traffic.
- 2 All gates shall be setback sufficiently to provide adequate area for a car to store completely on site prior to the gates being opened/closed.
- 3 All vehicles shall enter and exit the site in a forward direction.
- 4 The car park shall be modified as follows in order to minimise the potential for conflict adjacent Portrush Road and to ensure that all vehicles exit the site in a forward motion:
 - Car parking spaces 1 and 2 shall be removed;
 - Car parking spaces 3 and 4 shall be general parking; and
 - Car parking spaces 5 and 6 shall be converted to a disabled space and shared area respectively.
- 5 All parking shall be designed in accordance with AS/NZS 2890.1:2004 and AS/NZS

2890.6:2009.

- 6 No stormwater from this development is permitted to discharge on-surface to Portrush Road. In addition, any existing drainage of the road shall be accommodated by the development and any alterations to road drainage infrastructure as a result of this development shall be at the expense of the developer.
- 7 All signs shall be finished in a material of low reflectivity to minimise the risk of sun/headlamp glare that may dazzle or distract motorists.
- 8 The utilisation of Trailer Mounted Variable Message Displays for advertising purposes shall not be permitted on or adjacent to the subject land.

Advisory Notes

1 Road Widening

The Metropolitan Adelaide Road Widening Plan shows a possible requirement for strips of land up to 4.5 metres in width from both the Kensington Road and Portrush Road frontages of this site together with additional land at the Portrush Road / Kensington Road corner for future upgrading of the Portrush Road / Kensington Road intersection. The consent of the Commissioner of Highways under the Metropolitan Adelaide Road Widening Plan Act is required to all building works on or within 6.0 metres of the possible requirement.

Given there are no significant building works or structural alterations being undertaken as part of this development, consent is not required in this instance.

RECOMMENDING OFFICER

James Moss
Development Officer – Planning

AERIAL LOCALITY MAP



Legend

-  Subject Land
-  Representor's Land

APPENDIX 2

DETAILED PLANNING ASSESSMENT

Summary of Policy Area Objectives and Principles

Primary Historic Conservation Policy Area 6 Objectives:

Established Historic Character

Toorak [Gardens] subdivision was laid out in Section 275 within the eastern half of the Prescott Farm which ran through to Rose Park. It was initially divided into large blocks in 1909, which established the street pattern and the roads between Prescott Terrace and Portrush Road, north of Swaine Avenue to Kensington Road. The first subdivision of the areas within the blocks was undertaken in 1912. The area was popular with architects and several designed their own homes in Toorak Gardens.

The Established Historic Character of Historic Conservation Policy Area 6 – Toorak Gardens (North) derives from:

- (a) the large number of residences, dating from the period of original subdivision in 1909-1912, and which are characterised by generally large single storey detached dwellings constructed in stone or brick with large simple roof planes and broad eaves;*
- (b) the residential architectural style which is predominantly Tudor Revival, Californian Bungalow or Old English sources, where most residences are fine examples of interwar domestic architecture with matching outbuildings;*
- (c) residences located on large, wide, allotments;*
- (d) the built form, materials and design of dwellings which gives evidence to the development controls which prevailed at the time of original subdivision;*
- (e) the consistent scale and setback of the major residences;*
- (f) the mature gardens and high hedging to many houses;*
- (g) the mature street trees and nature strip planting which create a leafy landscaped ambience across the area.*

Objective 1:

Development that conserves and enhances the Established Historic Character.

Objective 2:

Development accommodating detached dwellings on large allotments.

Objective 3:

Maintenance and enhancement of the low scale, low density residential character.

Subject: DP Ref	Assessment:
Land Use O 1-3	Partially satisfied. <ul style="list-style-type: none"> • The policy area generally envisages residential development and the preservation of items of heritage value, but is silent on non-residential uses. • The historic character of the policy area is derived primarily from the physical environment comprised of specific housing stock, allotment patterns, configuration, block size and landscape features.

	<ul style="list-style-type: none">• The office land use is not consistent with the desired residential use of the land, but would be largely imperceptible within the locality due to the small scale and benign nature of business activities proposed.• The proposal seeks to preserve the existing (non-heritage) dwelling without any external alteration, maintaining its appearance as a detached dwelling of low scale and density.• The proposed land use is not anticipated to have any detrimental impact on the established built form character of the policy area, nor is it anticipated to detract from the contribution provided by adjacent heritage buildings.
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Summary of Zone Objectives and Principles

Primary Historic Conservation Zone Objectives:

Objective 1:

The conservation and enhancement of the historic character of the relevant Policy Area.

Objective 2:

The retention and conservation of land, buildings, outbuildings, structures, and landscape elements that contribute positively to the established historic character of a Policy Area.

Objective 3:

Development accommodating those housing types which are compatible with the historic character of the zone.

Objective 4:

Development which conserves and enhances the historic character of the relevant Policy Areas of the zone, in terms of:

- (a) *overall and detailed design of buildings;*
- (b) *dwelling type and overall form;*
- (c) *allotment dimensions and proportions;*
- (d) *placement of buildings on the allotment and alignment to the street;*
- (e) *layout of the site and the type and height of fencing;*
- (f) *streetscapes, verge treatment and street planting; and*
- (g) *curtilages and garden areas.*

Objective 5:

A zone where the majority of the existing housing stock is maintained through the retention of items which contribute positively to the character of the Policy Areas, and the number of dwellings is increased primarily through:

- (a) *the replacement of dwellings that are not identified as contributory items, and*
- (b) *the appropriate development of vacant sites.*

Subject:	Assessment:
DP Ref	
Zoning and Land Use O 1-5 PDC 1	Partially satisfied. <ul style="list-style-type: none"> • See policy area comments.
General PDC 1-5	Partially satisfied. <ul style="list-style-type: none"> • See policy area comments.

Summary of Council Wide Objectives and Principles

Primary Council Wide Development Objectives:

Objective 4:

Provision and maintenance of employment opportunities.

Objective 7:

Coordination of development with that in surrounding Council areas.

Objective 8:

A rational distribution and arrangement of land uses to avoid incompatibility between activities, and permit efficient use of land within the metropolitan area.

Objective 20:

The amenity of localities not impaired by the appearance of land, buildings and objects, or by noise, light, emissions, traffic or any other quality, condition or factor.

Objective 55:

Safe, pleasant, accessible and convenient residential areas.

Objective 74:

Community facilities and services conveniently located and designed to meet existing and future needs and minimise adverse effects on residential amenity.

Subject:	Assessment:
DP Ref	
Zoning and Land Use O 4, 7, 8, 20, 55 and 74	Satisfied. <ul style="list-style-type: none"> The proposal provides employment opportunities within the City of Burnside by establishing a small scale business employing as many as two additional staff. The proposed land use is compatible in scale and nature with the use of adjacent land to the north (consulting rooms) and east (educational establishment) of the subject land. The proposed land use is well positioned along two public transport routes and on the outer edge of the established residential area.
Amenity O20 PDC 52	Satisfied. <ul style="list-style-type: none"> The proposed land use does not impact the general appearance of the existing residence. The nature of the proposed land use is one not commonly associated with the emission of noise, vibration, odour, fumes, smoke, or other detrimental conditions or factors. Comprised of just three staff operating during regular business hours, the proposed land use is considered small in scale and benign in nature. Existing and proposed landscaping around the allotment curtilage will further ensure amenity impacts are within reason.
Movement and Parking of Vehicles O29, 35 PDC 94, 95, 96, 107, 108, 109, 111	Satisfied. <ul style="list-style-type: none"> Traffic generation is anticipated to be minor and acceptable, given the scale and nature of the proposed land use. The proposal utilises a single existing vehicle access to Portrush Road, which has been deemed suitable for purpose by DPTI and

	<p>Council's own traffic engineers, subject to modest alterations.</p> <ul style="list-style-type: none">• The proposal includes off-street car parking to the rear (south) of the existing building, which has also been deemed acceptable by DPTI and Council's traffic engineer, subject to modest changes.
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DEVELOPMENT APPLICATION

Application Number:	180\0520\16
Applicant:	H Ratsch
Location:	362 Portrush Road, Tusmore SA 5065
Proposal:	Alterations and additions to existing child care centre and increase in capacity from 60 to 100 children
Zone/Policy Area:	Historic Conservation Zone Historic Conservation Policy Area 5 – Tusmore Development Plan consolidated 28 April 2016
Kind of Assessment:	Merit
Public Notification:	Category 3 Two (2) representations received
Appeal Opportunity	Applicant and third party appeal rights
Referrals – Non Statutory:	Traffic Management Engineer
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:

- Plans and supporting documents
- Internal agency referral reports
- Representations received
- Applicant's response to representations
- Photographs

1. DESCRIPTION OF PROPOSAL

The applicant seeks Development Plan Consent to undertake alterations and additions to the existing Burnside Child Care Centre located at 362 Portrush Road, Tusmore, including:

- Construction of single-storey alterations and additions comprising 120.55 square metres of additional floor area;
- Reconfiguration of, and increase to the provision of on-site parking from 14 to 27 parking spaces;
- Increase to the number of places for children from 60 to 100 places.

Other minor works included in the application comprise the cladding of an existing pergola with polycarbonate roof sheeting and modification to the width of entrance gates and fencing along Stirling Street to improve pedestrian sightlines.

2. BACKGROUND

The Burnside Child Care Centre was first established at 362 Portrush Road, Tusmore in 1993 after the Environment, Resources and Development Court overturned the Council's decision to refuse Development Application 180\00360\93\DF for a "*Pre-school with associated landscaping and parking*".

Subsequent to that approval, Development Application 180\01217\94\C3 was submitted in 1994 seeking an increase in child number from 50 to 60 places and granted Development Approval by the Council.

Development Application 180\0520\16, was lodged on 14 July 2016 by H Ratsch, care of Access Planning Pty Ltd on behalf of the registered owner of the land Otama Nominees Pty Ltd and N Ratsch.

The proposal was determined to be a Category 3 development pursuant to the *Development Act 1993*, section 38(2)(c) to be assessed on *merit* in accordance with the relevant objectives and principles of development control contained within the Burnside (City) Development Plan, consolidated 28 April 2016.

Public consultation was carried out in August 2016, during which time Council received written submissions from two (2) adjoining land owners, each whom oppose the development and expressed a desire to appear in person before the Development Assessment Panel (the Panel) in support of their submissions. Copies of the Statement of Representation submitted by the third parties were provided to the Applicant, who responded on 31 October 2016 through Access Planning Pty Ltd.

As part of Council's internal assessment process, the proposal was referred to Council's Traffic Engineer for an assessment of the impact of development on local roads and infrastructure. Council's Heritage Advisor was also consulted with respect to the various additions proposed around the existing building which is identified in Fig HCPA/5 as a Contributory Item.

An assessment against the Development Plan has now been completed and, pursuant to Council's Delegation Policy, the application is presented to the Panel for consideration as a Category 3 development with third party representations that have expressed a desire to be heard by the Panel.

3. SUBJECT LAND AND LOCALITY ATTRIBUTES

3.1. Subject Land

The subject land is a regular shaped allotment measuring approximately 2,725m² in area, with primary frontage to Portrush Road measuring 42m and secondary frontage to Stirling Street measuring 56m. The land is located within the suburb of Tusmore and is wholly contained within Historic Conservation Policy Area 5 – Tusmore.

The land is currently occupied by a circa 1930's Inter-War Bungalow that has been converted to a child care centre. Various improvements are found on the land including storage sheds and children's play areas.

Site access is achieved via the existing crossover on Stirling Street with egress occurring onto Portrush Road. The access and egress arrangement facilitate on-way movement through the existing car park which accommodates spaces for 14 vehicles.

3.2. Locality

The locality is comprised of the subject land and surrounding properties with frontage to Stirling Street as far east as numbers 4 and 5 and the adjoining properties fronting Portrush Road. The locality is situated wholly within Historic Conservation Policy Area 5 – Tusmore of the Burnside (City) Development Plan.

The demarcation of the locality encompasses those properties that share a common line of sight with the subject land and those that may observe impacts associated with noise and/or vehicular movements generated by the proposed development.

Notable features of the locality include the generally high quality housing stock set on medium density allotments, established and well-maintained front gardens and tree lined local streetscapes. The frequent and heavy traffic movements along Portrush Road heavily influence the amenity of the locality, particularly during the peak traffic periods where noise from traffic elevates the ambient noise level within the locality.

4. KIND OF ASSESSMENT

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

5. PUBLIC NOTIFICATION

Category:	Category 3
Reason:	<i>Development Act 1993, section 38(2)(c)</i>
Cut / Fill:	N/A
Representations Received:	<ul style="list-style-type: none"> • 352 Portrush Road, Tusmore (wish to be heard) • 3 Stirling Street, Tusmore (wish to be heard)
Third Party Appeal Opportunity:	Yes

- 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 subject land is contained within the Historic Conservation Zone which is described by the Burnside (City) Development Plan as having streetscapes that contain buildings of historic value together with landscape elements that contribute positively to the established historic character of each of the nine (9) policy areas.

The establishment of, or alteration to, an existing a pre-school is neither listed as *complying* or *non-complying* development within the Historic Conservation Zone thereby prompting as assessment on *merit* against the relevant provisions contained within the Burnside (City) Development Plan pursuant to the *Development Act 1993*, section 35(5).

Observations of the subject land and locality, which are wholly contained within HCPA5, find streetscapes of high residential amenity with good quality housing stock, maintained front gardens and wide tree lined verges. Within the broader locale of HCPA5, other non-residential land uses include the Burnside City Uniting Church, The Freemasons, the Australian-Asian Community Church and the Glenside Lions Club Bookmart which is housed in the Gilbert Wood Scout Hall adjacent Tusmore Park.

Community and commercial activities that service the surrounding residential streets are located to the south of the locality in the nearby District Centre Zone which contains the City of Burnside Civic Centre, Burnside Village Shopping Centre and a large score of other retail and business activities.

There is a total of nine (9) existing child care centres within the City of Burnside LGA boundary that operate at the following addresses:

Name	Address	Places	Zone	Est.
Burnside Child Care	362 Portrush Road, Tusmore	60	HCZ	1994
Conyngnam Street Child Care Centre	34 Conyngnam Street, Glenside	73	R	1995
Children's Education Care Centre (SA)	531-533 Glynburn Road, Hazelwood Park	69	LCE	2002
Adelaide Eastern Community Childcare Centre	22 Watson Avenue, Rose Park	59	HCZ	1970
Goodstart Early Learning Linden Park	418 Portrush Road, Linden Park	37	R	1994
The Early Years at Seymour	546 Portrush Road, Glen Osmond	120	CU	1922
Victoria Park Child Care	163 Fullarton Road, Rose Park	45	UC	-
Wendy's Early Learning Centre	3 Prescott Terrace, Rose Park	35	HCZ	-
St Peter's Collegiate Girls' School Early Learning Centre	32 Hallett Road, Stonyfell	120	CU	1957

The applicant seeks to increase the number of child places from 60 to 100 which, compared to other existing child care centres within the Council area is of a moderate scale. Having considered the context of the site and locality which includes non-residential activity, including the existing Burnside Child Care Centre which has been in operation for more than 20 years, the proposed development is considered to be of a nature and scale that can coexist with residential development in an appropriate manner. External impacts such as traffic movements and noise, which will be covered in greater detail below, are to appropriately managed so as to not unreasonably impact the level of amenity currently enjoyed by land within the vicinity of the development.

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

7.2. Character and Amenity

Built Form Character

The Historic Conservation Zone states that development should conserve and enhance the historic character of the relevant policy area. In this instance, the subject land is wholly contained within HCPA5 which derives its character from the repetitious and consistent concentration of Californian Bungalows and Tudor Revival style residences, predominantly constructed during the Inter-War period of the early 20th Century.

With respect to the proposed additions to the existing building, the works are sited to the side, and/or rear with minimal streetscape incursion to Portrush Road and no incursion to the historic streetscape of Stirling Street. The existing building is identified as being a Contributory Item in Fig Bur HCPA/5 so it is important that the additions conserve and enhance the important architectural features of the existing building. In that regard, the additions have been appropriately designed and include floor to ceiling heights, roof forms and external palette of materials that complement the existing building.

Council's Heritage Advisor was tasked with the duty of reviewing the proposed additions and has determined them to be an appropriate built form outcome that maintains the historic built form integrity of the existing building and ensuring its adaptive reuse is further enhanced.

Traffic Movements

Stirling Street is a local collector road with a carriageway measuring approximately 9.1 metres wide (kerb to kerb). The Council road reserve one each side of the street measures approximately 4.5m wide inclusive of the public footpath and landscaped road reserve.

The *Austrroads 2010* standard for a two-lane local road with parking on both sides is 8.0m from kerb to kerb. Accordingly, Stirling Street accords with the relevant standard so as to accommodate two-way vehicular movements and on-street parking.

Being a local collector road, the accepted maximum number of vehicle movements per day (vpd) to travel along Stirling Street is 1,500vpd. The existing number of vpd recorded along Stirling Street is 1,423vpd.

The Traffic Impact Assessment prepared by Ms Melissa Mellen of MFY observes that the proposed increase in child numbers from 60 to 100 children would result in 16 additional trips during the morning set-down period (7:00-9:00am) and 14 additional trips during the afternoon pick-up period (4:00 – 6:00pm). This means that inclusive of the additional

traffic movements generated by this proposal, the number of vehicles movements sits below the 1,500vpd threshold for a local collector road.

Consideration has also been given the potential for other developments within the locality, such as increased residential density through land division, to compound traffic movements thereby causing future congestion and tipping the number of vehicle movements along Stirling Street over the 1,500vpd threshold. Within HCPA5, opportunities for in-fill housing are limited, if not completely unachievable. This is due to the high concentration of Contributory Items and distinct lack of available land with sufficient site area to achieve the requirements for land division prescribed by the policy area. In addition, the Historic Character Statement for HCPA5 distinctly references the original grid pattern of allotments that provide regularity and consistency within the subdivision and as such, a proposal for land division that would disrupt that pattern would be at odds with that historic character.

An existing and commendable design component of the child care centre that will remain unchanged is the one-way vehicular movements through the Stirling Street access and Portrush Road egress. This ensures that no additional strain is placed on the intersection of Stirling Street and Portrush Road that could contribute to longer queuing times for local residents exiting Stirling Street onto Portrush Road.

On that basis, it is determined that the proposed development will not have an adverse impact on the residential amenity to the residents along Stirling Street as a direct result of the increased number of vehicle movements.

Car Parking

The provision of adequate on-site car parking is a critical component of this application as additional 'spill' of vehicles onto Stirling Street would likely to have a detrimental impact to the amenity of adjoining residents due to increased activity within the street.

The number of on-site parking spaces provided by the development is set to increase from 14 to 27 spaces which include 6 bays dedicated to staff. Within the Burnside (City) Development Plan, Table Bur/5 sets the on-site parking rate for a pre-school (determined to be the same as a child care centre in Schedule 1 of the *Development Regulations 2008*) as follows:

"1 space per staff member, plus not less than four spaces and an additional 0.15 spaces for each child to be accommodated on the site in excess of 25 children, for visitors and service vehicles."

The development proposes a maximum capacity of 100 children with 12 staff. Having applied the calculations required in Table Bur/5 the child care centre would need to provide 27.25 parking spaces on-site. The proposal therefore represents a departure from the requirements of the Development Plan, falling short by 0.25 spaces.

The shortfall in number for on-site parking is not likely to manifest unreasonable external impacts such as increased on-street parking or circulation issues within Stirling Street and is therefore determined to be minor and acceptable. As an additional precaution, this recommendation includes a condition that limits staff numbers to 12 to ensure that on-site parking provisions continues to generally accord with the requirements of Table Bur/5.

Noise

The operation of the child care centre is such that outdoor play is structured in a manner so that various age groups of children are not all participating in outdoor play at the same

time. In essence, it should not be assumed that the existing number of 60 children, plus the additional 40 children will all be playing outdoors at the same times during the day. In a practical sense, smaller groups of children will be participating in supervised outdoor play at various stages throughout the hours of operation.

Strictly speaking, the *Environmental Protection (Noise) Policy 2007* (EPP) does not apply to child care centres and as such, other factors should be taken into account in determining whether predicted noise levels are acceptable, such as:

1. The level of the noise
2. How long the noise occurs and the time of day
3. Whether the noise is predictable
4. Familiarity with noise and its purpose
5. The history of the area in which the person is affected and the noise is located
6. The existing ambient noise level
7. The land uses existing in the vicinity of the noise source

Having considered the above points, the following site and locality specific factors are relevant to the determination of whether noise emissions under this proposal are appropriate:

1. The additional child numbers will not likely increase current noise emissions due to the structured nature of supervised outdoor play and relatively minor increase in number to each group when are apportioned to each age group;
2. The noise will occur during the existing and approved hours of operation;
3. Noise from children would not likely be predictable but can be controlled by staff who are supervising outdoor play;
4. The Burnside Child Care Centre was first established in 1994 meaning the noise source has been part of the local amenity for 22 years;
5. Ambient noise levels are higher than other parts of HCPA5 due to its proximity to the National Trade route of Portrush Road which carries a high volume of heavy vehicles at all times of the day; and
6. The subject land is adjoined by residential land uses on low density allotments.

It is therefore determined that with respect to noise emissions, the proposed development satisfies the relevant tests to be applied by the Burnside (City) Development Plan and considerations determined by the ERD Court to constitute a good planning assessment.

7.3. Site Functionality

The points of vehicular access and egress remain unchanged by this proposal with access being obtained from Stirling Street and egress onto Portrush Road. Internal carriageways and manoeuvring areas comply with the relevant Australian Standard thereby facilitating safe traffic movements on-site and forward gear movements onto Portrush Road.

Children's play areas have access to northern sunlight with portions of the outdoor play areas being providing with cover and shade. The area is appropriately secured from public roads ensuring child safety.

Bin enclosures have been accounted for and are suitably located so as to reduce the impacts of smells and odours impacting adjoining properties and be shielded from view within the streetscape.

7.4. Public Notification

The application has been processed as a Category 3 application with an advertisement being placed in The Advertiser inviting broad public comment in addition to direct mail being sent to 10 adjoining land owners and occupiers.

Upon the closure of the consultation period, 2 written submissions were submitted by 1 adjoining land owner (3 Stirling Street) and land owners located within the vicinity of the subject land (352 Portrush Road), both whom oppose the development and expressed a desire to be heard by the Panel in support of their written submission. The primary issues of concern can be summarised as follows:

- Adequacy of the provision of on-site car parking for staff and parents;
- Pedestrian and driver safety along Stirling Street and Portrush Road;
- Noise emissions (children and vehicles); and
- Impact on the value of the Historic Conservation Zone and property values.

The applicant has responded to the representations through a submission prepared on their behalf by Access Planning. Their response can be summarised as follows:

- Advice from MFY has determined that a lower rate of on-site parking may be more appropriate than the 27 spaces provided. Nonetheless, on-site parking as shown on the plans meet the requirements of Table Bur/5 of the Burnside (City) Development Plan
- Safety to pedestrians and road users will be improved due to the increased width of the Stirling Street vehicle access thereby improving sightlines. Movements are split between two separate points of access and egress.
- Noise from children will be occasional and brief in duration during daytime periods and can be reasonably expected within the locality.

Council is satisfied that the applicants response appropriately responds to the concerns raised by the representors insofar as they are to be determined under the *Development Act 1993*.

7.5. Internal Referrals

Although no statutory referrals were required under Section 37 of the *Development Act 1993*, Council did seek internal advice from Council's Technical Officer to assist in determining the suitability of the development against certain provisions of the Development Plan concerning impact to the local road network reserve.

Council is satisfied that all matters arising through this process have been addressed and resolved with no objections being raised by Council's Technical Officer.

The application was also referred to Council's Heritage Advisor for a review of the architectural form of the proposed additions to the existing building. The heritage Advisor is supportive of the application in that regard and is encouraged by the ongoing adaptive reuse of a building that is identified as a Contributory Item.

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\0520\16, by H Ratsch, 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 hours of operation of the Child Care Centre shall be limited to the following times:
 - 7am to 6pm Monday to Friday

Reason:

To ensure the development does not unduly diminish the enjoyment of other land in the vicinity.

- 3 The childcare centre shall have places available for a maximum number of 100 children per day.

Reason:

- 4 The child care centre shall have not more than 12 staff on-site during the approved operating hours.

Reason:

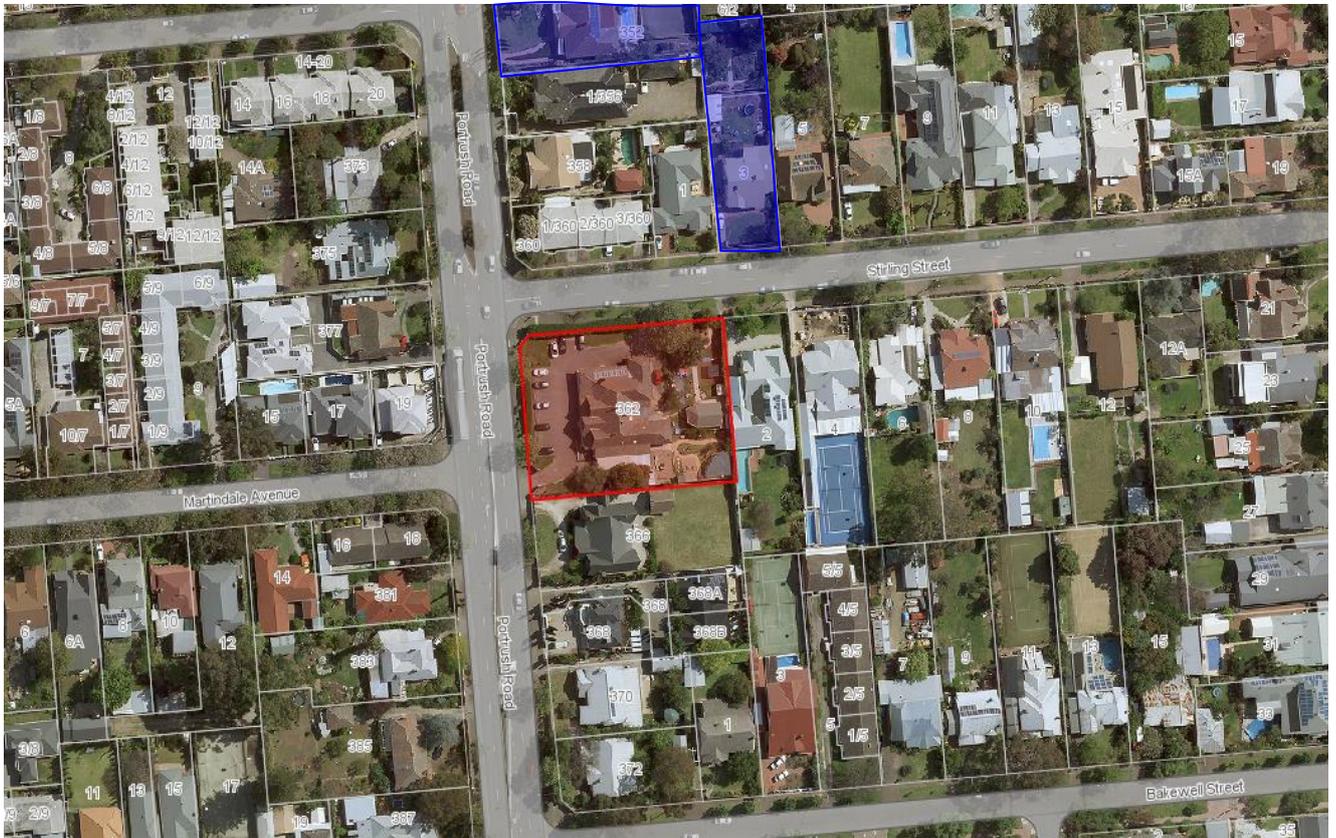
To ensure the childcare centre is maintained to a reasonable scale and that on-site parking provisions remain of an adequate provision.

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 Historic Conservation Policy Area 5 – Tusmore Objectives:

Established Historic Character

Tusmore is one of the main early 20th Century suburbs in Burnside and the consistent and repetitive qualities of the design of the residential development reflect the original subdivision pattern and the house styles of the era. Tusmore (in Section 291) was originally a farm. William Rogers took out a lease of this section from the South Australian Company which his family held until 1889, when the lease was taken over by Edward Treacy, a dairyman. The South Australian Company proceeded to subdivide and sell most of the Section in 1913, 1919 and 1920. Treacy retained two of the large allotments and subsequently created Treacy Street after 1924. The Burnside Council Offices and Town Hall are constructed on Allotment 5 in the south west corner of this Section.

Tusmore is characterized by a high concentration of Californian Bungalows and Tudor Revival style residences, mostly constructed during the late 1920s and early 1930s. Tusmore is one of the most intact and representative residential areas in the whole Adelaide region. It is a consistent suburb of Bungalows and Tudors, with few intrusive elements apart from later 1930s-1940s residences. The street planting also represents the town planning fashions of the time, with jacarandas, ashes and some flowering gums replacing oaks, elms and plane trees common in earlier subdivisions.

The Established Historic Character of Historic Conservation Policy Area 5 – Tusmore derives from:

- (a) the repetition and consistency of detached, single-storeyed, interwar houses, generally of Tudor Revival or Californian Bungalow design, of similar scale, siting, design and appearance, as well as some later 1930-40s houses which are of similar quality and do not detract from the dominant architectural style of the subdivision;*
- (b) the grid pattern and house allotment size providing a regularity, and consistency within the subdivision;*
- (c) the consistent set back of residences from the front property boundaries;*
- (d) the consistent rows of Bungalows with similar roof and verandah form and detail, such as in sections of Brandreth, Barr Smith, Hyde and Lynington Streets;*
- (e) in some streets, a predominance of high gabled roofs specifically associated with the Tudor style, and which are particularly striking when positioned in identical locations on building blocks and when part of a long run of identical houses such as in Kennaway Street and Burke Street;*
- (f) the established street trees, generally mature Jacaranda or Ash trees, and the grassed verges;*
- (g) the consistent low fences and well planted gardens which provide a green environment in this suburb as a setting for the intactness of the houses within the subdivision. Acknowledged, high, solid fences have been constructed to many houses along Portrush Road, nevertheless, the contributory nature of the residences is still intact.*

Objective 1:

Development that conserves and enhances the Established Historic Character.

Objective 2:

Development accommodating detached dwellings on large allotments.

Objective 3:

Maintenance and enhancement of the low scale, low density residential character.

Subject: DP Ref	Assessment:
Desired Land Use O 1	Satisfied. Although not being overtly advocated by the policy area, child care centres are a type of land use to be considered on merit within the HCZ and its sub policy areas. The Burnside Child Care Centre is an established land use sharing more than 20 years of history with the local

	area. The increased child capacity will enable the continued use of the centre with an acceptable level of impact to the locality.
Local Compatibility PDC 1	Satisfied. The proposed additions to the existing building complement its architectural style and are supported by Council's Heritage Advisor.

Summary of Historic Conservation Zone Objectives and Principles

Primary Historic Conservation Zone Objectives:

Objective 1:

The conservation and enhancement of the historic character of the relevant Policy Area.

Objective 2:

The retention and conservation of land, buildings, outbuildings, structures, and landscape elements that contribute positively to the established historic character of a Policy Area.

Objective 3:

Development accommodating those housing types which are compatible with the historic character of the zone.

Objective 4:

Development which conserves and enhances the historic character of the relevant Policy Areas of the zone, in terms of:

- (a) overall and detailed design of buildings;*
- (b) dwelling type and overall form;*
- (c) allotment dimensions and proportions;*
- (d) placement of buildings on the allotment and alignment to the street;*
- (e) layout of the site and the type and height of fencing;*
- (f) streetscapes, verge treatment and street planting; and*
- (g) curtilages and garden areas.*

Objective 5:

A zone where the majority of the existing housing stock is maintained through the retention of items which contribute positively to the character of the Policy Areas, and the number of dwellings is increased primarily through:

- (a) the replacement of dwellings that are not identified as contributory items, and*
- (b) the appropriate development of vacant sites.*

Subject:	Assessment:
DP Ref	
General O 1-5 PDC 1-5	Satisfied. Refer to Policy Area comments.
Appearance of Land and Buildings PDC 6-15	Satisfied.
Alterations and Additions PDC 16-18	Satisfied. Refer to Policy Area comments.

Summary of Council Wide Objectives and Principles

Primary Residential Development Objectives:

Objective 2:

Provision of facilities required for the accommodation, transport, recreation, health and welfare of the community, including the aged or disabled.

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 20:

The amenity of localities not impaired by the appearance of land, buildings and objects, or by noise, light, emissions, traffic or any other quality, condition or factor.

Objective 58:

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

Subject:	Assessment:
DP Ref	
Zoning and Land Use O 52-60	Satisfied.
Design and Appearance O 11 PDC 14-18, 23-28	Satisfied.
Noise PDC 61-64	Satisfied.
Movement of Parking and Vehicles O 32, 33 & 35 PDC 93-115	Satisfied.

DEVELOPMENT APPLICATION

Application Number:	180\0733\16
Applicant:	<i>Carlo Dottore & Partners Architects</i>
Location:	<i>247 The Parade, Beulah Park</i>
Proposal:	<i>One (1) two-storey mixed use building (office and residential) including garage, verandah, alfresco and balcony and three (3) two-storey dwellings, each including garage, verandah and alfresco</i>
Zone/Policy Area:	<i>Local Business Zone Residential Zone Development Plan consolidated 28 April 2016</i>
Kind of Assessment:	<i>Merit</i>
Public Notification:	<i>Category 2 Two (2) representations received</i>
Appeal Opportunity	<i>Applicant only, no third party appeal rights</i>
Referrals – Statutory:	<i>N/A</i>
Referrals – Non Statutory:	<i>Traffic Management Engineer Tree Management Officer</i>
Delegations Policy:	<i>Unresolved representations</i>
Recommendation:	<i>Development Plan Consent be granted</i>
Recommending Officer:	<i>James Moss</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
- Internal agency referral reports
- Representations received
- Applicant's response to representations
- Photographs

1. DESCRIPTION OF PROPOSAL

The applicant seeks development plan consent for the construction of one (1) two storey mixed use building (office and residential) and three (3) two storey dwellings on land straddling the Local Business Zone and Residential Zone at the intersection of The Parade and Amery Lane, Beulah Park.

The mixed use building will face The Parade and feature an office at ground level, together with a front verandah and three off-street car parks. The first floor will be used as a three bedroom dwelling, providing open plan areas, a balcony overlooking The Parade, private open space at ground level and two off-street car parks accessible from an existing driveway access crossover to The Parade.

To the north of the mixed use building, Residence 2, 3 and 4 will each feature three bedrooms on the first floor level, open plan living areas, carport, alfresco, private open space at ground level and two off-street parking spaces. Vehicle access for each of the three dwellings is to be obtained via Amery Lane, with a portion of the lane to be widened to satisfy traffic requirements.

2. BACKGROUND

In December 2010 an application was made on behalf of the current owner for the construction of four two storey dwellings, together with fencing and solar panels (DA 180\1380\10).

This application was formally withdrawn in September 2011 over the issue of access via Amery Lane, which, at the time was not a public road under Council control. At the time, the issue of access was considered fatal to the merits of the proposal and rendered the assessment as hypothetical.

The applicant then engaged with Council's Engineering Services Department to commence the process of converting Amery Lane to a public Road. In August 2014 the laneway was declared a public road in the South Australian Government Gazette.

A proposal was subsequently lodged for the construction of three (3) two storey dwellings and processed as a non-complying kind of development on account of the 250 square metre building total floor area restriction in the Local Business Zone provisions of the Burnside (City) Development Plan (DA 180\0742\14). This application was refused by the Development Assessment Panel (the Panel) in August 2015.

The current proposal, DA 180\0733\16 was lodged on 15 August 2016 by Carlo Dottore and Partners Architects on behalf of the owner, and determined to be a Category 2 development pursuant to the Development Plan, to be assessed on merit.

The application was referred to Council's traffic engineer and urban forestry officer to assess the proposed widening of Amery Lane to facilitate vehicle access to Residence 2, 3 and 4. As a result of this process a number of amendments were introduced to satisfy Council concerns and the application was deemed suitable to proceed through public consultation.

The application was made available for public consultation between 13 October 2016 and 27 October 2016, during which time Council received two (2) written submissions identifying concerns relating to stormwater management, privacy neighbourhood character, sunlight access and traffic safety. The applicant has since responded to these matters in writing, however no further design amendments were forthcoming.

An assessment against the relevant provisions of the Development Plan has now been completed and the application is presented to the Panel with a staff recommendation of approval, subject to conditions.

3. SUBJECT LAND AND LOCALITY ATTRIBUTES

3.1. Subject Land

The subject land comprises two contiguous rectangular shaped allotments on the northern side of The Parade totalling 830 square metres (approx.) with a 14 metre frontage to The Parade and 61.57 metres frontage to Amery Lane. The land straddles both the Local Business Zone and the Residential Zone (Residential Policy Area 1).

The land is currently occupied by a single storey detached dwelling constructed in 1910 and sited close to the southern boundary abutting The Parade. The existing dwelling has been constructed in the Villa style with a return verandah/carport extending along a portion of the western side boundary for an approximate distance of 18 metres. Various domestic outbuildings and structures are located within the rear yard.

Vehicle access is gained via an existing single width crossover on the western side of the primary frontage. Minimal vegetation exists across the site and a significant portion of the land remains vacant to the rear. Boundary fencing is comprised of a solid masonry wall across the front boundary, returning along a portion of the eastern boundary abutting Amery Lane, corrugated iron sheeting of compromised appearance and 2.1 metres high good neighbour fencing along the western boundary.

3.2. Locality

The locality includes properties on both sides of The Parade extending to Portrush Road in the west and Duke Street in the east, as well as a number of residential properties fronting Union Street and Dimboola Street to the north.

The locality is fragmented by several different land use zones across the City of Burnside and the City of Norwood, Payneham and St Peters; the Local Business Zone along the northern side of The Parade, the Residential Zone to the northwest and the Historic Conservation Zone to the north, as well as the Business Zone, Mixed Use Historic (Conservation) and Residential Historic (Conservation) zones to the south.

Built form varies across the locality, with commercial buildings of varying styles and heights along The Parade and low scale medium density residential streetscapes of historic merit to the north.

4. KIND OF ASSESSMENT

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

5. PUBLIC NOTIFICATION

Category:	Category 2
Reason:	Local Business Zone Principle of Development Control 7(a) Residential Policy Area 1 Principle of Development Control 10(a) and (d)

Representations Received:	<ul style="list-style-type: none"> • 245 The Parade, Beulah Park (wish to be heard) • 5 Dimboola Street, Beulah Park (do not 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 proposal is viewed as an appropriate land use outcome for the subject land, considering the dual zoning and nature of adjacent land uses external to the site.

The mix use building at the southern end of the land comprises ground floor offices and a first floor dwelling, which is consistent with Objective 2 of the Local Business Zone, as well as PDC 1, 2 and 4. This mix use component is also compatible with the use of land to the east and west along The Parade.

The establishment of residential development on the northern portion of the land is consistent with Objective 1 and PDC 1 of the Residential Zone and facilitates an orderly transition to solely residential land uses to the north and northeast of the land.

7.2. Character and Amenity

The character of the locality is heavily influenced by its proximity to The Parade, a main arterial road comprising a range of commercial, residential and community land uses. The locality is also characterised by the presence of low scale, medium density residential housing stock to the north.

The proposed development is sufficiently compatible with the existing and desired local character, given that it will reinvigorate a poorly maintained residential property of minimal visual appeal, while providing higher density housing accommodations in a strategically relevant location and incorporating a contemporary design of suitable quality. The two storey form and siting is also envisaged under the Local Business Zone guidelines.

The proposal departs on a number of quantitative built form guidelines, such as set-backs and site coverage. This does not necessarily translate to an undesirable or unreasonable planning outcome when viewed in context with the surrounding buildings and land uses in proximity to The Parade.

All four buildings are considered to have been designed to a suitably high standard and are anticipated to enhance the character and amenity of the locality through their modest, yet appealing, visual appearance. Whereas the previous proposal had a particularly modern presentation, the buildings now proposed present more conventional architectural features such as hipped roofs with overhanging eaves, generous façade articulation and materials that are commonly found within a residential setting.

Amenity impacts such as overlooking, overshadowing and loss of visual outlook are also addressed through the current proposal. The three two storey dwellings on the northern

portion of the land all utilise a combination of fixed obscure glazing and high window sills to restrict external overlooking opportunities in line with Development Plan standards.

Sufficient spatial separation is also created through the presence of Amery Lane to the east, the use of the western commercial property as a car park and by siting the northernmost dwelling to provide a 4 metre ground and first floor set-back to the neighbouring dwellings to the north.

7.3. Site Functionality/Agency Referrals

No external referrals were required under Section 37 of the *Development Act 1993*, however input was sought from Council's Engineering Services Department with regard to matters of traffic, manoeuvrability and stormwater management.

Of general concern was the matter of access via the recently acquired Amery Lane, a narrow service road extending from The Parade to Glyde Street providing rear vehicle access to residential properties fronting Union Street and Dimboola Street.

While Amery Lane appears narrow and generally unsuited for an intensification in traffic, the applicant has agreed to relinquish a portion of the subject land to facilitate the necessary road widening required to provide safe and convenient access for Residence 2, 3 and 4. Relocation of an existing Stobie pole will also be required, which will be done at the applicant's expense.

The applicant has considered Council's requirements and amended the proposal to reflect the desired road widening to Amery Lane. The applicant has also provided vehicle turning circle diagrams to demonstrate cars are able to enter and exit each site in a forward motion, thus ensuring safe and orderly movement of vehicles.

The development is not considered to be an overdevelopment of the site, despite various quantitative departures from the built form guidelines of the Development Plan, and Council is satisfied that the proposal constitutes a workable planning outcome for the subject land and wider locality.

7.4. Public Notification

Council received two (2) written submissions identifying concerns relating to stormwater management, privacy neighbourhood character, sunlight access and traffic safety.

The applicant was provided with a copy of the submissions and has responded to the matters raised in writing. Council is satisfied that the planning matters raised through the public notification process are sufficiently addressed through the overall design of the development, insofar as they are to be determined under the *Development Act 1993*.

7.5. 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. Development Application 180\0733\16, by Carlo Dottore & Partners Architects
3. 46 Nelson Street, 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 fixed and obscured glazing privacy treatments as depicted on the stamped and approved plans granted Development Plan Consent shall be installed prior to the occupation or use of the buildings 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.

RECOMMENDING OFFICER

James Moss
Development Officer – Planning

APPENDIX 1

AERIAL LOCALITY MAP



Legend

-  Subject Land
-  Representor's Land

APPENDIX 2

DETAILED PLANNING ASSESSMENT

Summary of Local Business Zone Objectives and Principles

<p>Primary Local Business Zone Objectives:</p> <p><u>Objective 1:</u> A zone which accommodates small-scale offices, consulting rooms and other business functions suited to small business servicing the needs of the local community.</p> <p><u>Objective 2:</u> Dwellings developed either independently or in association with business development.</p>	
<p>Subject: DP Ref</p>	<p>Assessment:</p>
<p>Zoning and Land Use O 1–8 PDC 1</p>	<p>Satisfied.</p> <ul style="list-style-type: none"> The proposal includes small scale offices and dwellings developed both independently and in association with this use.
<p>Development of Dwellings PDC 2</p>	<p>Satisfied.</p> <ul style="list-style-type: none"> After lane widening, the average site area for each dwelling is 200.1 square metres, which is consistent with PDC 2. Each dwelling is accompanied with an outdoor area of more than the prescribed 35 square metre provisions. Each area of private open space is directly accessible from main living areas and provides reasonable access to sunlight. Each dwelling provides a minimum of two off-street car parks, one of which is independently accessible and unobstructed at all times to facilitate visitor parking.
<p>Streetscape Character PDC 3–4</p>	<p>Partially satisfied.</p> <ul style="list-style-type: none"> The proposal replaces an existing dwelling of poor overall appearance with four new buildings of suitable architectural merit. Office/Residence 1 will feature an open sided verandah along the front southern boundary, which does not comply with the 3 metre guideline. Each building includes an upper level that is used solely for residential purposes. None of the proposed dwellings will incorporate basement car parking

Summary of Policy Area Objectives and Principles

Primary Residential Policy Area 1 Objectives:

Objective 1:

Maintenance and enhancement of a residential character that is derived particularly from low scale, low-to-medium density dwellings, varied in style, including significant groups of relatively small nineteenth century villas and cottages on narrow streets which create attractive and intimate streetscapes.

Acknowledged variations from the predominant, desired character, forming, nevertheless, part of the character that is to be maintained and enhanced, are found:

- (a) *within localities adjacent to the Historic (Conservation) Zone and other localities where nineteenth century cottages and villas, generally sited close to the street frontage with ornate facades and verandas, and shallow, open front gardens, are a significant feature of streetscapes;*
- (b) *on land with frontage to the western part of Oban Street, including the grounds of the large, historic two-storeyed dwelling at 230 Portrush Road and the nearby electricity sub-station;*
- (c) *on land with frontage to Magill Road and to Portrush Road; and*
- (d) *in the interfaces with the Local Business Zone, the Local Centre Zone, the Community Zone and the Historic (Conservation) Zone.*

Subject:	Assessment:
DP Ref	
Desired Land Use O 1	Satisfied. <ul style="list-style-type: none"> • All buildings within the Residential zoned portion of the land will be used solely for residential purposes.
Local Compatibility O1 PDC 1-2	Satisfied. <ul style="list-style-type: none"> • The proposed density is consistent with the desired and established character of the locality, which features numerous allotments of less than 200 square metres. • Although two storeys in form, the proposed buildings are compatible with the low scale character of the policy area due to their comparable building height (6.7 metres) and partially in-roof first floor appearance. • The siting of proposed buildings from the public road (Amery Lane) contributes to the existing "intimate" streetscape. • Objective 1 acknowledges the interface with the Local Business Zone as forming part of the character of the policy area.
Site Areas and Frontages PDC 3-5	Partially satisfied. <ul style="list-style-type: none"> • The development does not meet site area requirements for detached dwellings as expressed by the policy area guidelines. It does however exceed those of the Local Business Zone, of which the land is partially situated within. • A large number of existing allotments within the policy area and adjacent Historic Conservation Zone do not satisfy the site area guidelines for RPA 1. • Each allotment comfortably achieves street frontage guidelines for detached dwellings.
Building Height PDC 6	Partially satisfied. <ul style="list-style-type: none"> • The proposal involves the construction of four two storey buildings and therefore does not accord with a single storey building height envisaged by PDC 6.

	<ul style="list-style-type: none"> Although two storeys in form, the first floor component of each building is relatively modest in scale and designed so as to appear partially 'sunken' within the ground floor roof structure, thus reducing the scale and visual prominence of vertical walls.
Building Set-backs PDC 7	Departure. <ul style="list-style-type: none"> Each dwelling will be set back at a lesser distance from Amery Lane than 3 metres.
Private Open Space PDC 8	Departure. <ul style="list-style-type: none"> Each dwelling is accompanied with an external area of private open space that is largely consistent with the dimensions expressed by PDC 8.

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 6:

A zone accommodating non-residential activities which are small in scale, benign in external impact, and serve the needs of the local community.

Objective 7:

Reduction of the impact of established non-residential uses on the amenity of residential areas.

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.
Building Appearance PDC 2-4	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.

Subject: DP Ref	Assessment:
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>Front Set-backs Departure.</p> <p>Side Set-backs Partially satisfied.</p> <p>Rear Set-backs Departure.</p>
Site Coverage PDC 165	<p>Partially satisfied.</p> <ul style="list-style-type: none"> • The footprint of each building is generally consistent with PDC 165 parts (a) and (b) • The total floor area of each building exceeds site coverage guidelines for residential development, in some cases by a notable degree. • The excess in total floor area is deemed acceptable in light of the dual zone context of the subject land and the “intimate” character of the streetscape. • Due to the nature of business development within the Local Business Zone and the size of neighbouring allotments, excesses in site coverage are a feature of the general locality.
Amenity O11, 20–22 PDC 14–18, 52-69, 170-173	<p>Satisfied.</p> <ul style="list-style-type: none"> • Each building is considered to have been designed to a high

	<p>architectural standard.</p> <ul style="list-style-type: none"> Office/Residence 1 will enhance the existing streetscape along The Parade by replacing a building of poor appearance with a contemporary building of suitable bulk, scale and visual interest.
<p>Privacy PDC 22, 174–176</p>	<p>Satisfied.</p> <ul style="list-style-type: none"> Residence 1 does not provide any privacy treatments to first floor windows, nor are they considered necessary. Residences 2, 3 and 4 each incorporate 1.6 metre high fixed obscure glazing or high sill windows to restrict direct overlooking of neighbouring properties.
<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

Attribute	R1	R2	R3	R4	Guideline
Street Frontage	14m (pre-widening) 11.4m (post-widening)	13.9m (Amery Lane)	13.9m (Amery Lane)	13.9m (Amery Lane)	N/A (LBU) 9m (RPA1)
Site Area	249.5m ² (post-widening)	182.4m ² (post-widening)	183.9m ² (post-widening)	184.6m ² (post-widening)	200m ² (LBU) 350m ² (RPA1)
Site Coverage					
GF Area	37.1%	48.9%	48.5%	48.3%	N/A (LBU) 40% (RPA1)
GF Area + Impervious	45.1%	52.2%	51.7%	51.5%	N/A (LBU) 50% (RPA1)
Total Floor Area	89.5%	87%	86.3%	85.9%	N/A (LBU) 50% (RPA1)
Building Height					
Storeys	2 storeys	2 storeys	2 storeys	2 storeys	2 storeys (LBU) Single (RPA1)
Metres	6.7m	6.7m	6.7m	6.7m	9m
GF Set-Backs					
Front	0m	1.1m	1.1m	1.1m	3m (both zones)
Side	3m (A Lane) 0m (w)	0m (s-garage) 3m (s-dwelling) 4m (n)	4m (s) 0m (n-garage) 3m (n-dwelling)	0m (s-garage) 3m (s-dwelling) 4m (n)	1.5m - 2m 3m (R1 - east)
Rear	5.7m (internal)	1.7m (w)	1.9m (w)	1.9m (w)	4m
UL Set-Backs					
Front	1.2m	1.1m	1.1m	1.1m	3m (both zones)
Side	2.1m (A Lane) 0m (w)	1.5 (s) 4m (n)	4m (s) 1.5m (n)	1.5 (s) 4m (n)	4m
Rear	3.5m	1.3m (w)	1.5m (w)	1.5m (w)	8m
Boundary Dev					
Height	6.5m	N/A	N/A	N/A	3m
Length	8.3m	N/A	N/A	N/A	8m
POS					
Dimensions	38.2m ² 5.7m x 5.7m	57.8m ² 4m x 13m	57.8m ² 4m x 13m	58.4m ² 4m x 13m	35m ² (LBU) 4m x 6m (RPA1)
Parking/Access					
On-Site Car Parks	2 res, 3 office	2	2	2	2/dwelling 2m (office)
Garage/Carport Door Width	23.7% (post-widening)	19.4%	19.4%	19.4%	33%

DEVELOPMENT APPLICATION

Application Number:	<i>180\0773\16</i>
Applicant:	<i>Proske Architects</i>
Location:	<i>145 Swaine Avenue, Toorak Gardens</i>
Proposal:	<i>Two-storey detached dwelling including garage, boundary wall and front fence</i>
Zone/Policy Area:	<i>Historic Conservation Zone Historic Conservation Policy Area 6 Development Plan consolidated 28 April 2016</i>
Kind of Assessment:	<i>Merit</i>
Public Notification:	<i>Category 2 Three (3) representations received</i>
Appeal Opportunity	<i>Applicant only, no third party appeal rights</i>
Referrals – Statutory:	<i>N/A</i>
Referrals – Non Statutory:	<i>Traffic Management Engineer Tree Management Officer Local Heritage Consultant</i>
Delegations Policy:	<i>Unresolved representations</i>
Recommendation:	<i>Development Plan Consent be granted</i>
Recommending Officer:	<i>James Moss</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
- Internal agency referral reports
- Representations received
- Applicant's response to representations
- Photographs

1. DESCRIPTION OF PROPOSAL

The applicant seeks development plan consent for the construction of a two storey detached dwelling on a vacant allotment on the northern side of Swaine Avenue, in the suburb of Toorak Gardens.

The proposed dwelling will feature three bedrooms, a three car garage, entry portico, central courtyard, open plan living areas and first floor balcony.

A 2.3 metre high masonry 'privacy wall' is proposed along a 7.9 metre length of the western side boundary, as well as a 1.6 metre high timber and masonry front fence with pedestrian and vehicle access.

2. BACKGROUND

Development Application 180\0773\16 was lodged on 24 August 2016 by Proske Architects on behalf of the registered owners of the land, following preliminary consultation with Council's Heritage advisers. The proposal was determined to be a Category 2 development on account of its two storey form, to be assessed on merit against the provisions of the Burnside (City) Development Plan.

The application was made available for public consultation between 09 September 2016 and 22 September 2016, during which time Council received three (3) written submissions from neighbouring parties identifying concerns relating to privacy, sunlight access, visual outlook, building height, set-backs and site coverage.

The applicant has responded to the written submissions through Masterplan Town and Country Planners with a detailed planning assessment addressing key aspects of the proposal, together with minor amendments to certain aspects of the design that were highlighted as a concern.

The application was referred to Council's Engineering Services and Open Space departments to assess the suitability of proposed vehicle access arrangements, as well as general impacts of the development on local Council infrastructure. Concerns were raised regarding the proximity of the proposed driveway to an adjacent street tree on the Swaine Avenue verge and the driveway design was subsequently altered to appease these concerns.

An assessment against the relevant provisions of the Development Plan has now been completed and the application is presented to the Development Assessment Panel (the Panel) with a staff recommendation of approval, subject to conditions.

3. SUBJECT LAND AND LOCALITY ATTRIBUTES

3.1. Subject Land

The subject land is a relatively large rectangular shaped allotment of approximately 854 square metres on the northern side of Swaine Avenue, approximately 22 metres west of Cudmore Avenue. The land has a wider breadth than most properties within the street (24.8 metres), but also a shallower depth (34.5 metres).

Originally created out of the reconfiguration of neighbouring properties to the east and north, the subject land currently remains vacant with the exception of a domestic tennis court over the western portion of the land and boundary fencing structures. The land is free of any easements or encumbrances.

3.2. Locality

The locality is primarily comprised of those properties along both sides of Swaine Avenue, and to a lesser extent those properties along Cudmore Avenue in proximity to the subject land. The subject land and locality are both located wholly within the Historic Conservation Zone (HCZ), specifically Historic Conservation Policy area 6 (HCPA 6).

The character of the locality is primarily derived from moderately sized, rectangular shaped, single frontage allotments containing single storey Contributory Item dwellings constructed during the interwar period in the Bungalows style.

In proximity to the subject land, the southern side of Swaine Avenue exhibits a relatively consistent set-back pattern with buildings generally sited 7 metres from the road boundary. The northern side of the street is less consistent in this respect, with buildings sited between 7 metres and 11.5 metres from the road.

Fencing is typically of a low and open nature, providing views to the numerous heritage-listed buildings, but also exhibiting a range of styles from brush fencing, to hedges, pickets, pillar and plinth and post and wire. Streetscape amenity is enhanced by open, well vegetated front gardens, grassed verges and mature street trees.

4. KIND OF ASSESSMENT

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

5. PUBLIC NOTIFICATION

Category:	Category 2
Reason:	Historic Conservation Zone Principle of Development Control 26 (a)
Representations Received:	<ul style="list-style-type: none"> • 143 Swaine Avenue, Toorak Gardens (wish to be heard) • 128 Grant Avenue, Toorak Gardens (wish to be heard) • 143A Swaine Avenue, Toorak Gardens (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 proposal involves the construction of a new detached dwelling on vacant land suitable for residential purposes within the HCZ. The development does not require the removal of any item of heritage value from the land and will maintain and enhance the residential character of the zone and specific policy area through appropriate design.

The development is not considered to be fundamentally at variance with the policies of the Burnside (City) Development Plan.

7.2. Character and Amenity

In terms of character, the Development Plan seeks to preserve the established historic character of HCPA 6 derived from:

- (a) the large number of residences, dating from the period of original subdivision in 1909-1912, and which are characterised by generally large single storey detached dwellings constructed in stone or brick with large simple roof planes and broad eaves;
- (b) the residential architectural style which is predominantly Tudor Revival, Californian Bungalow or Old English sources, where most residences are fine examples of interwar domestic architecture with matching outbuildings;
- (c) residences located on large, wide, allotments;
- (d) the built form, materials and design of dwellings which gives evidence to the development controls which prevailed at the time of original subdivision;
- (e) the consistent scale and setback of the major residences;
- (f) the mature gardens and high hedging to many houses;
- (g) the mature street trees and nature strip planting which create a leafy landscaped ambience across the area.

The proposal involves the redevelopment of a vacant allotment within the Swaine Avenue streetscape which presently does not contain any buildings or structures that contribute to the historic character of the policy area. By occupying the existing vacant allotment the proposal essentially fills the 'missing tooth' in the streetscape.

The proposal also comprises a self-contained detached dwelling of high architectural merit that has been designed and sited to complement and reinforce the historic character and initial residential development of the policy area. The applicant has sought preliminary guidance from Council as to the nature of the design and Council's own heritage advisers have concluded that the development warrants approval.

Rather than copy domestic architectural styles that are at odds with the date of original subdivision, the proposal provides a building of modern design which picks up on some of the key features listed above, such as simple roof planes, broad eaves, relative consistency in set-back and a complementary palette of materials.

The dwelling's two storey presentation is considered to be acceptable as the majority of floor space is restricted to the ground floor, so as to reinforce the predominantly single storey character of the locality. In terms of proportions, the first floor appears minimal and recessed so as not to dominate the streetscape.

When viewed from external properties the proposed dwelling exhibits a bulk and scale that is acceptable to the locality, and incorporates a suitable degree of façade articulation to add visual interest. The treatment of upper floor windows and wall cladding is

considered acceptable, while material selections and proposed colours are in keeping with the context of the immediate area.

With regard to front boundary set-backs, the proposal fails to provide the minimum 8 metre distance envisaged by the policy area guidelines. This may, to some degree, be attributed to the reduced depth of the allotment, however it should be noted that existing dwellings within the locality are also typically sited closer to the front boundary, often as close as 7 metres.

In this instance the offending portion of built form is the front portico, which is an open sided structure providing articulation and visual interest within the façade. The main visual bulk of the building has a greater minimum set-back of 7.9 metres, just 100mm short of the guideline.

7.3. Site Functionality

The development is largely consistent with the relevant quantitative guidelines of the Development Plan and is not considered to be an overdevelopment of the site. Despite exceeding the total floor area guideline the dwelling achieves appropriate boundary set-backs relative to its mass and proportions.

The land retains a private open rear yard and central courtyard, which comply with all but one of the prescribed criteria. Where this criteria is not met the departure is modest for a dwelling of only three bedrooms.

The development provides sufficient space for on-site car parking to meet the needs of residents and visitors and to avoid on-street parking that would restrict the free flow of traffic (including pedestrian traffic) along Swaine Avenue or cause significant nuisance to nearby residents or other users of land.

Council's Engineering Services and Open Space departments have reviewed the proposal and are comfortable in granting approval for the proposed vehicle access under Section 221 of the Local Government Act 1999.

7.4. Public Notification

During the public consultation process Council received three written submissions from neighbours to the north and west of the subject land. All three neighbours identified overlooking as a concern, while the two neighbours to the west also highlighted sunlight access and visual outlook as a matter of concern.

The applicant has responded to the written submissions through Masterplan Town and Country Planners with a detailed planning assessment addressing key aspects of the proposal, together with minor amendments to certain aspects of the design that were highlighted as a concern.

With regard to privacy, the dwelling incorporates 1.5 metre high first floor windows across all four facades. The Development Plan seeks 1.6 metre minimum sill heights as an appropriate standard, however the configuration of the floorplan is such that direct and prolonged overlooking is not expected (i.e. windows over a void, ensuite and bedroom). Two large windows set below 1.5 metres are also proposed along a section of the west facade, however these larger windows align with the internal stairwell and not a habitable space from which regular and direct views would be obtained.

The proposal does include a shallow and recessed north facing balcony with unobscured sliding doors to a living space beyond, however external views from this space will be appropriately restricted by the roof structure of the ground floor section of the dwelling to the rear. The applicant has provided site line diagrams to demonstrate the potential for overlooking from this balcony is sufficiently restricted and the owner's intention to establish a tree within the central courtyard will provide further screening.

Ultimately if the Panel determine these measures not to be sufficient in preserving neighbour privacy then additional screening in the form of obscured glazing and/or landscape screening could be incorporated into an approval to address any overlooking potential arising from the development.

With regard to sunlight access, the orientation of the subject land dictates that most of the shadow cast by the proposed building will be directed towards the street and not towards neighbouring properties. A degree of shadow may also be cast towards the front yards of the neighbouring property to the west in the morning and towards the neighbouring property to the east in the afternoon, however the dwelling itself is not expected to prevent northern sunlight access to either neighbour outside of the guidelines of the Development Plan (3 hours to north-facing windows, 2 hours to 50% of private open space).

In terms of visual outlook, the proposed building is generally compliant with, and in some cases exceeds, the minimum ground floor side boundary set-back distance. These set-backs, combined with the modest external wall height and total building height, suggest the visual impact of the building is within the limits envisaged by the Development Plan. The appropriate use of materials, finishes and wall articulation also aids in breaking up the visual mass of the building to minimise external impacts.

With the exception of the western side set-back, the proposed first floor meets or exceeds all set-back guidelines. Considering the limited proportions of the first floor relative to the ground floor and the recessed nature of the design, the first floor component is not considered visually intrusive.

With regard to the proposed 'privacy wall' to be constructed along a section of the western side boundary, the height of this structure has been reduced to 2.3 metres following consideration of the adjacent neighbour's submission. It is Council's understanding that that the objective for the proposed wall is to provide acoustic relief from the neighbour's air conditioning units on the eastern side of their building.

The concerned section of common boundary is currently occupied by a tennis court fence of approximately 3 metres in height and overgrown with vegetation. Although a masonry wall will have a more solid appearance than the existing chain wire fence, the reduced height is not far beyond the standard fence height for a residential setting and only 100mm above the 2.2 metre height suggested by the neighbour's own planning consultant as a suitable outcome.

Council is satisfied that the planning matters raised through the public notification process are sufficiently addressed through the overall design of the development and the changes detailed through the applicant's response, insofar as they are to be determined under the Development Act 1993.

7.5. 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. Development Application 180\0773\16, by Proske Architects, 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 driveway 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 The approved works may not commence until such time as the applicant has secured written authorisation for the construction of the new driveway crossover 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 Requirements:**
 - 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 second driveway/gutter crossing 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 distance of 4 metres shall be maintained from the closest point of the driveway to the adjacent street tree.
 - The new driveway crossover is to be formed using pervious paving to ensure continued filtration into the roadside verge.
 - 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.
- It should be noted that 1:20yr and 1:100yr AEP map indicate that shallow flooding up to a maximum depth of 100mm could occur across the site and the development should be notified regarding the risk of minor flooding.
- 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 the roof catchment shall be discharged to the street water table through a sealed system to the satisfaction of the Council.
- Soft dig (hand digging/hydro-vac) methods must be used for the formation of underground services that encroach within the Tree Protection Zones as defined by AS4970-2009 Protection of Trees on Development Sites.
- Any works that are proposed, by the applicant, within 3 metres of the street trees 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.
- The new driveway crossover is to be formed using pervious paving to ensure continued filtration into the road reserve.
- **The applicant will be liable for any damage to the street trees as a direct or indirect result of the development. Cost if any remedial works will be determined at the discretion of Council and borne by the applicant.**

RECOMMENDING OFFICER

James Moss
Development Officer – Planning

AERIAL LOCALITY MAP



Legend

-  Subject Land
-  Representor's Land

DETAILED PLANNING ASSESSMENT

Summary of Policy Area Objectives and Principles

Primary Historic Conservation Policy Area 6 Objectives:

Established Historic Character

Toorak [Gardens] subdivision was laid out in Section 275 within the eastern half of the Prescott Farm which ran through to Rose Park. It was initially divided into large blocks in 1909, which established the street pattern and the roads between Prescott Terrace and Portrush Road, north of Swaine Avenue to Kensington Road. The first subdivision of the areas within the blocks was undertaken in 1912. The area was popular with architects and several designed their own homes in Toorak Gardens.

The Established Historic Character of Historic Conservation Policy Area 6 – Toorak Gardens (North) derives from:

- (a) the large number of residences, dating from the period of original subdivision in 1909-1912, and which are characterised by generally large single storey detached dwellings constructed in stone or brick with large simple roof planes and broad eaves;*
- (b) the residential architectural style which is predominantly Tudor Revival, Californian Bungalow or Old English sources, where most residences are fine examples of interwar domestic architecture with matching outbuildings;*
- (c) residences located on large, wide, allotments;*
- (d) the built form, materials and design of dwellings which gives evidence to the development controls which prevailed at the time of original subdivision;*
- (e) the consistent scale and setback of the major residences;*
- (f) the mature gardens and high hedging to many houses;*
- (g) the mature street trees and nature strip planting which create a leafy landscaped ambience across the area.*

Objective 1:

Development that conserves and enhances the Established Historic Character.

Objective 2:

Development accommodating detached dwellings on large allotments.

Objective 3:

Maintenance and enhancement of the low scale, low density residential character.

Subject: DP Ref	Assessment:
Land Use O 1-3	Satisfied. <ul style="list-style-type: none"> • Residential activity is the primary land use envisaged within the policy area and wider HCZ. • The proposal involves the construction of new building on a vacant allotment to be used solely for residential purposes.

<p>Character PDC 1, 3 4,</p>	<p>Satisfied.</p> <ul style="list-style-type: none"> • The proposal involves the construction of a new detached dwelling on a relatively large vacant allotment of approximately 854 square metres. • By occupying the existing vacant allotment the proposal fills the 'missing tooth' in the streetscape. • The height of the building has been deemed suitable by Council's Local Heritage adviser, observing that the first floor is minimal and recessive so as not to dominate the streetscape. The treatment of upper floor windows and wall cladding is also considered acceptable. • Material selections and proposed colours are in keeping with the context of the immediate area.
<p>Site Area & Frontage PDC 5</p>	<p>Satisfied.</p> <ul style="list-style-type: none"> • The subject land is an existing allotment exceeding the site area and frontage width guidelines for the accommodation of a detached dwelling.
<p>Building Set-back PDC 7</p>	<p>Departure.</p> <ul style="list-style-type: none"> • The policy area seeks a minimum front set-back distance of 8 metres. • The closest part of the proposed building, the front portico, will be set back approximately 6.4 metres from the front boundary, with the main building line sited at 7.9 metres for both the ground floor and first floor. • The front portico is an open structure of limited visual bulk, while the greater mass of the building is generally set back in line with the 8 metre distance. • The site analysis plan provided as part of the application suggests the placement of the building is not a strong departure from that of neighbouring dwellings either side of the subject land, where a less consistent set-back pattern has emerged.
<p>Site Coverage PDC 8</p>	<p>Departure.</p> <ul style="list-style-type: none"> • The policy area seeks a maximum site coverage of 40% of the total site area. • Council's calculations place the building footprint, as measured from the external walls of the building and ancillary structures, at approximately 48.3% of the total site area. • The excess in site coverage does not appear to have prevented achieving appropriate ground floor building set-backs that are generally in keeping with neighbouring buildings within the locality.

Summary of Zone Objectives and Principles

Primary Historic Conservation Zone Objectives:

Objective 1:

The conservation and enhancement of the historic character of the relevant Policy Area.

Objective 2:

The retention and conservation of land, buildings, outbuildings, structures, and landscape elements that contribute positively to the established historic character of a Policy Area.

Objective 3:

Development accommodating those housing types which are compatible with the historic character of the zone.

Objective 4:

Development which conserves and enhances the historic character of the relevant Policy Areas of the zone, in terms of:

- (a) *overall and detailed design of buildings;*
- (b) *dwelling type and overall form;*
- (c) *allotment dimensions and proportions;*
- (d) *placement of buildings on the allotment and alignment to the street;*
- (e) *layout of the site and the type and height of fencing;*
- (f) *streetscapes, verge treatment and street planting; and*
- (g) *curtilages and garden areas.*

Objective 5:

A zone where the majority of the existing housing stock is maintained through the retention of items which contribute positively to the character of the Policy Areas, and the number of dwellings is increased primarily through:

- (a) *the replacement of dwellings that are not identified as contributory items, and*
- (b) *the appropriate development of vacant sites.*

Subject: DP Ref	Assessment:
Zoning and Land Use O 1–5 PDC 1	Satisfied. <ul style="list-style-type: none"> • The proposal facilitates the residential use of the land. • See policy area section for comments on established historic character. • The development does not seek to replace an item of heritage value, but instead seeks the redevelopment of a vacant site.
General PDC 1–5	Satisfied. <ul style="list-style-type: none"> • See policy area section for comments on established historic character. • The design has been guided by consultation with Council's Heritage advisers and is considered to complement the identified heritage values of the zone and specific items of heritage value.
Appearance of Land and Buildings PDC 6–15	Satisfied. <ul style="list-style-type: none"> • The front façade is appropriately compatible with the character of the policy area as defined by the Established Historic Character statement. • The proposal is two-storey in form, not single storey. • The first floor is not within the roof space or sited to the rear of the building, but has nonetheless been designed and sited so as not to

	<p>interfere with the streetscape.</p> <ul style="list-style-type: none"> • The proposed building complements the existing scale and architectural character of the policy area, with a building height that is well below the non-complying threshold and not at odds with the predominant character. • The proposed front fence is not considered excessive in height and visual dominance. • The proposed front fence provides visual interest to the site and will contribute to the amenity of the streetscape. • On-site parking will be at-grade and the crossover has been located to preserve adjacent street trees that contribute to streetscape amenity. • Ample scope is provided within the front yard for landscaping to enhance the appearance of land and buildings from the street.
<p>New Buildings PDC 19–22</p>	<p>Satisfied.</p>

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.
Building Set-backs PDC 161-163	<p>Side Set-backs Partially satisfied.</p> <ul style="list-style-type: none"> • The Development Plan seeks side building set-backs at ground level of between 1.5 metres and 2 metres, depending on external wall heights and window locations. • The proposed ground floor will be set back between 1.5 metres and 2 metres from the western boundary and between 1.6 metres and 3.5 metres from the eastern boundary. • The Development Plan seeks upper level set-backs of 4 metres from side boundaries. • The proposed first floor will have a reduced set-back to the western boundary of 3 metres and a greater set-back of 5.7 metres to the eastern boundary. • The siting of the first floor has been considered by Council's Local Heritage adviser and determined not to be detrimental to the streetscape.

	<ul style="list-style-type: none"> The departure from the guideline distance on the western side is not anticipated to adversely impact the adjacent property due to the alignment and orientation of the two buildings. <p>Rear Set-backs Satisfied.</p>
Building Height PDC 164	Satisfied.
Site Coverage PDC 165	<p>Departure.</p> <ul style="list-style-type: none"> The proposed building footprint and total floor area exceed the 40% and 50% guidelines respectively. The excess in site coverage does not appear to have prevented achieving appropriate building set-backs that are generally in keeping with neighbouring buildings within the locality. The proposed building does not present to the street or neighbouring properties as an overdevelopment of the site, nor does the excess in total floor area manifest itself through visual bulk and scale.
Private Open Space PDC 166, 169	<p>Partially satisfied.</p> <ul style="list-style-type: none"> The proposal satisfies all the prescribed criteria for private open space for use in association with a dwelling with the exception of size relative to total floor area (38.9%). Council is satisfied the areas of private open space (rear yard and internal courtyard) are sufficient in this instance.
Amenity O11, 20-22 PDC 14-18, 52-69, 170-173	Satisfied.
Privacy PDC 22, 174-176	<p>Satisfied.</p> <ul style="list-style-type: none"> The proposal involves the construction of a two storey dwelling with first floor external windows orientated towards neighbouring properties. The potential for some degree of overlooking is therefore a possibility. South facing first floor windows will overlook the public road and facilitate casual surveillance of the streetscape. East facing first floor windows are restricted to the southeast corner of the building and set at a minimum sill height of 1.5 metres above floor level. West facing windows are also restricted to the southwest corner of the building, although two large windows provide natural light to the internal stairwell. The first floor includes a narrow north facing balcony, directly accessible from the first floor living room. The applicant has provided site line diagrams to demonstrate the potential for overlooking from this balcony. Due to the nature of the design and substantial rear set-back, direct site lines to neighbouring properties will be appropriately obstructed by the roof structure above the northern portion of the building itself.
Access and	Satisfied.

<p>On-Site Car Parking PDC 177–182</p>	<ul style="list-style-type: none"> • Vehicle access to the subject land is restricted by the presence of two large street trees on the Council verge at either end of the road frontage. • Through consultation with Council's Engineering Services and Open Space departments, the applicant has demonstrated that a curved driveway and access crossover can be achieved without damaging either street tree. • Should the Panel see fit to approve the development a subsequent application will be made for the new access under Section 221 of the Local Government Act 1999. • The proposed design enables up to four cars to be parking on site at any one time, which exceeds the requirements of Table Bur/5.
<p>Access to Sunlight PDC 21, 183–186</p>	<p>Satisfied.</p> <ul style="list-style-type: none"> • Due to the orientation of the subject land most of the shadow cast by the proposed building will be directed towards the street and not towards neighbouring properties. • A degree of shadow may also be cast towards the front yards of the neighbouring property to the west in the morning and towards the neighbouring property to the east in the afternoon. • The dwelling itself will not prevent northern sunlight access to either neighbour outside of the guidelines of the Development Plan (3 hours to north-facing windows, 2 hours to 50% of private open space). • The proposal includes a 2.3 metre high 'privacy wall' (reduced from 2.8 metres) along a portion of the western side boundary, which may cast shadow to the west during the mornings. • The neighbour to the west has a small courtyard sized rear yard and can expect to lose some degree of morning sunlight as a result of the proposed boundary wall. • Council notes the presence of an existing tennis court fence overgrown with vegetation along this location, which would already impose a degree of shadow over the neighbour's rear yard.

APPENDIX 3
DEVELOPMENT DATA TABLE

Site Characteristics	Proposed	Guideline
<i>Site Area</i>	854.1m ²	750m ²
<i>Street Frontage</i>	24.8m	15m
Design Characteristics	Proposed	Guideline
<i>Site Coverage</i>		
- Buildings only	48.3%	40%
- Buildings and driveways	52.3%	50%
- Total floor area	62.1%	50%
<i>Building Height</i>		
- storeys	2 storeys	2 storeys
- metres	7.7m	9m
<i>Set-backs</i>		
<i>Lower Level</i>		
- front boundary	6.4m (portico) 7.9m (main building line)	8m
- side boundary	1.5m (west) 1.6m (east)	2m
- rear boundary	4.5m	4m
<i>Upper Level</i>		
- front boundary	7.9m	8m
- side boundary	3m (west) 5.7m (east)	4m
- rear boundary	18.7m	8m
<i>Boundary Wall</i>		
- length	7.9m	8m
- height	2.3m	3m
<i>Private Open Space</i>		
- percentage	39.8%	50%
- dimensions	4.5m x 24.8m	5m x 8m
<i>Car Parking and Access</i>		
- number of parks	4	2
- width of driveway	3.9m	4.5m
- width of garage/carport door	24.2%	33%

DEVELOPMENT APPLICATION

Application Number:	180\0517\16
Applicant:	Troppo Architects
Location:	73 Tusmore Avenue, Tusmore SA 5065
Proposal:	<i>(Non-complying) Demolition of existing dwelling, pool and pool house and construction of a three-storey detached dwelling, pool and pool pavilion, tennis court fencing and new front fence</i>
Zone/Policy Area:	<i>Watercourse Zone Development Plan consolidated 28 April 2016</i>
Kind of Assessment:	<i>Non-complying</i>
Public Notification:	<i>Category 3 Nil (0) representations received</i>
Appeal Opportunity	<i>None</i>
Referrals – Non Statutory:	<i>Technical Officer / Urban Forestry Officer</i>
Delegations Policy:	<i>Non-complying development</i>
Recommendation:	<i>Subject to concurrence from the Development Assessment Commission, that Development Plan Consent be granted</i>
Recommending Officer:	<i>Jason Cattonar</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:

- Statement in Support
- Delegates Report to Proceed
- Statement of Effect, plans and supporting documents
- Internal agency referral reports
- Photographs

1. DESCRIPTION OF PROPOSAL

The Applicant seeks Development Plan Consent for the *Demolition of existing dwelling, pool and pool house and construction of a three-storey detached dwelling, pool and pool pavilion, tennis court fencing and new front fence* on an existing allotment at 73 Tusmore Avenue in the suburb of Tusmore.

The proposed dwelling features a total of 4 bedrooms with large, open plan living areas that frame the private open space at ground floor. The main bedroom with ensuite and robe is located on the first floor with cellaring and storage area provided at basement level. The dwelling is provided with secure storage for 3 vehicles on-site together with other outdoor storage areas for bicycles and other domestic equipment

Adjoining the living area is a raised deck for outdoor entertaining, swimming pool and pool pavilion. The existing tennis court at the very rear of the land will be resurfaced and bordered by new fencing.

The architectural style of the dwelling is Contemporary in nature and comprises a diverse external palette of materials including rammed earth, off-form concrete, timber panelling, corrugated and flat folded profile Colorbond sheeting and clear glass windows.

2. BACKGROUND

Development application 180\0517\16 was lodged on 21 June 2016, by Mark Footer (the owner of the land) care of Troppo Architects. The application seeks Development Plan Consent, subject to the concurrence from the Development Assessment Commission, to demolish the existing dwelling and ancillary structures and construction of a new three-storey dwelling including a number of other improvements across the subject land. There are no previous applications registered against the subject land that are relevant to the assessment of this application.

Due to the absence of flood mapping data being submitted by the applicant, planning staff reviewed Council databases to better determine whether some of the proposed works were sited within the 1 in 20 year flood plain. Council wrote to the applicant in June 2016 and requested additional, more conclusive information with respect to the siting of the development and its proximity / potential encroachment into the flood plain. Upon the submission of additional information staff determined the application to be a non-complying form of development pursuant to Watercourse Zone Principle of Development Control 8 of the Burnside (City) Development Plan, which states:

*"The following kinds of development are **non-complying**:*

- *All building work, including fencing and filling or excavation of land, within the 1 in 20 year flood plain.*
- *Building Work, fencing and filling or excavation (or filling and excavation) of land within the 1 in 20 year return period flood plain*

Accordingly, the proposal involves the construction of a swimming pool, pool pavilion, decking and fencing within the area identified as being subject to flooding during the 1 in 20 year flood event.

Furnished with a brief statement in support in September 2016, a decision to proceed with an assessment pursuant to the *Development Regulations 2008*, Regulation 17 (3) was made by the Team Leader – Planning in October 2016, in accordance with Council's Delegations Policy.

The development application was also determined to be a Category 3 form of development pursuant to Section 38 (2)(c) of the *Development Act 1993* (the Act) because the development has not been assigned a classification by either the Development Plan or *Development Regulations 2008* (the Regulations).

The application was placed on Category 3 public notification for a period of two weeks commencing 19 October 2016 and concluding on 02 November 2016. No third party submissions were made during the notification period.

During the course of assessment the proposal was referred to Council's Technical Officer and Urban Forestry Officer to assess the suitability of the proposal in regards to the potential for impacts to the free flow of flood waters, stormwater management and impact to Council assets (street trees).

A full assessment of the proposed development has now been undertaken, and the application is presented to the Development Assessment Panel (the Panel) for consideration as a non-complying development with a staff recommendation that Development Plan Consent be granted, subject to conditions and the concurrence of the Development Assessment Commission (the DAC).

3. SUBJECT LAND AND LOCALITY ATTRIBUTES

3.1. Subject Land

The subject land is an existing allotment with historical land use rights for residential development. The land is wholly contained within the Watercourse Zone, is regular in shape and measures some 2,227m² in area. The land is sited on the western side of Tusmore Avenue with a frontage to Tusmore Avenue measuring 36m.

The land includes a cross fall from east to west with the difference in levels being approximately 2m; however its impact to site conditions is negligible given the substantial depth of the land which measures approximately 60m.

Adjacent the southern boundary of the land, the watercourse of First Creek runs through the property on an east to west axis. There are no easements registered over the creek and as such, the responsibility for its care and maintenance is primarily that of the land owner.

The land is currently improved by an existing dwelling with ancillary domestic structures including a swimming pool and outbuildings. Existing outbuildings and the swimming pool are sited within the 1 in 20 and 1 in 100 year flood plain. Access and egress is achieved via an existing single-width crossover towards the northern end of the Tusmore Avenue frontage.

3.2. Locality

The locality includes those allotments with frontage to Tusmore Avenue extending north to the intersection with Knightsbridge Road and south to 60 and 70 Tusmore Avenue. Adjoining land to the west which fronts onto Northumberland Avenue (numbers 38, 42 and 46) also form part of the locality. The locality has been determined on the basis that the allotments selected share a common boundary with the subject land, share a line of sight and/or espouse site characteristics that are comparable to the subject land.

Allotments within the locality comprise solely of residential land uses and are contained in the Watercourse Zone, Residential Policy Area – 15 First Creek and Historic Conservation Policy Area 5 - Tusmore.

Dwellings are positioned on large, low density allotments with moderate to deep set-backs and well landscaped, often dense vegetation. Due to the deep building set-backs, tall hedging and dense vegetation, dwellings within the locality are often obscured when viewed from the public road. Architectural forms are somewhat varied but are uniform in their high quality construction and architectural merit.

Forming a notable visual element within the locality is the local Heritage Place at 79 Tusmore Avenue which is set on generous grounds and identified by its distinctive face red brick walls and chimneys, terracotta tiled roof and high ridges at as the points of gables. 13 trees are also captured by the listed although some are now located on adjoining land as a result of past subdivision.

4. KIND OF ASSESSMENT

Kind:	Non-complying
Reason:	Watercourse Zone principle of development control 8
Applicant Appeal Opportunity:	No

5. PUBLIC NOTIFICATION

Category:	Category 3
Reason:	<i>Development Act 1993, section 38 (2)(c)</i>
Cut / Fill:	Although a degree of earthworks are required to accommodate the proposed dwelling and ancillary structures, the earthworks are incidental to site preparation and construction.
Representations Received:	Nil
Third Party Appeal Opportunity:	No

6. AGENCY REFERRALS

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

7. EXECUTIVE SUMMARY

7.1. Land Use

The proposal is viewed as an appropriate land use outcome for the subject land, considering the existing use of the land, its zoning and nature of adjacent land uses external to the site.

The continuation of the residential land use is consistent with Objective 1 and PDC 1 of the Watercourse Zone and has been designed in a manner that appropriately responds to the to flood waters as advocated by Objective 2.

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

7.2. Character and Amenity

The Watercourse Zone seeks the maintenance and enhancement of a character that is derived from low density, well vegetated residential allotments. With respect to the architectural style of dwellings, the zone calls for new residential development to be designed in accordance with the relevant principles of development control of Residential Policy Area 15 – First Creek (RPA15) or Historic Conservation Policy Area 5 – Tusmore (HCPA5) where the subject land is located within the suburb of Tusmore.

As previously identified in this report, the locality includes allotments in both RPA15 and HCPA5 resulting in a varied architectural style that has been influenced by high quality, contemporary design ethos at their time of construction. The proposed dwelling has been designed using Contemporary architectural expression with a form that is conspicuous and bold in appearance, yet complementary to the architectural features and style of adjoining dwellings and within the identified locality. The dwelling largely presents to the Tusmore Avenue streetscape as single-storey save for the southern end of the building which contains a small first floor component which houses the master bedroom. Where the first floor is visible from the streetscape, views from the public realm will be partly obstructed by existing mature tree plantings within the Council road reserve.

The cadastral pattern within the locality is largely uniform with low density allotments with the exception of 1970s flat buildings and a group dwelling arrangement in the northern extent of the locality. The resultant approach to the siting of dwellings is generally consistent thereby ensuring dwellings of generous floor area, form and scale and siting from property boundaries. As a response to this feature of the locality, the proposed dwelling maintains a relationship to its property boundaries that are proportionate and respectful to the prevailing character of the locality. Where discrepancies from the quantitative guideline are found, they will have a negligible impact to the established character or amenity of adjoining residents.

On balance, the overall design and siting of the proposed dwelling 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 adhering to quantitative guidelines, the proposal is considered to be a commendable form of development for the subject land and locality.

7.3. Site Functionality

No external referrals were required under Section 37 of the *Development Act 1993*, however input was sought from Council's Engineering, Strategy and Assets department and Open Space department with regard to matters pertaining to flood waters, stormwater management and impacts to Council infrastructure located within the road reserve.

The proposal seeks to reuse the existing crossover on Tusmore Avenue for vehicular access. Council's Urban Forestry Officer is satisfied that the proposed development will have negligible impact to existing street trees thereby ensuring their continued health and vigour.

The development proposes finished floor levels of 98.23m AHD, 98.05m AHD and 97.86m AHD thereby achieving a minimum clearance of 0.5 metres above the 1 in 100 year flood plain which measures at 97.3m AHD. Council's Technical Officer has reviewed the proposal and is comfortable with the proposed works and its ability to maintain an acceptable flow of flood water through First during a 1 in 20 and 1 in 100 year flood event without causing impact to land owners upstream or downstream.

7.4. Public Notification

No third party submissions were received by Council during the statutory public consultation period which was undertaken during late October to early November 2016.

Council's assessment of the development's potential to cause impacts external the subject land confirm that adjoining land will not be unreasonably overshadowed, however there may be a potential for the incursion of privacy to the adjacent southern property when the pool pavilion and adjacent pool deck are in use.

As an assurance that the privacy of the adjoining land owner is preserved, this recommendation includes a reserved matter that requires the applicant to provide further details pertaining to the privacy treatments to be installed in this location as a preventative measure that preserves the reasonable privacy of adjoining land to the south.

7.5. 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\0517\16, by Mark Footer C/- Troppo Architects, 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.

Reason:

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

Reserved Matters

That pursuant to Section 33(3) of the Development Act, the Applicant shall submit detailed proposals for the following reserved matters requiring further assessment by the City of Burnside, prior to the granting of Development Approval:

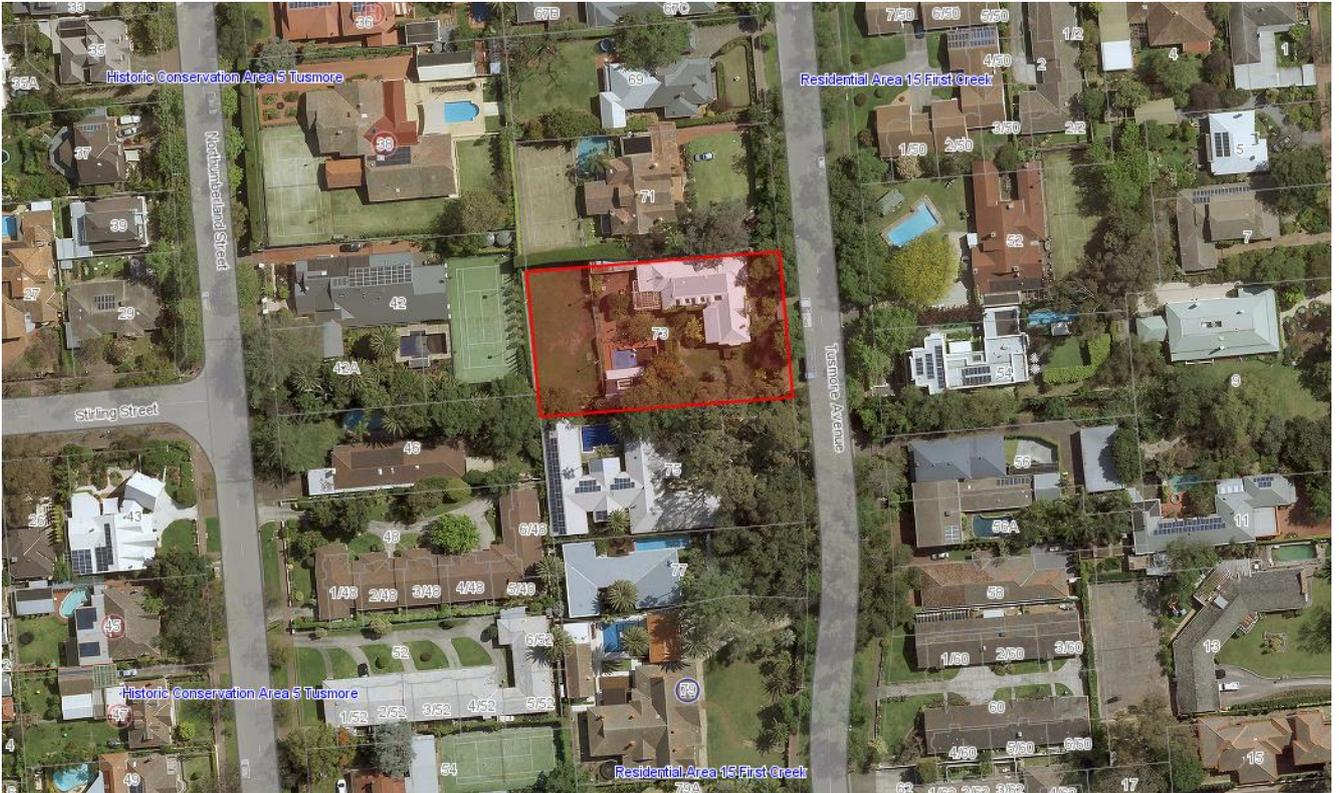
1. The applicant shall supply additional information that addresses the potential for overlooking from the swimming pool pavilion and adjacent deck area into the swimming pool area of the adjoining allotment to the south (75 Tusmore Avenue).

RECOMMENDING OFFICER

Jason Cattonar
Team Leader – Planning

APPENDIX 1

AERIAL LOCALITY MAP



Legend

 **Subject Land**

DETAILED PLANNING ASSESSMENT

Summary of Residential Policy Area 15 – First Creek Objectives and Principles

Primary RPA15 Objectives:

Objective 1:

Maintenance and enhancement of a low density residential character that is derived particularly from:

- (a) primarily single-storeyed detached dwellings, from the interwar and post-war periods, near First Creek and surrounding the Hazelwood Park reserve, with concentrations of single-storeyed medium-density dwellings in Tusmore Avenue and a number of scattered two-storeyed dwellings; and*
- (b) grassed verges, moderate to deep building set-backs, well-landscaped gardens, and indigenous eucalypt trees.*

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

- (a) on land with frontage to Greenhill Road; and*
- (b) adjacent to the Local Business Zone and the Local Centre Zone.*

Objective 2:

Protection and enhancement of the natural features of First Creek, its environs, and associated tree cover.

Subject:	Assessment:
DP Ref	
Desired Land Use O 1	Satisfied. Objective 1 for the policy area seeks to maintain and enhance the low-density, residential character. The proposed development seeks maintain the existing low-density residential use of the land and replaces the existing dwelling with a high quality, architecturally designed two-storey dwelling.
Local Compatibility PDC 1	Satisfied. In accordance with Objective 1 and PDC 1, the proposed development maintains and enhances the low-density residential character of the policy area which includes dwellings from the Inter-War period together with scatterings of two-storey dwellings along Tusmore Avenue.
Site Areas and Frontages PDC 2–5	Satisfied.
Building Set-backs PDC 6	Departure. The policy area calls for buildings to be set back 8m from their front property boundary. The existing dwelling to be demolished is sited 6.6m from the front property boundary thereby creating a precedent for the subject land and causing built form on the land to have a semi-prominent position within the streetscape. The proposed development is sited 6.6m from the front boundary at the centre of the dwelling and increases to 8.1m at both the northern and southern extremities of the building. In this regard, the proposed development is determined to respond in an appropriate manner to the existing streetscape character.

Summary of Watercourse Zone Objectives and Principles

Primary Watercourse Zone Objectives:

Objective 1:

A zone comprising residential, open space, brewery and local shopping areas encompassing the floodplain of a 1-in-100-year return period flood from First Creek or Second Creek.

Objective 2:

A zone where structures are located and designed in such a way as to minimise the potential for personal or property damage as a result of a flood.

Objective 3:

Maintenance and enhancement of a character that is derived particularly from:

- (a) low-density, well-vegetated residential areas, public open space, and open, meandering creek channels with earth and grassed embankments; and*
- (b) the well-vegetated, relatively undeveloped or natural, open condition of the creek channels, banks and immediate environs, historic gardens, and stands of significant indigenous and introduced vegetation.*

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

- (a) in Policy Areas 1 and 2, with their existing brewery and local shopping uses and buildings; and*
- (b) in Hazelwood Park, Tusmore Park, and other reserves, which collectively or individually provide for a range of active and passive recreation in natural or landscaped creek line settings.*

Subject:	Assessment:
DP Ref	
Zoning and Land Use O 1	Satisfied.
Local Compatibility PDC 1	Satisfied. The proposed development is residential in nature, avoids covering, damaging or encroaching upon the channel and banks of First Creek and does not affect any regulated trees.
Flood Prone Areas PDC 2-6	Satisfied. Through careful design in consultation with W&G, the dwelling and ancillary structures have been designed to sit a minimum 500mm clearance above the 1 in 100 year flood prone area. Council is satisfied that the proposal responds appropriately to the design criteria for building within a flood prone area so as to ensure the future occupants of the dwelling, including those up and down stream are not adversely impacted.
Residential Development PDC 7	Satisfied. The subject land sits within the suburb of Tusmore therefore requiring an assessment against the desired character for RPA15.

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 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 58:

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

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>Front Set-backs</u> Minor departure.</p> <p>The proposed building is sited in the same location as the existing dwelling, which does not strictly accord with the RPA15 guideline. The dwelling will encroach 1.4m within the 8m guideline at the central portion of the before the setback increase to the outer edges of the building to be beyond 8m</p> <p>The departure is determined to be minor and acceptable due to the existing building having established the existing pattern of setbacks on the subject land and the appropriateness of the building design and proportions within the context of the locality.</p> <p><u>Side Set-backs</u> Satisfied.</p> <p><u>Rear Set-backs</u> Satisfied.</p>
Building Height PDC 164	Satisfied.
Site Coverage PDC 165	Satisfied.
Private Open Space PDC 166, 169	Satisfied.
Amenity	Satisfied.

O11, 20-22 PDC 14-18, 52-69, 170-173	
Privacy PDC 22, 174-176	Departure. There is a potential for overlooking from the swimming pool pavilion and adjacent deck area into the swimming pool area of the adjoining land to the south. This has been acknowledged by applicants planning consultant Ekistics and this recommendation includes a reserved matter that requires the applicant to submit additional information to be subject to further review from planning staff prior to the granting of Development Approval.
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. The proposed tennis court fencing is sited in a location where it will abut a mature high hedge to the north, First Creek to the south and existing tennis court fencing to the west. Accordingly, impacts to adjoining land are determined to be acceptable with no loss of amenity to the occupants of those dwellings.
Hazards O 39-42 PDC 126-138	Satisfied.
Trees and Other Vegetation O 24-28 PDC 77-92	Satisfied. The substantial curtilage of the dwelling provides generous areas for future landscaping treatments to be determined by the land owner.

APPENDIX 3
DEVELOPMENT DATA TABLE

Site Characteristics	Proposed	Guideline
<i>Site Area</i>	2,227m ²	625m ²
<i>Street Frontage</i>	36m	15m
Design Characteristics	Proposed	Guideline
<i>Site Coverage</i>		
- Buildings only	17%	40%
- Buildings and driveways	23%	50%
- Total floor area	20%	50%
<i>Building Height</i>		
- storeys	3 storeys	2 storeys
- metres	7.1m	9m
<i>Set-backs</i>		
<i>Lower Level</i>		
- front boundary	6.6m – 8.1m	8m
- side boundary	3.1m (south) 4.6m (north)	2m
- rear boundary	19.7m	4m
<i>Upper Level</i>		
- front boundary	8.1m	8m
- side boundary	3.1m (south) 25.6 (north)	4m
- rear boundary	45.9m	8m
<i>Boundary Wall</i>		
- length	6.6m	8m
- height	3.2m	3m
<i>Private Open Space</i>		
- percentage	343%	50%
- dimensions	16m x 33m	5m x 8m
<i>Car Parking and Access</i>		
- number of parks	3	2
- width of driveway	4.5m (existing)	4.5m
- width of garage/carport door	24%	33%

DEVELOPMENT APPLICATION

Application Number:	180\0464\16
Applicant:	<i>Precision Homes (Australia) Pty Ltd</i>
Location:	<i>46-50 Coach Road, Skye SA 5072</i>
Proposal:	<i>(Non-complying) Construction of a detached dwelling, garage, swimming pool, pool pavilion/gym, guest suite, fencing, retaining walls, associated earthworks and landscaping</i>
Zone/Policy Area:	<i>Hills Face Zone Development Plan consolidated 28 April 2016</i>
Kind of Assessment:	<i>Non-complying</i>
Public Notification:	<i>Category 3 Nil (0) representations received</i>
Appeal Opportunity	<i>None</i>
Referrals – Statutory:	<i>CFS</i>
Referrals – Non Statutory:	<i>Technical Officer / Urban Forestry Officer</i>
Delegations Policy:	<i>Non-complying development</i>
Recommendation:	<i>Subject to concurrence from the Development Assessment Commission, that Development Plan Consent be granted</i>
Recommending Officer:	<i>Jason Cattonar</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:

- Statement in Support
- Delegates Report to Proceed
- Statement of Effect, plans and supporting documents
- Internal agency referral reports
- Photographs

1. DESCRIPTION OF PROPOSAL

The Applicant seeks Development Plan Consent to *establish a residential land use on an existing vacant allotment and the construction of a detached dwelling, garage, swimming pool, pool pavilion/gym, guest suite, fencing, retaining walls, associated earthworks and landscaping* on an existing allotment at 73 Tusmore Avenue in the suburb of Tusmore.

The proposed dwelling features a total of 4 bedrooms each with walk-in robe and ensuite, spacious open plan living area with westerly views over the Adelaide Plains, home office (less than 30m²), entertaining and media rooms and other domestic utility rooms associated with a residential use including a subterranean cellar.

Accessible from the main living areas of the home is a lanai terrace for outdoor entertaining with landscaped step feature that cascades to the natural contours of the land.

The dwelling is provided with secure 3 car garage to the east with adjacent “motor court” with centrally sited water feature.

Sited in the south-western corner of the land is a habitable outbuilding complete with domestic amenities and vehicle parking. This adjoins the infinity edge swimming pool and pool pavilion featuring a terrace and gymnasium with additional storage provision for swimming pool pump and filtration equipment.

The architectural style of the dwelling is Contemporary and comprises a varied external palette of materials and finishes including rammed earth, rendered masonry, timber panelling and substantial sections of fenestrations that soften the extent of visually non-penetrable surfaces.

Substantial landscaping is to be undertaken around the building apron and within the grounds of the subject land.

2. BACKGROUND

Development application 180\0464\16 was lodged on 18 June 2016, by Precision Homes acting on behalf of the registered owner of the subject land Mr Branko Pahor. The application seeks Development Plan Consent subject to the concurrence from the Development Assessment Commission for the construction of a substantial detached dwelling including garage, habitable outbuilding, swimming pool pavilion and swimming pool and earthworks exceeding 9 cubic metres.

There are no previous development applications registered against the subject land. The subject land is an existing vacant allotment within the Hills Face Zone.

The application 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:*

Detached Dwelling where:

(b) *the scale and design is such that:*

(i) *the vertical distance between any point at the top of any external wall and the finished ground level immediately below that point on the wall exceeds three metres, other than gable ends of the dwelling where the distance exceeds five metres; and*

(c) *the depth of excavation and/or height of filling of land exceeds 1.5 metres; or*

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 detached dwelling where the distance between the top of external walls and the subsequent finished ground level below this point exceeds 3 metres. Section of excavation will also exceed 1.5 metres at various locations around the building footprint. Other excavation not associated with the construction of the dwelling i.e. the habitable outbuilding and pool pavilion will exceed 2.0 metres below the natural ground level.

Pursuant to Council's Development Delegations Policy, a decision to proceed with an assessment of the application was made by the Team Leader - Planning in accordance with Regulation 17(3)(b) of the Development Regulations 2008 (the Regulations). A copy of this delegated decision to proceed has been included as an attachment.

The development application was also determined to be a Category 3 form of development pursuant to section 38(2)(c) of the *Development Act 1993* (the Act), due to the development not being assigned a classification by either the Development Plan or the *Development Regulations 2008* (the Regulations).

The application was placed on Category 3 public notification for a period of two weeks commencing 09 September 2016 and concluding on 23 September 2016. No third party submissions were received by Council during the notification period.

Pursuant to Section 37(1)(a) of the Act and in accordance with Schedule 8 of the Regulations the proposal was referred to the Country Fire Service (CFS) as a statutory referral body.

Regulation 24(1)(b) states that an authority must not make its decision until it has received a response from a statutory body that has been sent a formal referral. If however a response is not received from the body within the period prescribed by Schedule 8, it will be presumed, unless the body request from the relevant authority an extension of time pursuant to section 37(3) of the Act, the relevant authority may assume that the body does not desire to make a response, or concurs (as the case requires).

The CFS has not returned a response on this matter.

An internal referral was also sent to Council's Technical Officer and Urban Forestry Officer to assess the suitability of the proposal in regards to stormwater detention, stormwater discharge and impact to Council assets (street trees). Their response is also included as an attachment to this report.

A full assessment of the proposed development has now been undertaken, and the application is presented to the Development Assessment Panel (the Panel) for consideration as a non-complying development with a staff recommendation that Development Plan Consent be granted, subject to conditions and the concurrence of the Development Assessment Commission.

3. SUBJECT LAND AND LOCALITY ATTRIBUTES

3.1. Subject Land

The subject land is an existing vacant allotment with no existing use rights located wholly within the Hills Face Zone as defined in the Burnside (City) Development Plan. The land is largely regular in shape and measures some 7,886m² in area. The land is sited on the

northern side of Coach Road with a frontage to Coach Road measuring 125m in length with a maximum depth of approximately 76m.

The land includes a cross fall from east to west with the difference in levels being approximately 11m with a grassed surface that is devoid of any substantial or notable vegetation.

3.2. Locality

The locality includes those allotments with frontage to Coach Road extending east as far as 58-60 Coach Road and 67 Coach Road and to the west to include 15 Coach Road and the SA Water storage tank at 24A Coach Road. Adjoining land to the west, fronting Shiraz Place and Traminer Way, also form part of the locality. The locality has been determined on the basis that the allotments selected share a common boundary with the subject land, share a line of sight and/or espouse site characteristics that are comparable to the subject land.

Allotments within the locality comprise of vacant land, residential uses, Council reserves and State owned infrastructure. Land within the locality is contained in the Hills Face Zone and the Residential Zone, specifically Residential Policy Area 29 – Skye and Auldana.

The locality is characterised by the varied and steep topographical nature of the Hills Face Zone together with detached residential dwellings of both single and two storey scale in a variety of architectural styles. Densely vegetated reserves and private land, particularly north and south of the subject land, are key features of the locality and contributes a high level of visual amenity through the provision of a natural landscape character.

Dwellings are positioned on large, low density allotments with moderate to deep set-backs and well landscaped gardens which are often informal in arrangement. Much of the housing stock within the Hills Face Zone dates back to the 1970s with the Residential Zone being improved by dwellings in the 1980s and 1990s when the upper slopes of the Magill Estate Winery were subdivided.

4. KIND OF ASSESSMENT

Kind:	Non-complying
Reason:	Hills Face Zone, principle of development control 27
Applicant Appeal Opportunity:	No

5. PUBLIC NOTIFICATION

Category:	Category 3
Reason:	<i>Development Act 1993</i> , section 38(2)(c)
Cut / Fill:	<p>Given the topography of the subject land, substantial earthworks are required to accommodate the proposed development.</p> <p>Upon completion of the development, the only portions of the land that will be substantially altered from their natural state when viewed from external the site will be those areas beneath the footprint of buildings and the motor court.</p> <p>The earthworks component of the proposal has been determined to fail the test prescribed by <i>Development Regulations 2008</i>, schedule 9, Part 1 (2)(g) therefore of their own right, are</p>

	determined to be Category 3 development pursuant to the <i>Development Act 1993</i> , section 38(2)(c)
Representations Received:	Nil (0)
Third Party Appeal Opportunity:	No

6. AGENCY REFERRALS

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

7. EXECUTIVE SUMMARY

7.1. Land Use

The Hills Face Zone serves as a natural backdrop to the Adelaide Plains, providing a buffer area between metropolitan districts and preventing the urban area from extending into the western slopes of the ranges. The Development Plan envisages a zone accommodating low-intensity agricultural activities and public/private open space where the natural character is preserved and visual intrusion of development is limited.

The Development Plan does however permit unobtrusive detached dwellings on land within the Hills Face Zone provided the natural character of the zone is preserved and the development, in itself, does not create a demand for provision of services at a cost to the community. The proposed use has been deemed compatible with that envisaged for the zone, provided it is undertaken in an appropriate manner. The proposed development is therefore not considered to be seriously at variance to the Burnside (City) Development Plan.

7.2. Character

Allotments containing residential dwellings feature in number within this locality of the Hills Face Zone. The styles of dwellings within the Hills Face Zone is varied in architectural style and largely retain the natural landscape character, albeit some dwellings constructed during the 1970's are less sensitive to that character. Dwellings are generally large in scale and sited in a manner that takes advantage of views of the Adelaide Plains to the west.

The proposed development is determined to be in accordance with Hills Face Zone Principle of Development Control 7 in that the proposal will not be built in a manner which is considered to be visually obtrusive or detrimental to the existing natural landscape character. The proposed development is appropriately sited on an existing allotment of substantial size in a position that is below the ridgeline and designed to exhibit a low vertical profile. This is consistent with zone guidelines which envisage buildings set well back from public roads and well below the ridgeline, so as to minimise their presence against the skyline and from local roads within the zone and the Adelaide Plains. The proposed buildings have been designed to correspond with the natural fall of the land from east to west, and sited along existing contours rather than across.

The dwelling and associated buildings will be constructed using non-reflective materials, in tones that blend with the natural rural landscape. Substantial landscaping, on and around built form, is to be undertaken so as to reduce the visual impact of built form upon the land.

7.3. Amenity

The proposal is considered to be an acceptable form of development when viewed from adjoining properties as its scale and proportions are relative the subject land when compared to that of development on nearby residential allotments within the locality. When viewed from land to the west, the buildings rest sufficiently into the natural contours of the land so as to not be a dominant feature, when viewed from private or public land.

Although the proposal exceeds the 3m non-complying wall height threshold, the building height is generally consistent with other dwellings within the locality notwithstanding its substantial floor area. The maximum building height slightly extends above 4m when measured from the top of the footings to the highest part of the building which is substantially shorter vertical profile than other nearby dwellings and near imperceptible when viewed from external the subject land.

The proposal incorporates an appropriate degree on fenestration together with architectural elements on the western elevation to create visual interest and maximise the visual amenity for the future occupants by taking in views over the Adelaide Plains. There are no privacy concerns given the nature of the terrain and substantial spatial separation from adjoining land.

The dwelling is stepped in design as a response to the zones desire for minimising alterations to existing natural contours. Where earthworks are required, the building design uses excavation rather than filling of land which accords with the desired of HFZ principle of development control 7(f).

The development will not impact upon any regulated trees and future landscaping treatments will re-establish the natural landscape character on a parcel of land that is currently grassed with little to no substantial or notable vegetation.

7.4. Public Notification

No third party submissions were received by Council during the statutory public consultation period which was undertaken during the month of September 2016.

7.5. Agency Referrals

As the proposed development is located within the Bushfire Prone Area, the application was referred to the CFS pursuant to Section 37(1)(a) of the Act in accordance with Schedule 8 of the Regulations. The CFS has not responded within their statutory timeframe of 6 weeks (11 weeks have now passed) nor requested an extension of time pursuant to section 37(3) of the Act. The applicant has requested that their application be presented to the Panel and as such the Council as the relevant authority can presume that the CFS does not desire to make a comment.

The applicant has provided detailed information in their application documents in relation to the Bushfire Fighting measures to be included in the construction of the dwelling and ancillary buildings and structures. This recommendation includes a condition of consent that requires the development to be undertaken in strict accordance with the Minister's Code: ***Undertaking development in Bushfire Protection Areas*** to ensure that Bushfire Safety measures are incorporated into the design and remain enforceable.

Council's Technical Officer and Urban Forestry Officer have reviewed the proposed access arrangements and consider the location of the driveway to be acceptable, with no impact to the availability of on-street parking or Council owned infrastructure or street trees planted within the road reserve. The site retains sufficient car parking provisions in

line with Table Bur/5 of the Development Plan with driveway gradients and configuration that comply with the relevant Australian Standards.

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. Subject to concurrence from the Development Assessment Commission, that Development Application 180\0464\16, by Precision Homes (Australia) Pty Ltd, 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 established within the first planting season from the date of issue of the Certificate of Occupancy for the dwelling and thereafter maintained in good health and condition at all times to the reasonable satisfaction of Council.

Reason:

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

- 3 The development shall be carried out in accordance with those provisions of the Minister's Code: ***Undertaking development in Bushfire Protection Areas***, that are designated as mandatory for Development Plan Consent purposes.

Reason:

To ensure the building is constructed and the land managed in accordance with the Bushfire Protection measures as detailed in the Minister's Code.

Reserved Matters

That pursuant to Section 33(3) of the Development Act, the Applicant shall submit detailed proposals for the following reserved matters requiring further assessment by the City of Burnside, prior to the granting of Development Approval:

1. The applicant shall supply a landscaping plan with accompanying schedule of species to be planted on the subject land including their mature heights and heights at the time of planting. The landscaping plan shall be designed in accordance with the requirements of the Minister's Code: ***Undertaking development in Bushfire Protection Areas*** and incorporate landscaping treatments that are planted in locations that appropriately respond to the siting and scale of buildings proposed in this application.

RECOMMENDING OFFICER

Jason Cattonar
Team Leader – Planning

APPENDIX 1

AERIAL LOCALITY MAP



Legend

 **Subject Land**

APPENDIX 2

DETAILED PLANNING ASSESSMENT

Summary of Hills Face Zone Objectives and Principles

Primary Hills Face Zone Objectives:

Objective 1:

A zone in which the natural character is preserved and enhanced or in which a 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: DP Ref	Assessment:
Desired Land Use O 1	Satisfied. <ul style="list-style-type: none"> • The subject land is currently vacant and is surrounded by residential development to the south, east and west. • The subject land sits adjacent to the Residential Zone on the lower slopes the Mount Lofty Ranges escarpment.
Design for Topography PDC 2	Satisfied. <ul style="list-style-type: none"> • With the exception of certain architectural elements, the building height is approximately 3m in vertical profile and sits along the natural contours of the subject land. • The proposed buildings will be sited on excavated rather than filled land in accordance with HFZ principle of development control 7(f), thereby reducing the vertical profile of the proposed buildings.
Operation and Management PDC 3	<ul style="list-style-type: none"> • Satisfied.
Building Design and Location PDC 7-14	Satisfied. <ul style="list-style-type: none"> • The proposed dwelling and ancillary buildings will remain below the ridge line and will not be overly visible against the skyline when viewed from roads within the zone or from the metropolitan area particularly the Adelaide Plains. • Proposed materials and colours are considered suitable to the residential character of the locality while remaining respectful of the Hills Face Zone objectives.

Summary of Council Wide Objectives and Principles

Primary Residential Development Objectives:

Objective 50:

A compact metropolitan area.

Objective 51:

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

Objective 52:

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

Objective 53:

Safe, pleasant, accessible and convenient residential areas.

Objective 54:

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 8–9, 50–54 PDC 1, 3	Satisfied.
Building Set-backs PDC 161–163	<u>Front Set-backs</u> Satisfied. <u>Side Set-backs</u> Satisfied. <u>Rear Set-backs</u> Satisfied.
Building Height PDC 164	Satisfied.
Site Coverage PDC 165	Satisfied.
Private Open Space PDC 166 - 169	Satisfied.
Amenity O20–22 PDC 52–55	Satisfied.
Access / Street Trees / On-site Car Parking PDC 177–182	Satisfied.
Privacy O15 PDC 23, 134–136	Satisfied.
Access to Sunlight PDC143–146	Satisfied.

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DEVELOPMENT APPLICATION

Application Number:	180\674\16
Applicant:	Anthony Donato Architects
Location:	44 Howard Terrace Hazelwood Park SA 5066
Proposal:	Construction of a two-storey residential flat building containing two dwellings
Zone/Policy Area:	Residential Zone Residential Policy Area 15 – First Creek Development Plan consolidated 28 April 2016
Kind of Assessment:	Merit
Public Notification:	Category 2 Two (2) representations received
Appeal Opportunity	Applicant only, no third party appeal rights
Referrals – Statutory:	n/a
Referrals – Non Statutory:	Traffic Management Engineer / Tree Management Officer
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 – 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:

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

1. DESCRIPTION OF PROPOSAL

The Applicant seeks Development Plan Consent to construct a two-storey residential flat building containing two dwellings on an existing allotment at 44 Howard Terrace, Hazelwood Park.

The proposed dwellings each feature at ground level a master bedroom with robe and ensuite, open plan kitchen, dining and living rooms, laundry, powder room, lounge and home theatre and double stack garage. The first floors include three bedrooms, bathroom and study.

The building design and architectural expression is contemporary colonial with clean lines, a variety of geometric silhouettes, diversity of external finishes and cladding materials including face stonework, rendered quoins, and colorbond roof cladding.

2. Discussion

Development Application 180\0543\16 was presented to the Development Assessment Panel (the Panel) on 04 October 2016 with a staff recommendation to grant Development Plan Consent.

The Panel resolved to defer the matter on the following grounds to enable the applicant to consider the following:

The proposal fails to sufficiently accord with the following provisions of the Burnside (City) Development Plan:

1. Residential Policy Area 15 Objective 1 in terms of character and amenity;
2. Residential Zone Objectives 1, 2 and 5 in terms of streetscape character and amenity; and
3. Council Wide Principle of Development Control 161 in terms of appropriate building set-backs.

The applicant shall also provide further clarification / information relating to the presence of any regulated or significant trees on the site or adjacent land.

The applicant has submitted amended plans and an arborist's report detailing methods of ensuring a significant tree, a willow myrtle situated on 46 Howard Terrace is adequately protected from adverse impacts of development.

The plans have been amended to:

- Increase the setback from Howard Terrace from 13.0 metres to 15.0 metres to contribute positively to the existing streetscape character;
- First floor design modified to enhance the streetscape and aid character development;
- Front elevation modified, with more detailed elements for villa style and colours altered to enhance the streetscape and aid character development ;
- Timber windows included throughout to provide a more cohesive design appropriate to the locality;
- Street-scape design modified to reflect the extent of development at the neighbouring property at no.46 Howard Terrace accurately;
- Shadow diagrams have been reconfigured to provide a better indication of the impact of shadow onto no.46 Howard Terrace;
- Site context photos of houses along street added; and

- Site Plan noted to take into account Arborist Report recommendation in relation to footings for the proposed dwelling

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\0674\16, by Anthony Donato Architects, 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.

RECOMMENDING OFFICER

Michael Shillabeer
Development Officer – Planning

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DEVELOPMENT APPLICATION

Application Number:	<i>180\0543\16</i>
Applicant:	<i>Architects Ink</i>
Location:	<i>6 Dulwich Avenue, Dulwich</i>
Proposal:	<i>Two-storey outbuilding comprising garage, rumpus and bathroom</i>
Zone/Policy Area:	<i>Historic Conservation Zone Historic Conservation Policy Area 1 Development Plan consolidated 28 April 2016</i>
Kind of Assessment:	<i>Merit</i>
Public Notification:	<i>Category 2 One (1) representations received</i>
Appeal Opportunity	<i>Applicant only, no third party appeal rights</i>
Referrals – Statutory:	<i>N/A</i>
Referrals – Non Statutory:	<i>Engineering Services Local Heritage Consultant</i>
Delegations Policy:	<i>Unresolved representations</i>
Recommendation:	<i>Development Plan Consent be granted</i>
Recommending Officer:	<i>James Moss</i>

REPORT CONTENTS

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

- Plans and supporting documents
- 01 November 2016 DAP minutes, report and attachments

1. DESCRIPTION OF PROPOSAL

The applicant seeks development plan consent for the construction of a two storey outbuilding within the rear yard of a residential property at 6 Dulwich Avenue, Dulwich.

The proposed outbuilding will comprise a two car garage in stacked formation at ground level and a rumpus, study and bathroom on the first floor.

The proposed outbuilding will measure approximately 47.7 square metres in area, 85.5 metres in total floor area and will be constructed along the eastern side boundary of the land for a distance of 10.8 metres and be set back 1.2 metres from Hector Lane to the rear.

2. DISCUSSION

Development Application 180\0543\16 was presented to the Development Assessment Panel (the Panel) on 01 November 2016 with a staff recommendation to grant Development Plan Consent.

The Panel resolved to defer the matter on the following grounds:

1. The application is deferred to enable discussion within Council and to obtain a legal opinion regarding the implications of the existing window on the boundary between the two properties. The outcome of the legal view is to then be used for discussions with the applicant in terms of resolving any conflicts prior to being returned to the Development Assessment Panel for consideration.

Legal advice was subsequently sought from Norman Waterhouse Lawyers on the question of civil liability resulting from a decision to approve the development. This advice has confirmed the boundary window on the adjoining two storey outbuilding does not create a potential liability and should not prevent the Panel from assessing and determining the proposed development against the Development Plan.

The advice added that, “[t]he only circumstance in which Council could realistically be liable is if it was the relevant authority for the purposes of granting building rules consent and if it was negligent in the performance of that function.”

The applicant has also responded to the deferral by provided Council with its own legal advice prepared by Botten Levinson Lawyers. This advice reinforced that of Norman Waterhouse, stating that Council will not incur liability if development plan consent is granted.

No design changes have been proposed since the matter was last considered by the Panel. 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\0543\16, by Architects Ink, 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 timber batten privacy screen and obscure glazing as depicted on the stamped and approved plans granted Development Plan Consent 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.

RECOMENDING OFFICER

James Moss
Development Officer – Planning

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DEVELOPMENT APPLICATION

Application Number:	<i>180\0453\16</i>
Applicant:	<i>Masterplan</i>
Location:	<i>1 Fergusson Square, Toorak Gardens SA 5065</i>
Proposal:	<i>Aluminium gates (two sets of swing gates and one sliding gate)</i>
Zone/Policy Area:	<i>Historic Conservation Zone Historic Conservation Policy Area 7 – Toorak Gardens (Fergusson Square) Development Plan consolidated 28 April 2016</i>
Kind of Assessment:	<i>Merit</i>
Public Notification:	<i>Category 1</i>
Appeal Opportunity	<i>Applicant only, no third party appeal rights</i>
Referrals – Non Statutory:	<i>Local Heritage Advisor</i>
Delegations Policy:	<i>Delegations Policy – 6.2.1.3 Any application in relation to a Historic Conservation Zone where the Council's Heritage Advisor has recommended that approval should not be granted.</i>
Recommendation:	<i>Development Plan Consent be refused</i>
Recommending Officer:	<i>Jason Cattonar</i>

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:

- Plans and supporting documents
- Local Heritage Advisor comments
- Photographs

1. DESCRIPTION OF PROPOSAL

The Applicant seeks retrospective Development Plan Consent to erect gates at three (3) various locations along the perimeter of the subject land including new sections of rendered masonry fencing as follows:

- Western Gate – 4.4m wide x 2.2m high
- Eastern Gate – 5.1m wide x 2.2m high
- Pedestrian Gate – 1.6m wide x 2.2m high; and
- Masonry Fencing – 2.2m high.

2. BACKGROUND

The subject land benefits from two previous development authorisations that are pertinent to the consideration of the current application now being considered by the Development Assessment Panel (the Panel). Particulars of those applications are as follows:

Development Application 180\0555\13 – *Alterations and additions to existing dwelling including mezzanine level and garage*

Development Application 180\0424\14 – *Amendment to DA 180\0555\13 – alterations and additions (addition of sheltered outdoor space, swimming pool and fencing)*

In September 2013, the Council granted Development Approval to application DA 180\0555\13 for alterations and additions to an existing dwelling, including mezzanine level and garaging at 1 Fergusson Square, Toorak Gardens (“the First Approval”).

Plans approved as part of the First Approval denoted that two gates through which access to the subject land was obtained (one of which provided access to the land from Fergusson Square, and the other from Leighton Walk) were to be retained.

In April 2014, the Council received an application, DA 180\0424\14, to amend the First Approval to incorporate “*small additions and alterations that have become necessary*”. The letter provided by the Applicant expressly identified these amendments to be:

- an adjusted garage location;
- the addition of a sheltered external space;
- the addition of a pool, store and pump shed; and
- the extension of boundary walling along the northern boundary of the land.

No mention is made in this letter to new gates also being installed at the existing gate locations on Fergusson Square and Leighton Walk, and neither were any elevations or other material identifying the design of the proposed gates provided to the Council. However, a notation on the amended plans submitted as part of the amendment application included notations for “new gate” at each location.

The Council granted Development Approval to the amendment application, without identifying the amended notations for the proposed new gates, in July 2014 (“the Second Approval”).

The land owners have since installed new gates at the Fergusson Square and Leighton Walk access points, which diverge significantly, in colour, style and design, from the gates that existed previously.

Council has obtained legal advice from Kelledy Jones Lawyers to determine whether the gates are approved development or not. Citing case law from the Supreme Court (*Adelaide Corporation Pty Ltd v City of Charles Sturt* [2008] SASC 260; *Oakden Shopping Centre Pty Ltd v City of Port Adelaide Enfield* [2004] SASC 373, legal advice confirms that the gates are not approved development.

Development Application 180\0453\16, was submitted in June 2016 by Masterplan on behalf of the registered owner of the land Ms. Janice Fletcher, seeking retrospective consent for the gates.

In accordance with Council's internal processes, the application was referred to Council's Heritage Advisor for further assessment of the application against the relevant design criteria advocated by the Historic Conservation Zone and relevant policy area. The application is now presented to the Panel as a form of development that is not supported by the Heritage Advisor with a staff recommendation that the application be refused.

3. SUBJECT LAND AND LOCALITY ATTRIBUTES

3.1. Subject Land

The subject land is wholly contained within the Historic Conservation Zone of the Burnside (City) Development Plan, specifically Historic Conservation Policy Area 7 – Toorak Gardens (Fergusson Square). The land is an irregular shaped allotment with an approximate area of 1,699m² and frontage to both Fergusson Square and Leighton Walk measuring 14.5m and 65.1m respectively.

The land contains a circa 1932 Renaissance Revival style dwelling with broad eaves and elegant semi-circular arched and columned porch-ways, openings and arcaded loggia. The external walls are finished with render with terracotta tiled roof and decorative chimney pots. The style is formally classified as Inter-War Mediterranean and is one of the major architectural elements around Fergusson Square.

Substantial and well maintained hedging sits along the public road boundaries with vehicular access being achieved via Fergusson Square and Leighton Walk.

3.2. Locality

The locality is wholly contained within HCPA7 and comprises land with frontage to Fergusson Square including those allotments with frontage to the north-western segment of Leighton Walk. The locality is entirely residential in nature and comprised of regular and irregular shaped allotments at low density.

The locality includes a total of 26 allotments, of which, 21 contain a Contributory Items as identified in Fig Bur HCPA/7. Dwelling styles are typically from the Inter-War period and include Bungalow, Tudor and Spanish Mission styles. Those dwellings not identified as Contributory Items are of more recent construction that pre-date the Development Plan's adoption of the Historic Conservation Zone.

Streetscape amenity is of excellent quality and enhanced by well vegetated front gardens, moderate building set-backs and low and open front fencing. The commanding presence of Fergusson Square (identified as a Local Heritage Place in Table Bur/2) influences the visual amenity of the locality and is indicative of the Garden Suburb Movement in Britain at the time. The park retains substantial mature Ash and Carob trees and an attractive central rotunda supported on concrete pillars. The wisteria covered arbor and the pergola

at the centre of the square is a memorial to W. J. Baker (former Alderman of the City of Burnside).

4. KIND OF ASSESSMENT

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

5. PUBLIC NOTIFICATION

Category:	Category 1
Reason:	Historic Conservation Zone, principle of development control 26
Third Party Appeal Opportunity:	No

6. AGENCY REFERRALS

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

7. EXECUTIVE SUMMARY

7.1. Land Use

The subject land is an existing allotment accommodating a detached dwelling and ancillary domestic structures in accordance with the primary objectives of the Historic Conservation Zone.

The development maintains and continues the established residential use of the land and is not considered to be seriously at variance with the policies of the Burnside (City) Development Plan.

7.2. Character and Amenity

The Established Historic Character of HCPA7 is derived from detached dwellings from the Inter-War period of consistent height and scale, set on generously sized allotments with front boundary set-backs that reference Fergusson Square in a repetitious manner.

Within the locality, a notable and important feature is the existing fencing treatments on front property boundaries which include a number of original masonry fences.

On behalf of the applicant, Ron Danvers provided a letter of support that sought to highlight the eccentricities of fencing styles within the locality and the artistic nature of the proposed gates. While the 'eccentricities' are acknowledged, the uniform characteristic that is shared by fencing and gates within the locality and HCPA7 more broadly is its low height and open nature.

With the exception of hedging, the locality is characterised by the low and open fencing treatments that facilitate the visual connection between private land, the historic streetscape and Fergusson Square. The locality is collectively enhanced by well maintained and open front gardens enjoying a substantial degree of visual penetrability.

The distinct absence of solid gates and fencing materials is a notable feature of the locality.

Further to the visual observations made of the locality, Historic Conservation Zone principle of development control 10 defers to Table Bur/1 for guidance with respect to appropriate fencing styles within the zone. Table Bur/1 states:

“4.0 Fences and Gates

Original fences and gates should be retained and reinstated where possible. Where evidence regarding the original fence is not available, a fence sympathetic to the style of the dwelling on the site to be fenced should be erected. Except on the frontage to an arterial road, the erection of high walling in concrete, masonry or timber is not appropriate where it is liable to obscure a dwelling from the street, or disrupt the existing open landscaped character of the locality.

Relatively low and open fencing is appropriate to enable visually attractive detailing of the design of a dwelling to remain visible from a road. Solid side fencing should be built of tradition materials such as timber, corrugated iron (pre-painted if desired), brush or well-detailed masonry.

In addition to the zone guidelines and Table/Bur 1, the Established Historic Character statement for HCPA7 makes specific reference to the type and style of fencing that is appropriate within the policy are as follows:

(e) *the character of the streets facing Fergusson Square with all of the residences taking advantage of the vistas across the Square;*

(f) *the consistent low fences, including some original masonry fences, and well planted gardens landscaped in an informal English style with mature shrubs and trees which provide an extremely attractive green environment around the Square as a setting of the intactness of the housing styles;*

Council’s Heritage Advisor was consulted during the assessment process and has stated their objection to the proposed development. Matters of concern include:

- It is acknowledged that the existing hedge is a dominant and visually impenetrable element of the streetscape, however the gates previously installed facing Fergusson Square provided some visual connection with the residence.
- The height and solidity of the gates and adjacent walls are considered to be contrary to the prevailing low and open fences found in the adjacent properties.
- The replacement gates not only prevent any visual connection, they are now flanked by masonry walls that have extended the width of solid, built fence substantially;
- The use of several bright colours in an abstract pattern only serves to draws attention to the gates.

In summary, the proposed gates and masonry fencing are solid structures that are entirely impenetrable to the human eye. When coupled with a height measuring 2.2 metres, which is greater than standard fencing in a residential area, are determined to represent a grave departure from the Established Historic Character described by HCPA7 and design guidelines presented in Table Bur/1.

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 but is however determined to be *sufficiently at variance* 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\0453\16, by Masterplan, is **refused** Development Plan Consent for the following reasons:

Reasons

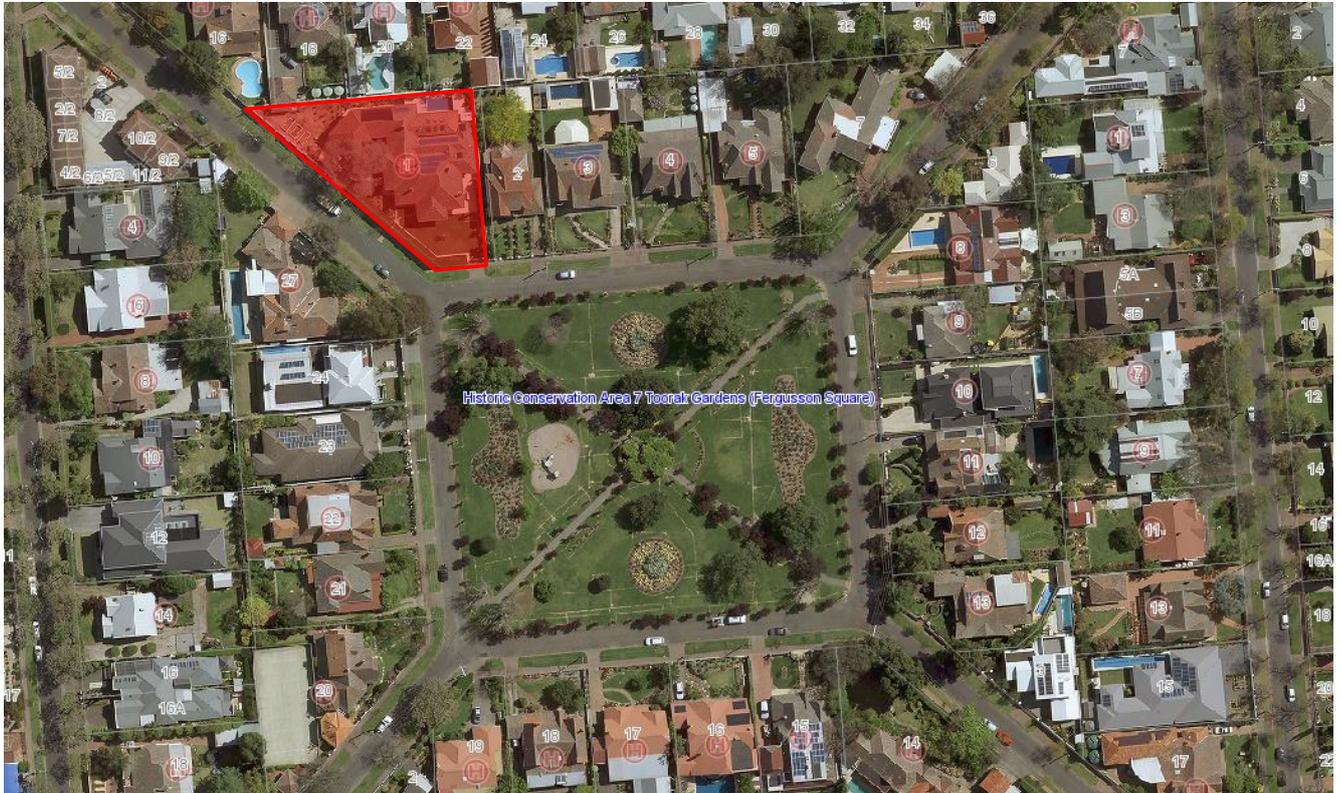
1. The proposal fails to achieve Historic Conservation Policy Area 7 – Toorak Gardens (Ferguson Square), Objective 1 in that the development fails to conserve and enhance the Established Historic Character which consists of low fencing styles.
2. The proposal fails to achieve Historic Conservation Policy Area 7 – Toorak Gardens (Ferguson Square), Principle of Development Control 1, in that the proposed gates and masonry walling does not conserve or enhance the dwelling on the subject land which is identified in Fig HCPA/7 as a Contributory Item.
3. The proposal fails to achieve Historic Conservation Zone, Objectives 1 and 4 in that the development fails to conserve and enhance the historic character of the relevant policy area.
4. The proposal fails to achieve Historic Conservation Zone, Principle of Development Control 1 in that the development fails to conserve and enhance the historic character of the relevant policy area.
5. The proposal fails to achieve Historic Conservation Zone, Principle of Development Control 4 in that the development fails to accord with the conservation and development guidelines set out in Table Bur/1.
6. The proposal fails to achieve Historic Conservation Zone, Principle of Development Control 5 in that the development fails to complement the heritage values of the zone and the Contributory Item located on the subject land and those within the identified locality.
7. The proposal fails to achieve Historic Conservation Zone, Principle of Development Control 10 in that the development fails to accord with the conservation and development guidelines set out in Table Bur/1.
8. The proposal fails to achieve Council Wide, Objective 11 in that the development fails to respond to and reinforce positive aspects of the local environment and built form.
9. The proposal fails to achieve Council Wide, Principle of Development Control 56 in that the development fails to relate to adjacent buildings and other features which contribute to streetscape quality.

RECOMMENDING OFFICER

Jason Cattonar
Team Leader – Planning

APPENDIX 1

AERIAL LOCALITY MAP



Legend

 **Subject Land**

APPENDIX 2

DETAILED PLANNING ASSESSMENT

Summary of Policy Area Objectives and Principles

Primary Historic Conservation Policy Area 7 – Toorak Gardens (Fergusson Square) Objectives:

Established Historic Character

This section of Toorak Gardens was closely built up during the 1920s when it was advertised as a 'New Garden Suburb' and was described as 'having a fine type of bungalow being erected'. The area is dominated by large residences on generous allotments, reflecting the original subdivision pattern and development.

Fergusson Square sits within Section 274 and forms a central element of the initial subdivision of Monreith Farm. The farm belonged to Andrew and Margaret Fergusson who came from Monreith in the County of Wigtown, Scotland. This Section was subdivided in 1917 by a Melbourne syndicate represented in Adelaide by Edward Solomon and the local real estate Agents were Parsons and Willcox. The Square is nearly two acres in size and is a reservation at the centre of the subdivision with four streets radiating from the corners. The Square initially was used for tennis, but by the wish of the local Progress Association of the 1920s, was changed to a formal garden.

The Established Historic Character of Historic Conservation Policy Area 7 – Toorak Gardens (Fergusson Square) derives from:

- (a) detached dwellings, predominantly interwar Bungalows (some Tudor style) of consistent height, scale, set-back and appearance;*
- (b) houses set on generous allotments, well set-back with uniform set-backs and generous side boundaries;*
- (c) the repetition and consistency of the residential style of houses in Fergusson Square, generally of historically intact Tudor Revival or Bungalow design, of one or two storeys;*
- (d) the grid pattern and house allotment size which provides regularity and consistency all around the Square;*
- (e) the character of the streets facing Fergusson Square with all of the residences taking advantage of the vistas across the Square;*
- (f) the consistent low fences, including some original masonry fences, and well planted gardens landscaped in an informal English style with mature shrubs and trees which provide an extremely attractive green environment around the Square as a setting of the intactness of the housing styles;*
- (g) the established street trees, which are generally mature prunus, and the generous grassed verges.*

Objective 1:

Development that conserves and enhances the Established Historic Character.

Objective 2:

Development accommodating detached dwellings on large allotments.

Objective 3:

Maintenance and enhancement of the low scale, low density residential character.

Subject:	Assessment:
DP Ref	
Desired Land Use O 1	Satisfied.
Preservation of Historic Character PDC 1 & 3	Departure. The existing dwelling on the subject land is a Contributory Item as identified in Fig HCPA/7. The HCZ seeks to preserve and enhance streetscapes that exhibit an important historic character with built form on private land making a

	<p>substantial contribution to that character. The proposed gates establish a solid barrier that obstructs views of the dwelling from the public realm thereby diminishing the historic streetscape character surrounding Fergusson Square which includes low and open fencing treatments and gates.</p>
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Summary of Historic Conservation Zone Objectives and Principles

Primary Historic Conservation Zone Objectives:

Objective 1:

The conservation and enhancement of the historic character of the relevant Policy Area.

Objective 2:

The retention and conservation of land, buildings, outbuildings, structures, and landscape elements that contribute positively to the established historic character of a Policy Area.

Objective 3:

Development accommodating those housing types which are compatible with the historic character of the zone.

Objective 4:

Development which conserves and enhances the historic character of the relevant Policy Areas of the zone, in terms of:

- (a) overall and detailed design of buildings;*
- (b) dwelling type and overall form;*
- (c) allotment dimensions and proportions;*
- (d) placement of buildings on the allotment and alignment to the street;*
- (e) layout of the site and the type and height of fencing;*
- (f) streetscapes, verge treatment and street planting; and*
- (g) curtilages and garden areas.*

Objective 5:

A zone where the majority of the existing housing stock is maintained through the retention of items which contribute positively to the character of the Policy Areas, and the number of dwellings is increased primarily through:

- (a) the replacement of dwellings that are not identified as contributory items, and*
- (b) the appropriate development of vacant sites.*

Subject:	Assessment:
DP Ref	
Zoning and Land Use O 1	Satisfied.
General PDC 1–5	Departure. The proposed development is not determined to complement the identified heritage values of the Contributory Item and has not been designed in accordance with Table Bur/1.
Appearance of Land and Buildings PDC 6–15	Departure. Fencing styles within the locality and most particularly surrounding Fergusson Square are low and open in nature being largely in accordance with the design guidelines stated in Table Bur/1. The proposed development is completely at odds with the Established Historic Character and Table Bur/1.

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 21:

Protection and enhancement of visual amenity by ensuring a high standard of design in respect of the appearance of development, and by the conservation and establishment of vegetation, including trees.

Objective 22:

Conservation of streetscapes and landscapes of aesthetic merit, and sites and localities of natural beauty.

Subject: DP Ref	Assessment:
Zoning and Land Use O 52-60	Satisfied.
Design and Appearance O 11 PDC 14-18	Departure. The development does not reflect the Established Historic Character of the locality or policy area resulting in an adverse impact to the visual amenity of the locality.
Visual Amenity O11, 20-22 PDC 14-18, 52-69	Departure. The proposed gates and masonry walling are not of a design standard that is encouraged by the zone or policy area, nor do the gates maintain the harmony of built form character within a streetscape that exudes a high level of architectural quality and merit.