



Council Assessment Panel Meeting Agenda

Tuesday 04 September 2018 at 6pm
Council Chambers, 401 Greenhill Road, Tasmore

Members:	Bill Chandler (Presiding Member) Ross Bateup, Graeme Brown, Kate Shierlaw and Di Wilkins
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1 APOLOGIES

Nil

2 KAURNA ACKNOWLEDGEMENT

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

3 CONFIRMATION OF MINUTES

Recommendation: That the minutes of the meeting held on Tuesday 07 August 2018 be taken as read and confirmed.

4 APPLICATIONS WITHDRAWN FROM THE AGENDA

Nil

5 DEVELOPMENT APPLICATIONS FOR CONSIDERATION – PERSONS WISH TO BE HEARD

(A) NON-COMPLYING DEVELOPMENT APPLICATIONS (HEARING)

Nil

(B) CATEGORY 3 DEVELOPMENT APPLICATIONS (HEARING)

Report Number:	5731.1
Page:	7
Application Number:	180\0557\18
Applicant:	Kelly Burns – City of Burnside
Location:	6 Conyngham Street GLENSIDE 5065
Proposal:	Change of use from open space area to intensify existing public utilities space (depot) including demolition of existing depot building, new building housing community uses, clubroom/workshop, amenities, depot space, dog holding, glass house, associated car parking and fencing
Recommendation:	Development Plan Consent be granted
Representors:	<ul style="list-style-type: none"> • <i>Andrea Brown – 3 Conyngham Street, Glenside (do not wish to be heard)</i> • <i>Argiri Grigorakis – 3 Pepperbox Court, Glenside (do not wish to be heard)</i> • <i>Harry Harding – 3 Conyngham Street, Glenside (do not wish to be heard)</i>
Applicant:	• <i>PO Box 9 GLENSIDE 5065</i>

(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:	5731.2
Page:	17
Application Number:	180\0488\18
Applicant:	Tropo Architects
Location:	40 Hauteville Terrace EASTWOOD 5063
Proposal:	Alterations and additions to existing dwelling including upper level and balcony, decking, verandah, carport, outbuildings (sheds), fencing and associated landscaping
Recommendation:	Development Plan Consent be granted
Representors:	<ul style="list-style-type: none"> • <i>Debra Eckert – 6 Birkin Street (wish to be heard)</i> • <i>Strata Corporation 7866 (Michael Keelan) – 42A John Street, Eastwood (wish to be heard)</i> • <i>Simon Grose c/- Michael Keelan - 42A John Street, Eastwood (wish to be heard)</i>
Applicant:	• <i>28 East Terrace ADELAIDE 5000</i>

Report Number:	5731.3
Page:	33
Application Number:	180\0585\18
Applicant:	R D'Andrea
Location:	99 Alexandra Avenue TOORAK GARDENS 5065
Proposal:	Alterations and additions to existing dwelling including carport, verandah, swimming pool, outbuildings and boundary retaining walls and fencing including new front fence
Recommendation:	Development Plan Consent be granted
Representors:	<ul style="list-style-type: none"> • <i>Graham & Lisa Vasileff – 97 Alexandra Avenue, Toorak Gardens (wish to be heard)</i> • <i>Barb & Tony Dalwood – 130 Watson Avenue, Toorak Gardens (wish to be heard)</i>
Applicant:	• <i>11/467 Fullarton Road HIGHGATE 5063</i>

Report Number:	5731.4
Page:	47
Application Number:	180\0280\18
Applicant:	Buildtex Pty Ltd
Location:	10 Chisholm Avenue BURNSIDE 5066
Proposal:	Two storey detached dwelling with swimming pool and associated boundary retaining walls, fencing and landscaping
Recommendation:	Development Plan Consent be granted
Representors:	<ul style="list-style-type: none"> • <i>Sandra Deblasio – 7 Young Street, Burnside (do not wish to be heard)</i> • <i>Stephen Ghabriel – 9 Young Street, Burnside (do not wish to be heard)</i> • <i>David & Lois Reynolds – 8 Chisholm Avenue, Burnside (wish to be heard)</i>
Applicant:	• <i>297 Kensington Road KENSINGTON PARK 5068</i>

Report Number:	5731.5
Page:	63
Application Number:	180\0862\17
Applicant:	Modern Day Concept
Location:	18 Leroy Street GLENUNGA 5064
Proposal:	Two storey detached dwelling including swimming pool and balconies
Recommendation:	Development Plan Consent be granted
Representors:	<ul style="list-style-type: none"> • <i>Stephen Lewis - 16A LeRoy Street, Glenunga (wish to be heard)</i>
Applicant:	<ul style="list-style-type: none"> • <i>3 Bonita Lane MAWSON LAKES 5095</i>

Previously deferred item returning to the Panel for further consideration.

6 DEVELOPMENT APPLICATIONS FOR CONSIDERATION – NO PERSONS TO BE HEARD

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

Report Number:	5731.6
Page:	69
Application Number:	180\0716\18
Applicant:	TEK Building & Design
Location:	414 Portrush Road LINDEN PARK 5065
Proposal:	Non-Complying - Freestanding signage and storage shed (store)
Recommendation:	Subject to concurrence from the State Commission Assessment Panel, that Development Plan Consent be granted

(B) CATEGORY 3 DEVELOPMENT APPLICATIONS (NO HEARING)

Nil

(C) CATEGORY 2 DEVELOPMENT APPLICATIONS (NO HEARING)

Nil

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

Nil

8 OTHER BUSINESS

Nil

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

That, pursuant to Section 56A(12) of the Development Act, 1993, the public be excluded from this part of the meeting of the City of Burnside Council Assessment Panel dated Tuesday 04 September 2018 (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

Nil

NOTES FOR THE READER**Purpose**

The purpose of each report prepared for the Council 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:	180\0557\18
Applicant:	City Of Burnside
Location:	6 Conyngham Street GLENSIDE 5065
Proposal:	Change of use from open space area to intensify existing public utilities space (depot) including demolition of existing depot building, new building housing community uses, clubroom/workshop, amenities, depot space, dog holding, glass house, associated car parking and fencing
Zone/Policy Area:	Residential Zone Residential Policy Area 20 Development Plan consolidated 19 December 2017
Kind of Assessment:	Merit
Public Notification:	Category 3 Three (3) representations received
Appeal Opportunity	Applicant and third party appeal rights (C3)
Referrals – Statutory:	N/A
Referrals – Non Statutory:	Traffic Management Engineer Eastern Health Authority Tree Management Officer
Delegations Policy:	Manager’s Discretion
Recommendation:	Development Plan Consent be granted
Recommending Officer:	Theresa James

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 Council Assessment Panel to facilitate decision making:

- Plans and supporting documents
- 22 May 2018 Council report and minutes
- Internal agency referral reports
- Representations received
- Applicant’s response to representations
- Photographs

1. DESCRIPTION OF PROPOSAL

The applicant seeks Development Plan Consent for the following:

- Change of use to existing land used as parklands and public utilities to include additional community facilities;
- New community garden;
- Nursery, including small glass house;
- New building including kitchen/lavatory facilities, workshop areas, storage including lost dog housing; and
- Demolition of existing sheds.

2. BACKGROUND

On 22 May 2018 the Council received a report for the redevelopment of the depot land at 6 Conyngham Street. At that meeting the Council adopted the project plan for the Conyngham Street Depot Master Plan Project.

In June 2018 the subject development application was lodged with Council's planning team. That application was determined to be a merit form of development, pursuant to Section 35(5) of the *Development Act 1993*.

As the Burnside (City) Development Plan and the *Development Regulations 2008* do not assign this specific nature of development a category of public notification, the application was placed on Category 3 public notification pursuant to Section 38(2)(c) of the *Development Act 1993*. The application documents were made available for public viewing from 10 July to 25 July 2018 (inclusive), during which time Council received 3 submissions from third parties, none of which indicated they wish to be heard.

Council's planning team sought advice from the Engineering Team, Open Space Team and the Eastern Health Authority in relation to the proposed development.

Pursuant to Council's Delegation Policy, the application is presented to the Council Assessment Panel (CAP) for consideration due to the Manager's Discretion.

3. SUBJECT LAND AND LOCALITY ATTRIBUTES

3.1. Subject Land

The subject land is a large, square shaped allotment located on the eastern side of Conyngham Street. The land comprises 2 allotments totalling an area of 4501m² and combined frontage of 60.96m. The land is relatively flat, particularly towards the rear and southern side of the land where it has been previously benched to allow for the existing structures and driveway on the land.

Existing on the land are several large sheds, mounds of mulch and other Council depot materials, as well as a well landscaped park towards the Conyngham Street boundary. A Council drainage easement is located along the rear and northern boundaries of the land, as well as well as a stormwater pipe through the centre of the land (to be redirected in agreement with Council's Principle Engineer).

3.2. Locality

The locality comprises the streetscape of Conyngham Street, to where it meets Greenhill Road to the north and Cator Street to the south.

The Local Business Zone is situated to the north, the Residential Zone is situated to the centre, and the Mixed Use (Glenside) Zone is situated to the central and lower of the locality as described above.

Medium-to-high density residential dwelling units comprise the types of dwellings within the residential areas. An integrated service station complex is located at the intersection of Conyngham Street and Greenhill Roads, and several office buildings occupy the allotments within the Mixed Use (Glenside) area on the western side of Conyngham Street.

4. KIND OF ASSESSMENT

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

5. PUBLIC NOTIFICATION

Category:	Category 3
Reason:	Section 38(2)(c) the <i>Development Act 1993</i>
Cut / Fill:	The subject land is relatively flat.
Representations Received:	<ul style="list-style-type: none"> • Andrea Brown – 3 Conyngham Street, Glenside (do not wish to be heard) • Argiri Grigorakis – 3 Pepperbox Court, Glenside (do not wish to be heard) • Harry Harding – 3 Conyngham Street, Glenside (do not 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

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

- The subject land is an existing public utilities area within the Residential Zone;
- The expansion of the existing land use to include community facilities is envisaged for the Residential Zone;
- The use is not listed as non-complying; and
- If it can be demonstrated that the proposed development has minimal or no unreasonable external impacts, then approval could reasonably be expected.

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

7.2. Character and Amenity

The Residential Zone envisages primarily residential development, with a range of dwelling types. The zone also makes provisions for community facilities, and seeks to reduce the impact of non-residential uses on the amenity of residential areas. Whilst the land is located within the Residential Zone, it has been long established as a depot and is located on the fringe of the Residential Zone, where it meets a petrol station to its north, and lays adjacent residential and non-residential uses to its west.

The proposed development seeks to develop the land so that it maintains the existing depot use towards the rear of the site, but also includes, towards the front (western) portion of the land, new community facilities comprising a nursery/men's shed workshops, plant room, kitchen/lavatory facilities, and open nursery and a community garden, as well as associated car parking (x15 spaces).

The demolition of the existing depot buildings and storage areas, which are located in proximity to the eastern rear and southern side boundaries of the land, will improve the visual amenity of the adjoining residential premises. These adjoining residential allotments include dwellings built very close to the external boundaries of the subject land, including their private open space areas. The rear of the land will now include enclosures to house pavers, mulch, concrete, rocks, tree logs and mulch, similarly to existing storage locations, however will be partitioned with 2.1m high concrete walling, which will obscure some views of the materials from adjoining land. These aspects of the development are expected to improve the amenity of adjoining residents.

The proposed new building is located only 3.4m from the Conyngham Street road boundary, however is set-back 10.2m from the adjoining residential land to the south and 28m from the adjoining residential land to the east. The new building will improve the appearance of the land as viewed from both Conyngham Street and the adjoining residential premises, in that it is architecturally designed with a low vertical profile (ridgeline height of 6.4m above natural ground level). The large spacing around the proposed new built form will ensure minimal visual amenity impacts to adjoining land users and contribute to the existing open character.

The proposed use of the land includes the existing depot, as well as the men's shed program, the nursery and the community garden. Due to the existing use rights of the land, the depot currently enjoys unrestricted operating hours. The proposed use does not include clear operating hours for the depot, rather the applicant advises the use generally occurs between 7 am – 4 pm Monday to Friday, can be used as early as 6 am – 7:10 pm Monday to Saturday and that during a storm event it could be used all day/night. Given the depot aspect of the land currently enjoys the benefits of unrestricted operating hours, and that the ongoing use of the depot can be critical during bad weather events, no restrictions on the depot operating hours have been included in this recommendation. Should the Panel feel operating hours should be implemented to restrict the depot use, they could include additional conditions regarding operating hours.

The proposed Men's Shed and Nursery operate during general business hours, except that the nursery will also operate from 7 am. Given the location of these uses north of the proposed new building, some 34m and 26m from the east and south residential boundaries respectively, the daylight use of these areas is not expected to result in significant impact to adjoining residential land.

The community garden is located at the front of the land, and will have no restrictions on use. Notwithstanding this, no lighting towers are proposed and as such the community garden will likely be used during daylight hours only.

7.3. Site Functionality

The subject land includes an existing (albeit, to be modified) vehicle access point on the southern side of the land. This includes a portion of bitumen enabling vehicle entry and egress. The roadway/driveway measures 6.5m in width, with an additional 2m for landscaping. This roadway/driveway essentially mimics existing circumstances, whereby the driveway will be used as per existing conditions.

A new crossover is proposed towards the northern end of the frontage, allowing two-way entry/egress, and will allow public entry to the site.

The applicant commissioned the services of traffic consultants (GTA), who have concluded that the provision of 15 car parking spaces will typically meet the anticipated parking demand for the site. The report notes the occasional events at the site, in which a greater car parking demand will be generated, however that Conyngham Street and overflow parking available in the depot area towards the rear of the site will provide sufficient parking.

The proposed car park area has been designed in accordance relevant Australian Standards. In particular, the proposed new northern access point is off-set 5m from the adjacent petrol station access point, which is considered suitable separation. Turning circles were provided, and both GTA Consultants and Council's Technical Officer are satisfied with the diagrams.

7.4. Public Notification

The public notification generated a response from 3 adjoining residents. Concerns included the following:

- Elderly residents of Pineview Retirement Village crossing Conyngham Street and conflict with additional traffic;
- Speedy drivers pose risk to elderly residents;
- A pedestrian crossing near the entrance of Pineview Village would overcome these issues;
- Right hand turns onto Conyngham Street from Pineview Village might conflict with proposed development, particularly new northern driveway;
- Make frontage of the development a 'no stopping' area;
- Deviate the street footpath to the east so that the drop-off/parking zone is inset from the present road alignment;
- Increased level of privacy on fence line; and
- Keep leaf litter away from boundary.

A response to the representations was prepared by Aaron Schroeder, Council's Strategic Projects and Planning Manager, which included the following statements:

- An assessment of the pedestrian crossing opportunities will be prepared by Council and changes will be implemented if they are determined to be necessary;
- There are also presently pedestrian crossing lights included in the traffic lights on the corner of Greenhill Road and Conyngham Street. This crossing is located approximately 89 metres from the Pineview entrance;

- The redeveloped Conyngham Street Depot site is not expected to be a significant generator of additional traffic. A typical Men's Shed program session has around 12 participants and their arrival and departure generally coincides with the start and end of the session time rather than being continuous throughout the day. Some participants share rides. The traffic generated by the depot operations is not expected to change and the entrance for the depot vehicles will remain in its current location;
- To minimise leaf fall on the neighbouring properties, the tree species that will be selected for the boundary will not be deciduous. The species to be chosen will also be one that will not grow to a height that will shade the neighbour's roof or deposit leaves in their gutters. At the same time, the trees will provide additional privacy and aesthetic value for the neighbours;
- The "drop-off" zone will have infrequent use. Currently that side of the road where the "drop-off" zone is proposed is already used for car parking during certain hours when the bike lane is not in use. This means the current situation is very similar to what is proposed; and
- The situation will also be reassessed over time to determine if there have been any unexpected consequences.

7.5. Agency Referrals

The application was referred to Council's Technical Officer, Arborist and the Eastern Health Authority. Council's Technical Officer provided standard stormwater comments, which will be included as advisory notes. Council's Arborist had no comments on the application, given the lack of vegetation on the site. The Eastern Health Authority did not seek to impose any conditions given the kitchen area is not used in relation to a food business.

The stormwater management plan, with respect to drainage within the depot area, is currently being discussed among the developer and Council's Senior Engineer. To ensure the final stormwater management system accords with Council's engineers' requirements, a reserved matter has been included, which seeks the agreement of relevant Council departments.

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 Council 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\0557\18, by City Of Burnside 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 hours of operation of the Men's Shed shall be limited to the following times:
 - 9:30 am - 4: 00 pm Tuesday
 - 9:30 am - 4: 00 pm Wednesday
 - 8:30 am - 4: 00 pm Friday

The hours of operation of the Nursery shall be limited to the following times:

- 7:00 am - 5: 00 pm Monday to Friday
- Staff only - Saturday – Sunday to Tuesday
- One Saturday/Sunday per annum 10:00 am - 3:00 pm

Reason:

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

- 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.

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 The applicant shall supply agreement from Council's Principle Traffic Engineer regarding existing easement and stormwater management.

Reserved Conditions

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

RECOMMENDING OFFICER

Theresa James
Development Officer – Planning

AERIAL LOCALITY MAP



Legend



Subject Land



Representor's Land

DETAILED PLANNING ASSESSMENT

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 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.

Subject:	Assessment:
DP Ref	
Zoning and Land Use O 1-8 PDC 1(b)	The proposed community use of the land is envisaged for the zone. Whilst the primary use for the zone is typically residential in nature, the Residential Zone contemplates non-residential uses, and in particular community facilities. The additional community uses to the site are therefore in keeping with the zone objectives.
Building Appearance PDC 2-4	Whilst the proposed new building is located towards the Conynham Street boundary, and will therefore be more visually apparent when viewed from the street as compared to existing buildings on the land, this new road set-back results in a greater set-back to adjoining residential properties, which will improve the amenity of the adjoining residential allotments. Given the narrow width of the proposed building, and low overall building height, it will not negatively impact on the streetscape character.
Design for Topography PDC 5-6	The land is relatively flat resulting in minimal earthworks.
Non-residential Development PDC 7-9	The existing land is used as a depot for Council. It includes several sheds and mounds of mulch. The proposed use of the land will revitalise the site, however with this will come increased use of the land by the wider community. The use of the land for the Men's Shed and Nursery, including the community garden, is not, however, expected to be at a scale that will cause significant nuisance to nearby residential areas.

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DEVELOPMENT APPLICATION

Application Number:	<i>180\0488\18</i>
Applicant:	<i>Troppo Architects</i>
Location:	<i>40 Hauteville Terrace EASTWOOD 5063</i>
Proposal:	<i>Alterations and additions to existing dwelling including upper level and balcony, decking, verandah, carport, outbuildings (sheds), fencing and associated landscaping</i>
Zone/Policy Area:	<i>Residential Zone Residential Policy Area 18 - Eastwood Development Plan consolidated 19 December 2017</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>Nil</i>
Referrals – Non Statutory:	<i>Traffic Management Engineer Open Space</i>
Delegations Policy:	<i>Unresolved representations</i>
Recommendation:	<i>Development Plan Consent be granted</i>
Recommending Officer:	<i>Renae Grida</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 Council 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 alterations and additions to the rear of an existing 1920s Bungalow detached dwelling at the intersection of Hauteville Terrace and Birkin Street, Eastwood.

Specifically, in addition to minor alterations to the existing dwelling the applicant seeks to replace a single storey portion to the rear with a new cellar, ground floor open plan extension with associated decking constructed along the eastern side boundary and first floor master bedroom with rooftop decking.

The proposal includes a double width carport accessed (via new crossover) from Birkin Street, an underground rainwater tank plumbed to the roof drainage system, a series of small sheds and a 2.2 metre high boundary wall along the western boundary. New landscaping and screen plantings are also proposed to provide privacy for occupants and neighbours.

2. BACKGROUND

Development Application 180\0488\18 was received by the City of Burnside on 29 May 2018 and determined to be a Category 2 development pursuant to the Burnside (City) Development Plan, to be assessed 'on merit'.

The application was made available for public consultation in early July 2018, during which time Council received three (3) written submissions from neighbours to the west and south identifying concerns in relation to the proposed development and a desire to address the Council Assessment Panel (the Panel).

The applicant responded to the written submissions with additional information in the form of shadow diagrams, sight line diagrams and planning evidence prepared by Masterplan Town and Country Planners in support of the development.

As part of the assessment process the application was referred to Council's technical engineering officers and tree management experts in order to review and determine the suitability of the proposed development, and more specifically the crossover to Birkin Street. Their input has factored into the recommendation that follows.

The application is now presented to the Panel as a Category 2 development with unresolved representations and 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 existing Torrens title allotment within the Residential Zone (Residential Policy Area 18) located at the intersection of Hauteville Terrace and Birkin Street in the suburb of Eastwood. The land is rectangular in shape with an approximate area of 727 square metres, a primary frontage to Hauteville Terrace of 18.29 metres and a secondary frontage to Birkin Street of 39.2 metres.

The site is relatively flat and currently occupied by a single storey detached dwelling constructed during the early 1920s in the Bungalow style with associated rainwater tanks, and the remains of a single width garage accessed from Birkin Street.

The site is bordered by a combination of low chain wire fencing to the front and sheet iron fencing of a modest height to the sides and rear. The front garden is well landscaped and attractive.

3.2. Locality

The locality comprises the streetscape of Hauteville Terrace, John Street and Birkin Street insofar as properties may share a visual relationship to the subject land. The streetscape of Main Street also forms part of the locality, but to a diminished extent the further the departure from the subject land.

The locality is situated at the border of the Residential Zone (Residential Policy Area 18 - Eastwood) and Historic Conservation Zone (Historic Conservation Policy Area 2 - Eastwood) and is comprised largely of low scale single storey dwellings at medium density and constructed during the late 19, early 20th centuries.

Key notable features include the predominance of single storey built form with limited examples of two storey development, the modest and generally consistent front set-backs along Hauteville Terrace and a more compact built form character west and south of the subject land reflective of the historic zoning, as well as a predominance of traditional architectural features typical of dwellings of the period.

4. KIND OF ASSESSMENT

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

5. PUBLIC NOTIFICATION

Category:	Category 2
Reason:	Residential Policy Area 18 Principle of Development Control 11(b)
Representations Received:	<ul style="list-style-type: none"> • Debra Eckert – 6 Birkin Street (wish to be heard) • Strata Corporation 7866 (Michael Keelan) – 42A John Street, Eastwood (wish to be heard) • Simon Grose c/- Michael Keelan - 42A John Street, Eastwood (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 development involves additions to an existing dwelling within the Residential Zone and is therefore consistent with the established and desired use prescribed by the

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

7.2. Character and Amenity

Residential Policy Area 18 (RPA 18) seeks the maintenance and enhancement of a residential character that is derived particularly from low scale, low-to-medium density dwellings, primarily being detached dwellings of the late nineteenth century or early twentieth century, and more recent housing of complementary styles on the northern side of Hauteville Terrace.

New development should conserve this character and nineteenth century dwellings therein, and be compatible with the height, roof forms and pitches, proportions, siting, architectural style and detailing, materials and frontage patterns of the typical housing stock in the locality.

Of particular relevance to the current proposal is Principle of Development Control 7, which seeks buildings being limited to single storey, except where the development involves a sympathetic two-storey addition that utilises or extends existing roof space to the rear of the site. This is reflective of the single storey character of the locality, which does include two storey development, but such examples are generally more limited in number and occur with more sporadic distribution.

In the case of DA 180\0488\18, the proposed two-storey addition is not strictly an 'in-roof addition', but is nonetheless considered sympathetic in retaining the original bungalow elements of the building and presents as a contrasting, yet compatible, modern addition through the quality of design, limited visual massing and building height and varied use of external materials and textures. At just 7.5 metres in total height, the proposed built form sits well below the maximum 9 metre height prescribed by Council Wide Principle of Development Control 163(b) and is not considered to be incompatible with the established building heights within the locality.

In terms of bulk, scale and visual massing when viewed external to the site, the additions have been appropriately sited and well-articulated, with interesting and varied external facades so as to minimise visual bulk and scale, and obtrusiveness. The proposed upper level is setback 3.8m from the eastern side boundary, with a minor portion of the angled external wall of the ensuite extending to 2.6m from the boundary. The upper level of the dwelling is set back some 8.7m from the western side boundary and 7.5m from the rear boundary of the site.

The siting of the proposed carport to the secondary street boundary is not uncommon in the context of the site and locality, and is proposed to replace an existing garage structure located further south of the proposed carport location. The carport, and proposed sheds to the south, proposed to be sited to the boundary, appear as simple zinc fencing, which is characteristic of corner allotments. The proposal also includes a gabion wall to the western secondary street boundary to a height of 2.1m. The variance in materials is considered to contribute to streetscape amenity, and is of a reasonable and expected outcome given the site is a corner allotment, also noting a number of masonry boundary walls and fencing to street frontages within the locality.

The rooftop deck oriented to the western side of the site and to be positioned above the proposed carport, has limited spatial separation from the secondary street, however noting it is predominantly an open area and does not contribute to, or result in, an unreasonable visual bulk when viewed from the primary or secondary street frontage.

With regard to privacy impacts to side and rear neighbouring properties, the eastern facing upper level windows nominate fixed obscure glazing to a minimum height of 1.6m above the floor level, which is consistent with Council Wide Principle of Development Control 175 and ensures no direct overlooking of the windows of habitable rooms or private open space of 38 Hauteville. Concerns of overlooking to the rear are sufficiently addressed through the design of the building itself, which utilises the skillion roof form of the rear alfresco to obstruct downward views towards 6 Birkin Street. The green roof is not an area that is capable of use as a floor area (such as a balcony) as confirmed by the applicant.

Similarly, views of neighbouring properties to the south and west from the rooftop deck will be appropriately obstructed by the proposed screening vegetation, to a 1.1m height within a 0.5m high planter box (total 1.6m minimum height) as sought by Council Wide Principle of Development Control 175.

The applicant has provided a photo of the views from the approximate floor level and outermost location of the proposed rooftop deck facing west, of which demonstrates that there is no opportunity to achieve direct views into the private open space of the adjacent properties on the western side of Birkin Street, due to the spatial distance, presence of a high masonry boundary wall, and the angle of views. Provided the landscape screening is controlled and maintained by a condition of consent, the location of the proposed rooftop deck is considered acceptable and not giving rise to direct and unreasonable overlooking over neighbouring properties.

Overshadowing impacts are largely contained within the subject land, with the exception of a small portion of the front yard of the adjoining site at 6 Birkin Street on the winter solstice, of which still maintains compliance with Council Wide Principle of Development Control 183.

7.3. Site Functionality

The proposed ground level building footprint results in site coverage of 43.1%, which sits comfortably within the 50% guideline prescribed by RPA 18 Principle of Development Control 6.

The total floor area for the development, comprised of the ground floor, upper floor, rooftop deck, cellar, carports and sheds, equates to approximately 60% of the area of the site, which exceeds the 50% guideline prescribed by Council Wide Principle of Development Control 164(c).

Despite failing to comply with PDC 164(c) the development is not considered to be at serious odds with one of the key underlying intentions of the provision, that being to reduce visual bulk and scale, seeing as the 60% calculation includes the cellar and rooftop deck, which are non-visible or only partially visible elements. If the cellar and rooftop deck elements are removed, however, this figure is closer to 49%, which would satisfy the guideline.

Furthermore, the extent of total floor area does not translate to a shortfall in the amount of private open space available to the occupants of the dwelling, which equates to 54.3% of the total floor area, and achieves minimum dimensions as prescribed by the Development Plan. The proposed development also accommodates sufficient off-street car parking in accordance with Table Bur/5, and the proposed new crossover does not conflict with or impact any existing Council street trees.

7.4. Public Notification

The development was subject to Category 2 public consultation pursuant to the policy area provisions of the Development Plan on account of the carport constructed on the western side boundary.

Council received submission from neighbours to the west (42A John Street) and south (6 Birkin Street) identifying concerns generally in relation to streetscape compatibility, overlooking potential and overshadowing. The driving factor for the representations appears to have been the two storey form of the proposed addition and the inclusion of a rooftop deck.

The applicant has responded to these issues, as well as those identified by Council, by providing further detail of privacy screen measures to be incorporated within the proposal, as well as further detail regarding the extent of shadow cast by the development and planning evidence prepared by a suitably qualified expert.

The response to representations can be summarised as follows:

- The direct line of sight from the south facing windows of the proposed upper level will be obscured by the upward sloping skillion roof to the alfresco area at the ground level;
- It is proposed that two (x2) Bay trees and one (x1) pink flowering SA Blue Gum tree be established adjacent the rear boundary, planted at a semi-mature height of 1.8m, to provide further obscurity to the northern elevation of the neighbouring dwelling at 6 Birkin Street;
- Sight line diagrams have been prepared demonstrating the restricted views to the south from the proposed upper level;
- The proposed rooftop deck includes planter boxes to the external facing sides, and proposes Kangaroo Island Grass Trees to obscure views to the adjacent properties on the western side of Birkin Street;
- The two-storey design is considered compatible with the scale and height of the existing dwelling and surrounding locality;
- Overshadowing diagrams demonstrate that impacts are completely confined to the development site itself, with the exception of a small south-western corner of the front yard of the site at 6 Birkin Street;
- Setbacks to Birkin Street are considered appropriate and reasonable in the context of the site and locality; and
- Noise generated from the proposed rooftop deck is considered ancillary and incidental to the residential use of the land.

Having considered all submissions, the proposal is considered to be an appropriate planning outcome for the subject land and locality insofar as it relates to the concerns raised, subject to appropriate conditions being incorporated in Council's decision.

7.5. Agency Referrals

The application was referred to Council's technical engineering officers and tree management experts. No concerns were raised in relation to stormwater management or vehicle access from Birkin Street, provided sufficient clearance is afforded to existing street trees within the verge.

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 Council 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\0488\18, by Troppo 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 All east facing upper level side windows as depicted on the stamped and approved plans granted Development Plan Consent shall be fitted with fixed and obscured glazing to a minimum height of 1.6m above the finished floor level.

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

Reason:

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

- 3 The selected vegetation identified as '*Xanthorrhoea seimplana*' (Kangaroo Island Grass Trees) shall be established within one (1) week of the substantial completion of the rooftop deck, and in any event, prior to the use or occupation of the development.

The '*Xanthorrhoea seimplana*' (Kangaroo Island Grass Trees) shall be established at 0.6m intervals, located within the 0.5m high planter boxes to the perimeter of the proposed rooftop deck, so as to form a screening device extending to a minimum height of 1.1m (total height including planter box minimum 1.6m above floor level), as delineated on the stamped and approved plans.

The vegetation shall be maintained in good health and condition to the satisfaction of the Council at all times and any dead or diseased plants or trees shall be immediately replaced to the reasonable satisfaction of the Council.

Reason:

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

- 4 The temporary reed screen as depicted on the stamped and approved plans granted Development Plan Consent nominated to a height of 1.6m above the floor level to the southern and western elevations of the proposed rooftop deck 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.

- 5 The selected vegetation identified as '*Laurus nobilis*' (Bay laurel) to be located adjacent the southern rear boundary of the site shall be established within three (3) months of the substantial commencement of development, and in any event, prior to the use or occupation of the development.

The '*Jacaranda mimosifolia*' (Blue Jacaranda) to be located east of the proposed carport in the yard of the subject site, shall be established within three (3) months of the substantial commencement of development, and in any event, prior to the use or occupation of the development.

The vegetation shall be established at a semi-advanced height of 1.8m and maintained in good health and condition to the satisfaction of the Council at all times and any dead or diseased plants or trees shall be immediately replaced to the reasonable satisfaction of the Council.

Reason:

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

Advisory Notes:**Driveway Conditions:**

- 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 1.0 metre shall be maintained from the closest point of the driveway to the stobie pole.
- The crossover requires a setback of 1.7 metres from the centrally located Crepe Myrtle street tree.
- The street tree is to be protected during development with bunting set 1.7 metres from the trunk for the duration of the works.
- The crossover shall be constructed using permeable materials.

- 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.

Footpath Maintenance

- Existing footpath levels, grades etc. shall not be altered as a result of the new works associated with the development.

Stormwater Detention

- Due to the 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.

Stormwater Discharge

- 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.

RECOMMENDING OFFICER

Renae Grida
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 Residential Policy Area 18 Objectives:	
<p><u>Objective 1:</u> <i>Maintenance and enhancement of a residential character that is derived particularly from low scale, low-to-medium density dwellings, primarily detached dwellings of the late nineteenth century or early twentieth century, and more recent housing of complementary styles on the northern side of Hauteville Terrace.</i></p>	
Subject:	Assessment:
DP Ref	
Desired Land Use O 1	<p>Satisfied.</p> <ul style="list-style-type: none"> The proposed development seeks to construct alterations and additions to an existing dwelling within a residential area.
Local Compatibility PDC 1-2	<p>Satisfied.</p> <ul style="list-style-type: none"> The proposed alterations and additions maintain the integrity of the existing 1920's bungalow and its presentation to Hauteville Terrace, as sought by the policy area. Although the proposed addition is two-storey in height, the development is designed in a manner that is complementary by contrast to the existing bungalow. Whilst not an 'in-roof addition', the bulk and scale of the two-storey element is minimised due to the setback from relative boundaries and the secondary street. The development is not considered to materially impact on the adjacent HCZ, whereby the bulk of the proposed upper level is well separated from the secondary street boundary.
Site Areas and Frontages PDC 3-5	Satisfied.
Site Coverage PDC 6	<p>Satisfied.</p> <ul style="list-style-type: none"> The proposed development does not result in site coverage that exceeds 50% of the area of the site.
Building Height PDC 7	<p>Partially Satisfied.</p> <ul style="list-style-type: none"> Whilst the policy area refers to upper levels being contained within the roof space, the design outcome is such that the highest point of the proposed addition only marginally protrudes above the ridgeline of the existing dwelling, which maintains compatible scale and height to that of the existing housing stock within the locality.
Building Setback PDC 8	<p>Satisfied.</p> <ul style="list-style-type: none"> The existing dwelling maintains its front setback as it presents to Hauteville Terrace.
Private Open Space PDC 9	<p>Satisfied.</p> <ul style="list-style-type: none"> The development achieves the minimum private open space dimensions as sought by RPA 18 PDC 9.

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 5:

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

Objective 8:

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

Subject: DP Ref	Assessment:
Zoning and Land Use O 1-8 PDC 1	Satisfied. <ul style="list-style-type: none"> The development incorporates environmental design techniques as sought by Objective 8. Refer to policy area comments.
Building Appearance PDC 2-4	Satisfied. <ul style="list-style-type: none"> The development incorporates the establishment of landscaping as sought by Residential Zone PDC 2. The proposed additions exhibit a contemporary design to a traditional bungalow dwelling within the Residential Zone, which has regard to the scale, massing and proportions of surrounding development. The two-storey element of the building incorporates an interesting and varied external presentation and is well articulated to reduce visual bulk as sought by Residential Zone PDC 3.

Summary of Council Wide Objectives and Principles

Primary Residential Development Objectives:

Objective 11:

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

Objective 52:

A compact metropolitan area.

Objective 53:

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

Objective 54:

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

Objective 55:

Safe, pleasant, accessible and convenient residential areas.

Objective 56:

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

Subject:	Assessment:
DP Ref	
Zoning and Land Use O 52–60	Satisfied.
Building Set-backs PDC 161–163	Variance <u>Side Set-backs</u> <ul style="list-style-type: none"> • CW PDC 161(c) seeks upper level side setbacks of 4m. The eastern side upper level proposes a setback of 3.8m – 2.6m and the western side has a setback of 8.7m. • The proposed rooftop deck, still considered part of the ‘building’ is located directly above the carport, with the balustrade set back 1.3m, with the planter boxes to the boundary. <u>Rear Set-backs</u> <ul style="list-style-type: none"> • The ground level rear setback complies with CW PDC 161(d). • The upper level rear setback presents with a 0.5m discrepancy from the 8m guideline.
Private Open Space PDC 166, 169	Satisfied. <ul style="list-style-type: none"> • The amount of POS available for use in association with the dwelling achieves the qualitative and quantitative guidelines of CW PDC 167.
Amenity O11, 20–22 PDC 14–18, 52-69, 170-173	Satisfied.
Privacy PDC 22, 174–176	Satisfied. <ul style="list-style-type: none"> • The east facing upper level includes fixed obscure glazing to a height of 1.6m above floor level in accordance with CW PDC 175. • Views to the south are not considered direct and unreasonable, as demonstrated by the sight line diagram which shows that views into the POS and habitable rooms of the adjoining

	<p>property are obscured by the roof form below.</p> <ul style="list-style-type: none"> The rooftop deck includes vegetation screening to a height of 1.6m above floor level and interim fixed screening measures in accordance with CW PDC 175.
<p>Access and On-Site Car Parking PDC 177–182</p>	<p>Satisfied.</p> <ul style="list-style-type: none"> The proposal includes a double width carport with access via Birkin Street, which satisfies Table Bur/5 of the Development Plan.
<p>Access to Sunlight PDC 21, 183–186</p>	<p>Satisfied.</p> <ul style="list-style-type: none"> The shadow diagrams submitted with the application sufficiently demonstrate that the outcome of the proposed development does not unduly impact on neighbouring dwellings access to sunlight.
<p>Domestic Outbuildings PDC 187–189</p>	<p>Satisfied.</p> <ul style="list-style-type: none"> The location of the proposed sheds to the western side secondary street boundary are not considered to result in visual obtrusiveness or visual dominance within the locality, whereby the flat roof form and materiality result in the appearance of a commonplace boundary fence. The proposed carport is compatible with the associated dwelling and the established streetscape.
<p>Fences and Retaining Walls PDC 190–194</p>	<p>Satisfied.</p> <ul style="list-style-type: none"> The proposed gabion wall fence is considered appropriate in the context of the site and locality, where there are a number of solid masonry fences/walls visible within the streetscape.

APPENDIX 3
DEVELOPMENT DATA TABLE

Site Characteristics	Proposed	Guideline
<i>Site Area</i>	727m ² (existing)	350m ²
<i>Street Frontage</i>	18.29 m (existing)	10m
Design Characteristics	Proposed	Guideline
<i>Site Coverage</i>		
- Buildings only	43.1%	50%
- Total floor area	60.2%	50%
<i>Building Height</i>		
- storeys	2 storeys	2 storeys
- metres	7.3m	9m
<i>Set-backs</i>		
<i>Lower Level</i>		
- front boundary	4.5m (to proposed awning)	4m
- side boundary	E: 1m (existing dwelling), On boundary (extension) W: 3m (existing dwelling), 8.1m (extension)	2m
- rear boundary	5m (extension)	4m
<i>Upper Level</i>		
- side boundary	E: 2.6m – 3.8m W: 8.7m	4m
- rear boundary	7.5m	8m
<i>Boundary Wall</i>		
- length	14.2m	8m
- height	2.8m	3m
<i>Private Open Space</i>		
- dimensions	5.2m x 15.7m	4m x 6m
<i>Car Parking and Access</i>		
- number of parks	2	2
- width of driveway	5.5m	4.5m
- width of garage/carport door	14%	33%

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DEVELOPMENT APPLICATION

Application Number:	<i>180\0585\18</i>
Applicant:	<i>R D'Andrea</i>
Location:	<i>99 Alexandra Avenue TOORAK GARDENS 5065</i>
Proposal:	<i>Alterations and additions to existing dwelling including carport, verandah, swimming pool, outbuildings and boundary retaining walls and fencing including new front fence</i>
Zone/Policy Area:	<i>Residential Zone Historic Conservation Policy Area 6 – Toorak Gardens (North) Development Plan consolidated 19 December 2017</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 – Non Statutory:	<i>Local Heritage Consultant</i>
Delegations Policy:	<i>Unresolved representations</i>
Recommendation:	<i>Development Plan Consent be granted</i>
Recommending Officer:	<i>Jake Vaccarella</i>

REPORT CONTENTS

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

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

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

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

1. DESCRIPTION OF PROPOSAL

The applicant seeks Development Plan Consent for the demolition of an existing lean-to addition to the rear and the construction of a new single storey addition comprising carport, master bedroom (including WIR and ensuite), laundry, bathroom, open plan kitchen, family and dining areas and alfresco.

The development also includes two outbuildings sited along the rear and side boundaries, comprising a garage (north-western corner) and a gym/bathroom (north-eastern corner).

Additionally, the proposal encompasses new side and rear boundary concrete sleeper retaining walls with 1.8m high Colorbond fencing as well as a new masonry pillar and plinth front fence comprising permeable (iron infill) openings.

2. BACKGROUND

Development Application 180\0585\18 was lodged on 20 June 2018 by Rick D'Andrea of D'Andrea Architects on behalf of the registered owner of the land.

The proposal was determined to be a merit form of development pursuant to Section 35(5) of the *Development Act 1993*. For the purposes of public notification, the application was determined to be a Category 2 development in accordance with the Burnside (City) Development Plan, Historic Conservation Zone, Principle of Development Control 26 (b).

The application was made available for public inspection between 12 July and 26 July 2018, during which time Council received written submissions from two (2) external parties, both of whom expressed a desire to appear in person before the Council Assessment Panel (the Panel) in support of their submissions. The concerns raised within the submissions were exclusively pertaining to boundary development, specifically the removal and reestablishment of fencing and retaining walls along the northern and western boundaries.

A copy of the submissions was forwarded to the applicant for consideration and response. The applicant provided a response to the representations which clarified that the fencing matters raised through the public notification process would be adequately dealt with through their obligations as landowners under the Fences Act 1975.

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

3. SUBJECT LAND AND LOCALITY ATTRIBUTES

3.1. Subject Land

The subject land is an existing residential allotment on the northern side of Alexandra Avenue in the suburb of Toorak Gardens, as recorded in Certificate of Title Volume 5202 Folio 229. The subject land is wholly contained within the Historic Conservation Zone and more specifically, Historic Conservation Policy Area 6 – Toorak Gardens (North).

The subject land is a large rectangular shaped allotment located on the northern side of Alexandra Avenue with a frontage measuring 23.77m and a depth of 60.96m. The total area of the land measures 1449m². The land is relatively flat with a gradual fall towards the rear (north) of approximately 300mm.

The land currently contains a single-storey detached villa built circa 1910 featuring truncated corner verandah, sandstone construction and traditional hipped roof with brush fencing along the front and side boundaries. The dwelling is identified in the Development Plan (Fig HCPA/6 of HCPA 6) as a Contributory Item.

3.2. Locality

The immediate locality comprises the streetscape of Alexandra Avenue and those allotments fronting Alexandra Avenue where it meets Giles Street to the west and Portrush Road to the east. The identified locality is wholly within the Historic Conservation Zone Policy Area 6 (Toorak Gardens North) and abuts Historic Conservation Zone Policy Area 1 (Rose Park) to the west.

Dwellings are predominantly detached dwellings, with some semi-detached dwelling and ground floor units also identified. Both single storey and two storey dwellings are evident within the identified locality. The Toorak Burnside Bowling Club is located at the western end of the locality, which offers an open community space. Wide grassed verges and mature, full canopied street trees positively contribute to the character.

The historic character of this locality is derived from a large number of residences built in the early 1900s which are constructed in the Bungalow, Villa and Tudor style and typically of stone or brick construction.

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 (b)
Representations Received:	<ul style="list-style-type: none"> Graham & Lisa Vasileff – 97 Alexandra Avenue, Toorak Gardens (wish to be heard) Barb & Tony Dalwood – 130 Watson 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

- 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

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

- The development involves single storey additions to an existing residential dwelling including two outbuildings and a front fence within the Historic Conservation Zone, which contemplates residential development;
- The nature of the proposal is consistent with the Policy Area objectives;
- The height of the additions and outbuildings is not identified as a non-complying kind of development within the zone; and
- If it can be demonstrated that the proposed development has minimal or no unreasonable external impacts, then consent could reasonably be expected.

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

7.2. Character and Amenity

The Historic Conservation Zone seeks the conservation and enhancement of the historic character of the relevant Policy Area, which in this instance is identified as Historic Conservation Policy Area 6 – Toorak Gardens (North) (HCPA 6). The proposed dwelling additions inclusive of carport and two outbuildings occurs at the rear of the property behind the primary façade of the existing dwelling and therefore has little to no visual impact to the established and desired streetscape character.

Whilst the carport attached to the western side of the building will be visible from the streetscape, it is sited behind the main facade of the dwelling and maintains a generous setback of approximately 32 metres from the public road and as such will play a recessive role in the presentation of built form to the historic streetscape of Alexandra Avenue.

The dwelling additions located to the rear of the existing dwelling comprises a modest single storey addition that maintains the existing floor level and continues the existing external wall heights and roof form and pitch so as to create a seamless transition from the original built form fabric to the new section of the building. Whilst proposal offends the 2m setback guideline prescribed by the Development Plan along the eastern elevation, the siting of the additions is not considered substantially at variance with the Development Plan given the context of how it relates to the neighbouring building to the east – 101 Alexandra Avenue.

The proposed detached garage sited along the western (side) and northern (rear) boundaries is of dimensions considered acceptable by the Development Plan, with the exception of the length of wall along the western boundary slightly exceeding the 8m guideline by 1 metre. Given, the adjoining allotment to the west features dense vegetation along its eastern boundary, the extent of boundary development will be relatively inconspicuous when viewed from this property and is considered appropriate in this context.

The second outbuilding comprising gym and bathroom along the eastern (side) and northern (rear) boundaries exceeds the maximum height guideline for boundary development by 550mm. The adjoining property to the east enjoys a large rear yard and as such the siting of the outbuilding in the north-eastern corner of the subject land is considered to fit neatly within this context and anticipated to have a minimal and acceptable impact to the adjoining property in terms of bulk and scale and overshadowing.

The proposed 1.8m high masonry pillar and plinth fence along the front boundary is of a scale, style and material palette that is complementary to the Contributory Item and historic character of the locality.

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. The land also retains a private open rear yard that complies with the desired floor area ratio and conforms to the various qualitative standards.

Vehicular access is to be maintained via the existing crossover sited in the south-western corner of the subject land which is to remain unaltered as part of the proposed development. The development retains adequate space for off-street car parking in accordance with Table Bur/5 of the Development Plan.

7.4. Public Notification

The proposal was determined to be a Category 2 development pursuant to Historic Conservation Zone Principle of Development Control 26, which states:

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

Outbuilding for use in association with a dwelling, except where:

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

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

(my emphasis)

The proposal was made available for public inspection between 12 July and 26 July 2018, during which time Council received two (2) representations from occupiers of adjoining land who expressed a desire to formally present their submission before the Panel. The primary issues of concern relate to boundary development, specifically the removal of the existing fencing and the replacement with a new fence.

The applicant provided Council with a formal response to the submissions which confirmed that their obligations under the Fences Act 1975 with respect to removal and construction of fencing would be followed during the construction of the proposal.

The proposed outbuildings are generally consistent with the Development Plan guidelines for boundary development and are consistent with the form, siting and appearance of multiple similar examples within the immediate and wider locality.

Council considers that the planning matters raised through the public notification process have been sufficiently addressed through the applicant's response and the matter is now presented before the Panel for consideration.

7.5. Agency Referrals (Local Heritage)

Advice was sought from Council's Local Heritage Consultant as part of the assessment process, with the following comments provided in support of the proposal:

- The new carport to the west is well setback, of a suitable size and scale, with complementary details and a lower roof;
- The new garage to the rear, is setback to the rear of the property, and is proposed to be of a suitable scale with complementary materials;
- The proposed gym is setback to the rear of the property and will not be visible from the street;
- The new side extension is proposed to be constructed of stonework to match the existing house with matching quoin detailing;
- The new roof is proposed to continue from the existing ridge height which will result in an extension that appears too bulky against the existing dwelling. We suggest the ridge line be lowered to the extension to allow for the new element to read clearly as new against the original house, and reduce its impact on the heritage values of the place; and
- The proposed fence is of a scale, style and material palette that is complementary to the house and the zone.

With respect to dot point five and contrary to the comments provided by the heritage consultant, Council considers that the proposed addition is of a low scale, single-storey form which is partially concealed by the primary roof bulk of the existing dwelling as well as the presence of the existing corner verandah so as to be largely imperceptible from the streetscape of Alexandra Avenue, thereby adequately preserving the historic elements of this Contributory Item.

It should also be noted that the side (eastern) portion of the addition that will be partially visible from the streetscape is setback 27 metres from Alexandra Avenue, which is considered adequate spatial separation to ensure that the repetition of historic elements throughout Alexandra Avenue is not interrupted and the existing architectural character of the Contributory Item preserved.

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 Council 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\0585\18, by R D'Andrea 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.

Advisory Notes

- 1 **Expiration Time of Approval**
Pursuant to the provisions of Regulation 48 under the Development Act 1993, this Consent/Approval will lapse at the expiration of 12 months from the operative date of the Consent/Approval unless the relevant development has been lawfully commenced by substantial work on the site of the development within 12 months, in which case the Approval will lapse within 3 years from the operative date of the Approval subject to the proviso that if the development has been substantially or fully completed within those 3 years, the Approval will not lapse.
- 2 **Boundaries**
It is recommended that as the Applicant is undertaking work on or near the boundary, the Applicant should ensure that the boundaries are clearly defined by a Licensed Surveyor, prior to the commencement of any building work.
- 3 **Building Consent**
Development Approval will not be granted until a Building Rules Consent has been obtained. A separate application must be submitted for such consent. No building work or change of classification is permitted until the Development Approval has been obtained.
- 4 **Fences Act 1975**
The Applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works require the removal, alteration or repair of an existing boundary fence, a 'Notice of Intention' must be served to adjoining owners. Please contact the Legal Services Commission for further advice on 1300 366 424 or visit www.lsc.sa.gov.au

RECOMMENDING OFFICER

Jake Vaccarella
Development Officer – Planning

AERIAL LOCALITY MAP



Legend



Subject Land



Representor's Land

APPENDIX 2

DETAILED PLANNING ASSESSMENT

Summary of Policy Area Objectives and Principles

Historic Conservation Policy Area 6 – Toorak Gardens (North) Objectives:	
<p><u>Objective 1:</u> <i>Development that conserves and enhances the Established Historic Character.</i></p> <p><u>Objective 2:</u> <i>Development accommodating detached dwellings on large allotments.</i></p> <p><u>Objective 3:</u> <i>Maintenance and enhancement of the low scale, low density residential character.</i></p>	
Subject: DP Ref	Assessment:
Desired Land Use O 1	<p>Satisfied.</p> <ul style="list-style-type: none"> The existing and lawful residential use of the land is to be maintained by the proposed development which seeks to construct a dwelling addition including outbuildings and new fencing.
Local Compatibility PDC 1	<p>Satisfied.</p> <ul style="list-style-type: none"> The proposed additions are located to the rear of the site and are concealed by the existing hipped roof of the dwelling so as to be inconspicuous from the streetscape of Alexandra Avenue; The proposed outbuildings are sited to the rear of the subject land and as such will not be a visually prominent element within the streetscape; The carport, although visible from the street, is well setback from Alexandra Avenue and is of an appropriate size, scale and profile, and does not interrupt the streetscape quality of the Policy Area; and The proposed fencing treatments including masonry front fence is of a scale, style and material palette that is complementary to the existing dwelling and Policy Area
Site Areas and Frontages PDC 2-5	N/A
Building Set-backs PDC 6	<p>Satisfied.</p> <ul style="list-style-type: none"> The proposed additions, carport and outbuildings are all sited behind the primary façade of the dwelling and as such comfortably satisfy the 8m guideline prescribed by HCPA 6.

Summary of Residential Zone Objectives and Principles

Primary 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 1–8 PDC 1	Satisfied.
Building Appearance PDC 2–4	Satisfied. <ul style="list-style-type: none"> • The extent of the works that will be readily visible from the public realm is the carport and a small portion of the rear addition; • The additions incorporate stonework to match the existing dwelling, are low in scale and complementary in form and appearance so as to preserve the contribution of the historic dwelling; and • The proposed front fence is complementary in form, design and appearance with the existing dwelling utilising materials and finishes which are comparable to the established character of the locality.

Summary of Council Wide Objectives and Principles

Primary Residential Development Objectives:

Objective 11:

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

Objective 52:

A compact metropolitan area.

Objective 53:

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

Objective 54:

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

Objective 55:

Safe, pleasant, accessible and convenient residential areas.

Objective 56:

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

Subject:	Assessment:
DP Ref	
Zoning and Land Use O 52–60	Satisfied.
Design and Appearance O 11 PDC 14–18, 23-28	Satisfied.
Building Set-backs PDC 160–161	<p><u>Front Set-backs</u> Satisfied.</p> <p><u>Side Set-backs</u> Variance.</p> <ul style="list-style-type: none"> • The proposed additions which extend to the east of the building offend the DP setback guideline which calls for a 2m setback from a side boundary where the wall height is between 3m – 6m; • The proposed siting of the building maintains adequate separation from the adjacent single storey building and maintains a pattern of spacing which is comparable to the established housing stock of the locality; and • The departure is not anticipated to cause a significant loss of amenity, in terms of visual impact, overshadowing or access to sunlight, to occupants of adjoining land and buildings. <p><u>Rear Set-backs</u> Satisfied.</p>
Building Height PDC 163	Satisfied.
Site Coverage PDC 164	Satisfied.
Private Open Space PDC 165, 166	Satisfied.
Amenity O11, 20–22 PDC 14–18, 52-69, 169-170	<p>Satisfied.</p> <ul style="list-style-type: none"> • The proposed development is considered suitable to the site and

	<p>locality in terms of scale and proportions and is not anticipated to impair the amenity of the locality through the appearance of land, buildings or other conditions or factors.</p> <ul style="list-style-type: none"> The proposed development is considered to protect and enhance the visual amenity of the locality by providing enhancements of a high design standard and appearance.
<p>Privacy PDC 22, 173–175</p>	<p>Satisfied.</p> <ul style="list-style-type: none"> There is no anticipated impact on the privacy of adjoining properties as the development relates to the ground level only.
<p>Access and On-Site Car Parking PDC 176–181</p>	<p>Satisfied.</p> <ul style="list-style-type: none"> There are no changes to the existing access scenario proposed as part of this application. The carport will accommodate two (2) off-street car parking spaces and as such accords with Table Bur/5 of the DP.
<p>Access to Sunlight PDC 21, 182–185</p>	<p>Satisfied.</p> <ul style="list-style-type: none"> The proposed works, being single-storey in nature are not anticipated to adversely impact neighbouring properties, and majority of shadow impacts are contained within the subject land.
<p>Domestic Outbuildings PDC 186–188</p>	<p>Satisfied.</p> <ul style="list-style-type: none"> The proposed outbuilding's are for use in association with the dwelling (garage & gym) are not considered to be obtrusive or of a size or in a location which is visually dominant. The proposed outbuilding results in minimal overshadowing outside the subject land. The form, height and length of the outbuildings are similar to several outbuildings on neighbouring properties in proximity to the subject land, which themselves form a typical feature of the locality and broader zone. The generous size of allotments in the locality, coupled with the rear location of the proposed outbuildings, further reduces visual impacts and avoids any substantive sense of enclosure on the part of adjacent residents.
<p>Fences and Retaining Walls PDC 189–193</p>	<p>Satisfied.</p> <ul style="list-style-type: none"> Retaining walls ranging from up to 380mm in height are required due to the minor associated earthworks. The proposed retaining walls are not out of character for the locality and Policy Area. The proposed boundary fencing (1.8 metre high Colorbond) will replace an existing brush fence and is regarded as standard within the Residential Zone and suitable in providing reasonable privacy without appearing visually dominant of large in scale.
<p>Safety and Security PDC 195–198</p>	<p>Satisfied.</p>
<p>Water Conservation PDC 200–201</p>	<p>Satisfied.</p>
<p>Energy Conservation PDC 31-32</p>	<p>Satisfied.</p>

APPENDIX 3
DEVELOPMENT DATA TABLE

Site Characteristics	Proposed	Guideline
<i>Site Area</i>	1449m ²	750m ²
<i>Street Frontage</i>	23.77m	15m
Design Characteristics	Proposed	Guideline
<i>Site Coverage</i>		
- Buildings only	35%	40%
- Buildings and driveways	44%	50%
- Total floor area	35%	50%
<i>Building Height</i>		
- storeys	1 storey	2 storeys
- metres	8.2m	9m
<i>Set-backs</i>		
<i>Lower Level</i>		
- front boundary	Behind main façade	8m
- side boundary	East: 1m West: 6.42m	2m
- rear boundary	Additions: 20m Outbuilding's: on boundary	4m
<i>Boundary Wall</i>		
- length	Garage: 9m (west) 7m (north) Gym: 6.7m (north) 7.3m (east)	8m
- height	Garage: 2.9m Gym: 3.9m	3m
<i>Private Open Space</i>		
- percentage	75%	50%
- dimensions	m x m	5m x 8m
<i>Car Parking and Access</i>		
- number of parks	2	2
- width of driveway	4.0m	4.5m
- width of garage/carport door	N/A	33%

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DEVELOPMENT APPLICATION

Application Number:	<i>180\0280\18</i>
Applicant:	<i>Buildtex Pty Ltd</i>
Location:	<i>10 Chisholm Avenue BURNSIDE 5066</i>
Proposal:	<i>Two storey detached dwelling with swimming pool and associated boundary retaining walls, fencing and landscaping</i>
Zone/Policy Area:	<i>Residential Zone Residential Policy Area 17 - Ferguson Development Plan consolidated 19 December 2017</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>Technical Officer Engineering</i>
Delegations Policy:	<i>Unresolved representations</i>
Recommendation:	<i>Development Plan Consent be granted</i>
Recommending Officer:	<i>Jake Vaccarella</i>

REPORT CONTENTS

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

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

Documentation provided as attachments to the report to members of the Council 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 an existing residential allotment on the southern side of Chisholm Avenue, Burnside.

The dwelling comprises the following features:

Ground level:

- Double garage;
- Lounge room;
- Bedroom comprising ensuite and walk in robe;
- Study;
- Laundry;
- Powder room;
- Open plan kitchen, meals and family areas; and
- Terrace

First floor

- Two (2) bedrooms;
- Guest room comprising ensuite
- Bathroom; and
- Retreat

The application also proposes new concrete sleeper retaining walls and 1.8m high Colorbond fencing along the side and rear boundaries.

2. BACKGROUND

Development Application 180\0280\18 was lodged on 03 April 2018 by Jamie Capone of Buildtex Pty Ltd on behalf of the registered owner of the land.

The proposal was determined to be a merit form of development pursuant to Section 35(5) of the Development Act 1993. For the purposes of public notification, the application was determined to be a Category 2 development in accordance with Residential Policy Area 17 Principle of Development Control 11 (a) and (b) of the Burnside (City) Development Plan.

The application was made available for public inspection between 07 June and 22 June 2018, during which time Council received written submissions from three (3) external parties, one of whom expressed a desire to appear in person before the Council Assessment Panel (the Panel) in support of their submission. The submissions raised concerns with respect to boundary fencing, building setbacks, overlooking and noise pollution generated from pool pump equipment and air-conditioning units.

A copy of the submissions was forwarded to the applicant for consideration and a response. The applicant engaged Garth Heynen of 'Heynen Planning Consultants' to provide a formal response to the representations as well as provide supplementary documentation in the form of a 3D shadow study. A copy of the response to representations can be found in Attachment 4 of the report.

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

3. SUBJECT LAND AND LOCALITY ATTRIBUTES

3.1. Subject Land

The subject land is an existing residential allotment on the southern side of Chisolm Avenue in the suburb of Burnside, as recorded in Certificate of Title Volume 5268 Folio 728. The subject land is wholly contained within Residential Policy Area 17 – Ferguson, bordered by Residential Policy Area 16 – Burnside (North) to the rear (south).

The subject land is a large rectangular shaped allotment located on the southern side of Chisolm Avenue between Glynburn Road to the west and William Street to the east. The allotment has a frontage measuring 21.34m and a depth of 48.77m, with a total area measuring 1040 square metres. The land is relatively flat with a gradual fall of approximately 500mm from east to west as the street falls towards Glynburn Road.

The land currently contains a single-storey detached dwelling built in 1928 in the bungalow style and includes carport, outbuilding and a well vegetated front and rear yard. The subject land is free of any regulated or significant trees.

3.2. Locality

The locality comprises the streetscapes of Chisolm Avenue as well as Warren Street (north of the site) and William Street (to the east of the site). Residences fronting Chisolm Avenue to the east of the site are contained within both RPA 17 and RPA 12 and residences fronting Chisolm Avenue and Warren Street to the north-west of the site are contained within RPA 16.

The locality is considered relatively incongruent in terms of its residential character with a diverse mix of detached dwellings on large allotments interspersed with semi-detached dwellings and residential flat buildings on smaller allotments. The locality displays a variety of architectural styles with examples of older housing stock from the 1930's and 1950's, including two Local Heritage Places to the south-east of the site combined with examples of more recent development, forming nonetheless, part of the established streetscape character.

4. KIND OF ASSESSMENT

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

5. PUBLIC NOTIFICATION

Category:	Category 2
Reason:	Residential Policy Area 17 Principle of Development Control 11 (a) & (b)
Representations Received:	<ul style="list-style-type: none"> • Sandra Deblasio – 7 Young Street, Burnside (do not wish to be heard) • Stephen Ghabriel – 9 Young Street, Burnside (do not wish to be heard) • David and Lois Reynolds – 8 Chisholm Avenue, Burnside (wish to be heard)
Third Party Appeal Opportunity:	No

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

6. AGENCY REFERRALS

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

7. EXECUTIVE SUMMARY

7.1. Land Use

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

- The subject land is located within the Residential Zone and is currently utilised for residential purposes;
- The proposed development is not identified as a non-complying kind of development in the Burnside (City) Development Plan;
- The Development Plan does not explicitly preclude two-storey development; and
- If it can be demonstrated that the proposed development has no unreasonable external impacts, then consent could reasonably be expected.

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

7.2. Character and Amenity

Residential Policy Area 17 of the Development Plan seeks to maintain and enhance a low density, well vegetated residential character derived from detached post-war dwellings in a variety of architectural styles. The proposed development involves the construction of a contemporary two-storey detached dwelling on an existing residential allotment, which takes visual cues from the diverse residential character of the locality, thereby reflecting the intent of the primary Objective for RPA 17.

The proposed dwelling offers a contemporary design which exhibits built form characteristics typical of some of the earlier housing stock of the locality whilst remaining relevant with modern trends comprising large aluminium framed windows, selected stone piers, 27.5 degree hipped roof and large entry door with highlight windows above. Whilst the building is two-storey in height, it has been sympathetically designed with a centrally sited upper level that is setback approximately 7 metres behind the main face of the building and 16m from Chisolm Avenue and as such will read as a recessed built form element that is largely concealed by the primary roof bulk of the single storey portion of the building.

In terms of its visual impact from adjoining properties either side of the subject land, the proposed building comprises vertical wall heights that are compatible with existing housing stock and a modest upper level that assists in presenting a sympathetic external built form appearance to neighbouring properties on either side of the subject land.

The location of the garage on the western boundary is considered acceptable from a streetscape perspective and whilst its proportions are in excess of what is generally considered acceptable by the Development Plan (by 420mm), the boundary wall is not likely to unreasonably impact the visual amenity of the adjoining occupier of land at 8 Chisolm Avenue in terms of its bulk and scale or overshadowing effect.

In terms of its siting, the proposed building maintains a setback from Chisolm Avenue of 8 metres which satisfies the guideline of RPA 17 and remains consistent with the established pattern of large front setbacks observed within the immediate locality (6 – 14 Chisolm Avenue). The proposed building also maintains the established pattern of spacing between buildings observed throughout the locality and achieves appropriate spatial separation between adjacent built form, satisfying the quantitative guidelines of the Development Plan concerning set-backs from side and rear boundaries.

In terms of overlooking opportunities, the proposed building incorporates upper level side and rear windows, as well as an additional front facing window to the guest room which are to be fitted with fixed and obscure glazing to a height of 1.6m above the floor level of the first floor which is consistent with the Development Plan's guidelines with respect to privacy. The remainder of front facing windows relate to void space and the stair well which are not considered habitable rooms; thereby not creating any further overlooking potential outside of what is considered acceptable by the Development Plan.

Due to the north/south orientation of the allotment, and neighbouring allotments, the extent of overshadowing caused by the proposed building will be minimal. Furthermore, a shadow study provided by the applicant confirms that the proposal satisfies the Development Plan with respect to access to sunlight.

The overall siting and design of the building is considered to be appropriate within the context of the locality in terms of scale, height, form, style, materials and finishes, and is considered to be an appropriate planning outcome for the subject land and locality.

7.3. Site Functionality

The proposed building footprint fits well within the site boundaries, as delineated on the proposed site plan and comfortably satisfies site coverage and total floor area guidelines, whilst providing for sufficient and useable private open spaces associated with the dwelling.

For vehicular purposes, the subject land is serviced via a new crossover located in the north-western corner of the site, with the existing crossover to be removed and reinstated to kerb. The development provides generous space for on-site car parking to meet the needs of future occupants and visitors and to avoid on-street parking that would restrict the free flow of traffic (including pedestrian traffic) along Chisolm Avenue or cause significant nuisance to nearby residents or other users of land.

Council's Engineering Services department have reviewed the proposal and are satisfied with the design and the proposed crossover works have been approved through a separate authorisation granted in accordance with Section 221 of the Local Government Act 1999.

7.4. Public Notification

The proposal was determined to be a Category 2 development pursuant to Residential Policy Area 17 Principle of Development Control 11, which states:

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

Dwelling, except where

- (a) the dwelling or outbuilding is two or more storeys in height (where “two storeys” is defined as a total of one habitable floor level directly above another, not including an understorey garage), or more than 6.5 metres building height above natural ground level;*
- (b) the development has a solid wall located on a side or rear boundary, but excluding a fence or wall of less than two metres building height above natural ground level;*

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

(my emphasis)

The proposal was made available for public inspection between 07 June and 22 June 2018, during which time Council received three (3) valid representations from occupiers of adjoining properties, one of whom expressed a desire to formally present their submission before the Panel. The primary issues of concern were summarised earlier in the background section of the report.

Council considers that the planning matters raised through the public notification process have been sufficiently addressed through the overall design of the building and the amendments introduced following the notification period 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 Council 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\0280\18, by Buildtex 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 All mechanical machinery associated with the heating, cleaning and filtration of the swimming pool shall not emit any noise which exceeds 45dB(A) when measured from the boundary of the subject land at the closest point to the mechanical machinery.

Reason:

To ensure minimal amenity loss of adjacent properties.

- 3 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.

- 4 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.

- 5 All side and rear upper level windows including an additional front facing window to the "guest room" as depicted on the stamped and approved plans granted Development Plan Consent shall be fitted with fixed and obscured glazing to a minimum height of 1.6m above the finished floor level.

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

Reason:

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

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

Reason:

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

Advisory Notes

1 Engineering Requirements:

Driveway Conditions:

- 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.
- 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.

Footpath Maintenance

- Existing footpath levels, grades etc. shall not be altered as a result of the new works associated with the development.

Stormwater Detention

- Due to the 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.

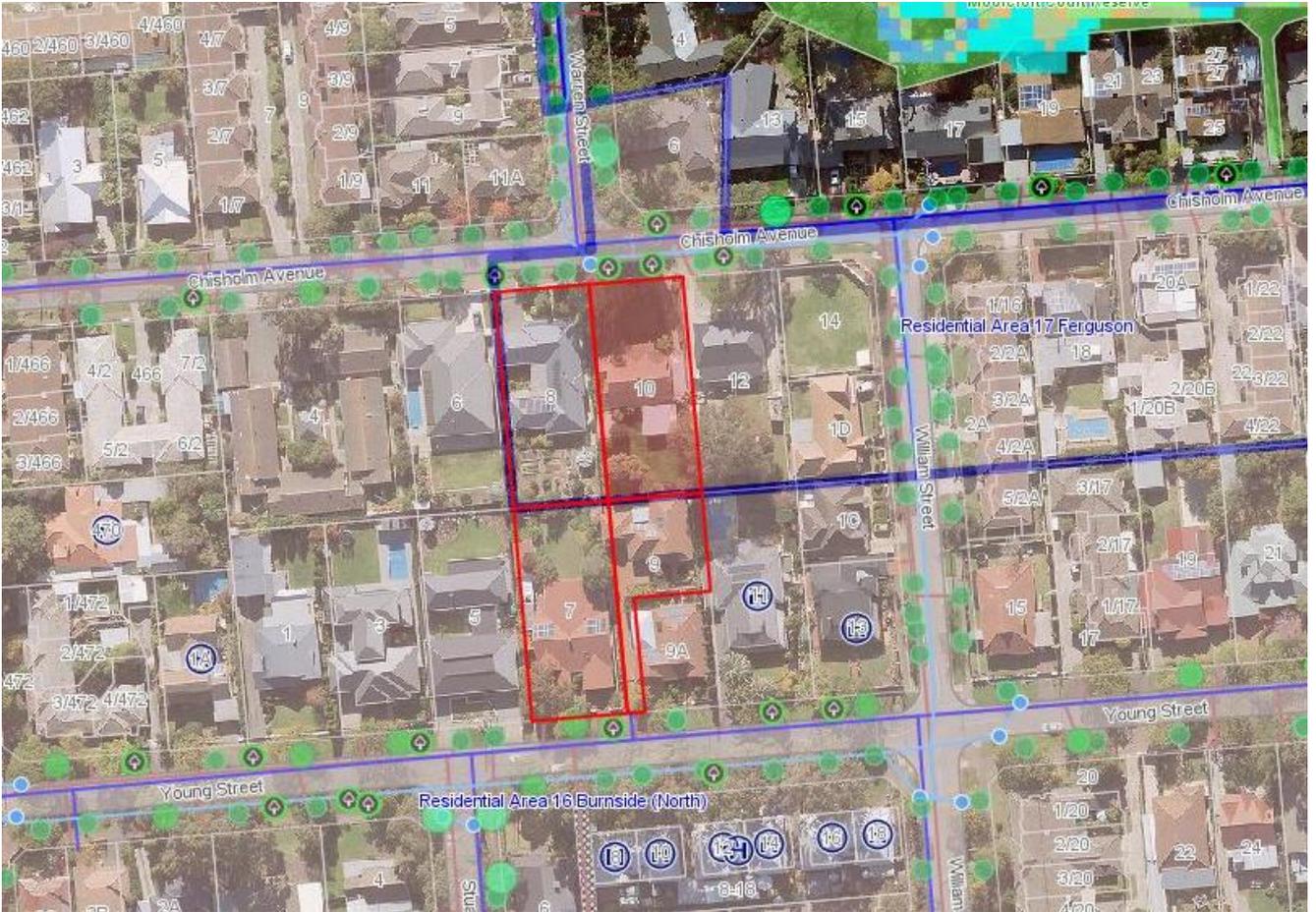
Stormwater Discharge

- 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.

RECOMMENDING OFFICER

Jake Vaccarella
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 Residential Policy Area 17 Objectives:

Objective 1:

Maintenance and enhancement of a low density, well-vegetated residential character that is derived particularly from:

(a) detached, post-war dwellings, in a variety of architectural styles; the topographic and other natural features of the foothills location, including stands of indigenous and other taller trees covering a large part of the Policy Area;

(b) moderate to deep building set-backs from streets;

(c) open, well-vegetated, front gardens;

(d) in some localities, predominantly split-level or two-storeyed dwellings which, by retaining open space of sufficient size and location, promote the conservation of trees (as well as being visually compatible with their height).

Subject:	Assessment:
DP Ref	
Desired Land Use O 1	Satisfied. The proposal seeks to continue the established and desired residential use of the subject land.
Local Compatibility PDC 1	Satisfied. <ul style="list-style-type: none"> • Although two storeys in form, the proposed building features a recessed upper level component and exhibits appropriate external wall heights and proportions to be considered compatible with the established residential character of the locality. • The locality comprises a mix of single and two storey development, as well as a mix of dwelling densities and architectural styles. • The proposed dwelling is of a high standard, modern design which takes visual cues from the roof form and pitch of existing dwellings in the street.
Site Areas and Frontages PDC 2-5	Satisfied.

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 5:

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

Objective 8:

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

Subject:	Assessment:
DP Ref	
Zoning and Land Use O 1-8 PDC 1	Satisfied.
Building Appearance PDC 2-4	<p>Satisfied.</p> <ul style="list-style-type: none"> • The proposed dwelling is of a mass and scale which is consistent with mass and scale of neighbouring properties; • The proposed dwelling comprises a high quality contemporary building which incorporates a unique mix of external materials and finishes across the external façade which provides articulation and visual interest; • The building comprises a modest upper level proportionate to the ground floor which assists in minimising the vertical profile of the building; • The proposed building fits well within the 9m height guideline of the Development Plan.

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. <ul style="list-style-type: none"> The proposed development is considered to be of a high design standard and appearance that responds to positive aspects of the locality.
Building Set-backs PDC 161-163	<p><u>Front Set-backs</u></p> <p>Satisfied.</p> <p><u>Side Set-backs</u></p> <p>Minor Variance.</p> <ul style="list-style-type: none"> The ground floor of the proposed building will be set back a minimum of 1.5 metres from the eastern side boundary, which signifies a 500mm departure from the 2 metre guideline. The adjoining dwelling to the east is setback approximately 3.5m from its western boundary which when combined with the 1.5m setback of the proposed building results in a generous (5m) buffer between buildings;

	<ul style="list-style-type: none"> As such, the proposed siting is not anticipated to cause a significant loss of amenity, in terms of visual impact, overshadowing or access to sunlight, to occupants of adjoining land and buildings. <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 O11, 20–22 PDC 14–18, 52-69, 170-173	x
Privacy PDC 22, 174–176	<p>Satisfied.</p> <ul style="list-style-type: none"> All side and rear upper level windows as well as an additional front facing window to the guest room are to be fitted with fixed obscured glazing to a height of 1.6m above the level of the first floor, thereby satisfying CW PDC 175(c). The remainder of the front facing upper level windows relate exclusively to void space associated with the stair well which are not habitable rooms and therefore consistent with the relevant guidelines concerning privacy.
Access and On-Site Car Parking PDC 177–182	<p>Satisfied.</p> <ul style="list-style-type: none"> The dwelling satisfies off-street parking requirements prescribed by Table Bur/5. The proposed crossover location and driveway configuration which is sited over the Council verge has been approved by Council's Technical Officer – Engineering in accordance with Section 221 of the Local Government Act 1999.
Access to Sunlight PDC 21, 183–186	<p>Satisfied.</p> <ul style="list-style-type: none"> The dwelling is two storeys in height and therefore could reasonably be expected to impose a degree of shadow over adjoining properties at certain times of the day. The applicant has provided shadow diagrams to demonstrate the extent of shadow cast at different time on the winter solstice. The shadow diagrams provided indicate the amount of sunlight afforded to each adjoining property will remain consistent with DP guidelines.
Fences and Retaining Walls PDC 190–194	<p>Satisfied.</p> <ul style="list-style-type: none"> The proposal includes details of boundary fencing and retaining walls. The proposed retaining walls are appropriate in scale and not out of character with the locality, in which stepped allotments are a typical response to the slope of the road. The proposed side and rear boundary fencing (1.8 metre high Colorbond) is regarded as standard within the Residential Zone and

	suitable in providing reasonable privacy without appearing visually dominant of large in scale.
Safety and Security PDC 195-198	Satisfied.
Trees and Other Vegetation O 24-28 PDC 77-92	Satisfied. <ul style="list-style-type: none"> • There are no regulated or significant trees within 15m of the proposed development.

APPENDIX 3
DEVELOPMENT DATA TABLE

Site Characteristics	Proposed	Guideline
<i>Site Area</i>	1040m ²	625m ²
<i>Street Frontage</i>	21.34m	15m
Design Characteristics	Proposed	Guideline
<i>Site Coverage</i>		
- Buildings only	33%	40%
- Buildings and driveways	38%	50%
- Total floor area	47%	50%
<i>Building Height</i>		
- storeys	2 storeys	2 storeys
- metres	8.5m	9m
<i>Set-backs</i>		
<i>Lower Level</i>		
- front boundary	9.2m	8m
- side boundary	East: 1.5m West: 2.8m Garage: on boundary	1.5 - 2m
- rear boundary	17m	4m
<i>Upper Level</i>		
- front boundary	15.85m	8m
- side boundary	East: 4.0m West: 4.45m	4m
- rear boundary	17m	8m
<i>Boundary Wall</i>		
- length	Garage: 8m Terrace: 4.55m	8m
- height	Garage: 3.17m Terrace: 2.67m	3m
<i>Private Open Space</i>		
- percentage	73%	50%
- dimensions	21.34m x 17m	5m x 8m
<i>Car Parking and Access</i>		
- number of parks	2	2
- width of driveway	5m	4.5m
- width of garage/carport door	24%	33%

DEVELOPMENT APPLICATION

Application Number:	<i>180\0862\17</i>
Applicant:	<i>Modern Day Concept</i>
Location:	<i>18 Leroy Street GLENUNGA 5064</i>
Proposal:	<i>Two storey detached dwelling including swimming pool and balconies</i>
Zone/Policy Area:	<i>Residential Zone Residential Policy Area 24 Development Plan consolidated 30 May 2017</i>
Kind of Assessment:	<i>Merit</i>
Public Notification:	<i>Category 2 One (1) representation received</i>
Appeal Opportunity	<i>Applicant only, no third party appeal rights</i>
Referrals – Non Statutory:	<i>Technical Officer Tree Management Officer</i>
Delegations Policy:	<i>Unresolved representations</i>
Recommendation:	<i>Development Plan Consent be granted</i>
Recommending Officer:	<i>Theresa James</i>

REPORT CONTENTS

- Assessment report

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

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

- Plans and supporting documents
- March 2018 DAP minutes, report and attachments

1. DESCRIPTION OF PROPOSAL

The applicant seeks Development Plan Consent for the construction of a two-storey detached dwelling on an existing single residential allotment, located wholly within Residential Policy Area 24 – Glenunga (North).

At the ground level, the proposed dwelling features a double width garage, formal living, study, guest bedroom with ensuite, home theatre, laundry, powder/wc, open plan living areas including butler's pantry, alfresco and swimming pool. The upper level of the dwelling includes the master bedroom including ensuite and walk in robe, two bedrooms (one including a second walk in robe), bathroom, retreat, sitting room and two balconies, one of which faces the rear of the site.

The proposed dwelling presents as a contemporary 'hybrid' style, featuring skillion and hipped roof elements, strong parapet walling and a well fenestrated façade. The building will feature a mix of texture coated power panelling in Dune colour, timber feature panels and Colorbond clad roofing in dark grey colour tones.

2. BACKGROUND

Development Application 180\0862\17 was lodged on 4 September 2017 by Mr Rick Buick of Modern Day Concepts, on behalf of the registered owner of the land. On 6 March 2018 the application was presented to the Council Assessment Panel (CAP) for a decision, as the public notification process generated one representation.

At the March 2018 meeting the CAP resolved to defer the application allowing the applicant an opportunity to consider further amendments to the design, in particular:

- side setbacks;
- overlooking;
- overshadowing to the neighbour;
- landscaping;
- bulk;
- building height; and
- scale and impact on local amenity.

In August 2018 the applicant submitted amended drawings to Council, which seek to address the matters raised by the CAP.

To address matters relating to bulk and scale, the applicant has increased the front set-back of the dwelling. Originally, the front portico illustrated a set-back of 7.1m, with the main dwelling façade set-back to 8.9m. The amended set-backs now illustrate a portico set-back of 8.1m and a dwelling façade set-back of 9.9m. The 1m increase in front set-back results in a decreased set-back of 1m to the rear boundary, which now measures 9.4m from the alfresco.

Formerly, the eastern side set-back of the proposed dwelling (ground level) was 1.5m adjacent the home theatre and 2.5m adjacent the kitchen area. The western side set-back of the proposed dwelling (ground level) was 1m, 4.1m and 2m adjacent the study, laundry and family rooms respectively. The amendments now seek to shift the rear portion of the ground level further east, resulting in a decreased set-back of 1m to the east, and an increased set-back of 1m to the west.

The proposed upper level maintains previous set-backs to the eastern side boundary and increased set-backs of up to 1m adjacent the western side boundary. The front portion of the upper level is now set-back 2.4m from the side boundary (formally 2.1m), the middle portion of the upper level is now set-back 3.5m from the side boundary (formally 3.1m), and the rear

portion of the western wall comprising a void area is now set-back 3m from the side boundary (formally 2m).

To address the neighbours' overshadowing concerns, the applicant has shifted the rear portion of the dwelling further east, as described above. No changes were made to the overall height of the building.

To address matters relating to overlooking from the rear balcony, the applicant has extended the span of the 1700mm high frosted glass screen to the side of the balcony, so that it projects 1.6m forward of the balcony edge, to where it meets a masonry pillar associated with the void/alfresco below (total obscured screening length of 2.2m). In addition, pencil pine plantings are also proposed inside of the fence line, adjacent the western side of the balcony. The landscaping legend also illustrates low lying plants in the front yard and along the driveway.

The application is now returned to the CAP for a decision.

3. DISCUSSION

To maintain the harmony of built-form character, the Development Plan expects taller or bulkier buildings to be set-back a greater distance than nearby dwellings, to ensure the larger building does not dominate views from the road. The amended front set-back, which positions the main dwelling façade some 9.9m from the front boundary, and 2.5m and 4.4m behind the dwellings located on adjoining land to the east and west respectively, is considered to be a beneficial amendment in that it will further reduce the mass and visual prominence of the building when viewed from the street.

Due to the height of the proposed ground level walls, a 2m set-back guideline applies. The portion of the walls comprising a void area, should have a set-back of 2.3m given wall heights of 6.8m. To accommodate a greater set-back to the western side boundary, without reducing the footprint of the dwelling, the applicant has shifted the kitchen/dining eastern elevation wall further east, so that it is set-back 1.5m rather than 2.5m as it was previously. The portion of the alfresco/void area on the eastern side has not been altered and remains consistent with the set-backs illustrated when the application was last reviewed by the CAP.

The kitchen/dining wall (adjacent the eastern boundary), which has a height of 3.9m, is now set-back 1.5m rather than 2.5m, as it was formally. The original set-back is preferred, as it satisfies Development Plan guidelines, and creates a deeper set-back from the common boundary fencing. However, this portion of the wall spans for a length of only 8m beyond the boundary wall associated with the neighbours' dwelling, which comprises a relatively modest portion adjacent the neighbour's private open space area, and as such it is considered acceptable.

The columns associated with the area above the swimming pool, adjacent the western elevation, remain set-back at 2m from the western side boundary. The family room wall, however, is set-back a further 1m than it was formally, resulting in a 3m set-back. Given the pillars associated with the swimming pool area are few in number and slender in nature, they are not expected to be a significant visual impact, and their location is considered acceptable.

The upper level eastern elevation remains consistent with the previous plans. The master suit is set-back an additional 200mm, the bedroom walk-in robe and ensuite are set-back an additional 400mm, and the void area is set-back an additional 1m, resulting in a set-back of 3.5m from the western side boundary. Due to the nature of these walls, the Development Plan suggests a side set-back of 4m to the bedroom, walk-in robe and ensuite walls, and a set-back of 2.3m to the void area.

The void area now comfortably satisfies relevant guidelines. The 500mm shortfall associated with the walk-in robe and ensuite wall is a minor shortfall, and relates to a relatively short span of walling spanning a length of 6.3m. Due to the low pitched roof associated with the dwelling, together with the limited area adjacent the subject wall on the neighbour's land, it is not likely to be visually intrusive. A reduction on the width of the master bedroom would have minimal net benefit to the streetscape presentation, particularly due to its recessed set-back and position behind the building line of the adjoining dwelling to the west.

The applicant has supplied additional overshadowing diagrams to illustrate the amended level of overshadowing on the winter solstice. As per the original plans presented to the CAP, the level of overshadowing accords with the guidelines in the Development Plan, in that the development will not overshadow north facing windows (given the subject land and adjoining lands face north) and at least 2 hours of sunlight is maintained to the private open space associated with adjoining dwellings.

The extent of landscaping remains the same as previously presented to the CAP, however a landscaping legend has now been supplied, and the species adjacent the rear balcony is amended to include pencil pines to provide both visual softness and privacy.

The proposed rear elevation balcony remains open to the rear, as per the original plans reviewed by the CAP, however the western side elevation of the balcony includes additional screening. A 1700mm high frosted screen will enclose the western side of the balcony, and project 1.6m beyond the balcony edge to where it meets a floor to ceiling pillar creating an additional 0.6m of screening. This additional screening will ensure views towards the west are adequately obstructed and are not direct.

No screening is proposed to be applied to the rear elevation of the balcony, which is now set-back 16.4m from the rear boundary. Council planning staff liaised with the applicant and advised there remains uncertainty with respect to the extent of overlooking towards the rear neighbour's land. They undertook their own site line diagrams, which they did not submit to Council. However they did confirm with Council that some overlooking would be apparent and as such were happy for Council to apply a condition regarding the extent of the timber slats screen attached to the alfresco/void elevations. Condition 3 of this addresses overlooking towards the rear, and will sufficiently obstruct southern views from the balcony.

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.

4. RECOMMENDATIONS

It is recommended that the Council 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\0862\17, by Modern Day Concept is **granted** Development Plan Consent subject to the following conditions and reserved matter:

Conditions

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

Reason:

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

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

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

Reason:

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

- 3 The horizontal slat screens, fixed to the southern and western edges of the alfresco/void area, shall have spacing of no greater than 100mm between slats, and shall entail a screen height of 1.6m as measured from the finished floor level of the adjacent balcony (balcony 2).

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

Reason:

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

- 4 The existing driveway/crossover to be retained as depicted on the stamped and approved plans granted Development Plan Consent shall be tapered to a maximum width of 4.5m at the property boundary.

Reason:

To ensure minimal impacts to Council verge.

- 5 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.

- 6 The proposed crossover within the Council verge area shall have a minimum set-back of 1.5m from the base of the adjacent street tree.

Reason:

To ensure the approved development protects and retains existing street trees.

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 The applicant shall supply amended elevation drawings depicting the timber slat screens referred to in Condition 3 of the consent.

Reserved Conditions

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

RECOMMENDING OFFICER

Theresa James
Development Officer – Planning

DEVELOPMENT APPLICATION

Application Number:	180\0716\18
Applicant:	TEK Building & Design
Location:	414 Portrush Road, Linden Park
Proposal:	Non-Complying - Freestanding signage and storage shed (store)
Zone/Policy Area:	Residential Zone Residential Policy Area 21 – Linden Park Development Plan consolidated 19 December 2017
Kind of Assessment:	Non-complying
Public Notification:	Category 1
Appeal Opportunity	Third party only, no Applicant appeal rights
Delegations Policy:	Non-complying development
Recommendation:	Subject to concurrence from the State Commission Assessment Panel, that Development Plan Consent be granted
Recommending Officer:	Renaë Grida

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 Council Assessment Panel to facilitate decision making:

- Plans and supporting documents
- Photographs
- Delegate Report to Proceed

1. DESCRIPTION OF PROPOSAL

The applicant seeks Development Plan Consent for the following:

- Freestanding sign (non-illuminated) measuring 2.3m in height and 100mm in width, set back 0.5m from the front property boundary; and
- Freestanding outbuilding (storage shed), measuring 6m x 6m, with a 2.7m external wall height and 10 degree pitch hipped roof form, constructed of Colorbond steel.

2. BACKGROUND

The subject land benefits from a previous development authorisation changing the use of the land from residential to office (DA 180\1109\05). The current proposal, Development Application 180\0716\18, was lodged on 24 July 2018 by TEK Building & Design, the lessee of the subject land.

The proposal was determined to be a non-complying form of development pursuant to the Burnside (City) Development Plan, Residential Policy Area 21, Principle of Development Control 11, which states:

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

Advertisement, or advertising display that:

- (c) if freestanding, is more than two metres above natural ground level at any point;*
- (e) is more than 0.35 square metres in area*

Store”

The proposal involves the construction of a freestanding sign which exceeds the 2m height trigger and 0.35 square metre area of signage space. The proposal also includes an outbuilding within the rear southeast corner of the land to be used as a ‘store’ in accordance with the definition under Schedule 1 of the *Development Regulations 2008* (the Regulations).

For the purposes of public notification, the proposed development is considered to be a Category 1 development pursuant to Schedule 9, Part 1, 3(b) of the Regulations, comprising ‘the construction of a building to be used as ancillary to or in association with an existing building and which will facilitate the better enjoyment of the purpose for which the existing building is being used, and which constitutes in the opinion of the relevant authority, development of a minor nature only.

In determining that the signage constitutes a ‘building’, as well as the store, Part 1, 4 of the *Development Act 1993* defines a building as:

*“**building** means a building or structure or a portion of a building or structure (including any fixtures or fittings which are subject to the provisions of the Building Code of Australia), whether temporary or permanent, moveable or immovable, and includes a boat or pontoon permanently moored or fixed to land, or a caravan permanently fixed to land”*

Additionally, the Oxford Dictionary defines a structure as:

“A building or other object constructed from several parts”

Given the above definitions, the proposed signage, and store are considered to constitute a buildings and structures. The signage and store are both considered to facilitate the better

enjoyment and use of the land, where the existing building on the land has an approved land use as an office, and the proposed works are considered to be of a minor nature only.

The applicant has provided a Statement of Support in accordance with the requirements of Regulation 17(1) of the *Development Regulations 2008*. A Statement of Effect is not required in this case, pursuant to Regulation 17(6)(a) of the *Development Regulations 2008*.

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

3. SUBJECT LAND AND LOCALITY ATTRIBUTES

3.1. Subject Land

The subject land is described in Certificate of Title Volume 5628 Folio 660 as Allotment 95 in Deposited Plan 2954. The land is not subject to any easements or encumbrances.

The allotment is rectangular in shape and located on the eastern side of Portrush Road, in the suburb of Linden Park. The land has an area of 926 square metres with a single frontage to the arterial road measuring 18 metres.

The land is currently occupied by a 1940's sandstone Villa that appears in reasonable condition. The building is utilised for commercial purposes and vehicular access is obtained via an existing crossover toward the northwest portion of the front boundary.

3.2. Locality

The locality comprises those properties on both the east and west sides of Portrush Road between Greenhill Road to the North and Cator Street to the south. To a lesser extent, the the locality also includes those properties on the western side of Beatty Street behind the subject land.

Despite the subject land being situated within the Residential Zone the locality is predominantly comprised of commercial land uses. To the west of Portrush Road, this takes the form of the Burnside Village Shopping Centre. The shopping centre is a dominating factor of the locality and itself forms the majority of the District Centre Zone. Along the concerned portion of the eastern side of Portrush Road exists an eclectic mix of residential land use interspersed with commercial activities generally of a low impacting nature (eg medical consulting rooms, child care, offices).

The residential amenity of the locality is heavily influenced and compromised by the large volume of traffic on Portrush Road (a National Trade Route). The District Centre Zone is on the western side of Portrush Road, accommodating the Burnside Village Shopping Centre.

4. KIND OF ASSESSMENT

Kind:	Non-complying
Reason:	Residential Policy Area 21, Principle of Development Control 11
Applicant Appeal Opportunity:	No

5. PUBLIC NOTIFICATION

Category:	Category 1
Reason:	Development Regulations 2008, Schedule 9, Part 1, 3(b)
Third Party Appeal Opportunity:	Yes

6. EXECUTIVE SUMMARY

6.1. Land Use

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

- The proposed development is ancillary to, and associated with the existing and lawful use of the land and building as an office;
- The proposed sign is not illuminated, and is of a scale and design that is reasonable and expected to be associated with a non-residential land use;
- The proposed shed is of a reasonable size and scale, and is to be used for storage purposes only; and
- If it can be demonstrated that the proposed development has minimal or no unreasonable external impacts, then consent could reasonably be expected.

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

6.2. Character and Amenity

It is recognised that Residential Policy Area 21 is primarily for residential development, exhibiting a high level of amenity and a relatively low concentration of non-residential land uses. The subject land is located directly adjacent to the District Centre Zone to the west, where residential amenity is significantly compromised by this interface location, as well as its siting on Portrush Road which carries high volumes of traffic.

The subject land has been approved for non-residential use, as an office (DA 180\1109\15) which is of a scale and nature that has been considered to not increase amenity impacts above and beyond those already imparted by the siting of the land and adjacent land uses. It is noted that adjoining land within Residential Policy Area 21 also operate similar scale non-residential land uses, with associated signage.

The proposed sign is considered to be of a form, style, scale, height and size that is appropriate to the character of the locality, and conveys a simple and clear design that will not have an adverse impact on the amenity of adjacent premises and the wider policy area, as sought by Council Wide Principle of Development Control 246 and 247. The proposed freestanding sign does not incorporate any illumination, and presents in simple black and white, similar to that of the freestanding signage at the neighbouring site at 416 Portrush Road.

The proposed signage has no impact on the established building on the land, which largely maintains the residential appearance of the site. Given the modest scale and nature of the proposed sign associated with the approved use of the land, the nominal impacts on the character and amenity within the locality the proposal is considered to be reasonable.

The proposed store to the rear of the site is of typical domestic dimensions, and the proposed built form outcome is not considered unreasonable in the context of the site and locality.

The use of the building as a 'store' is considered appropriate in exhibiting minimal amenity impacts beyond the subject land, as nominated by the applicant, is to be used to store excess building materials for future projects where necessary.

6.3. Conclusion

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

7. RECOMMENDATIONS

It is recommended that the Council 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 State Commission Assessment Panel, that Development Application 180\0716\18, by Tek Building & Design 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:

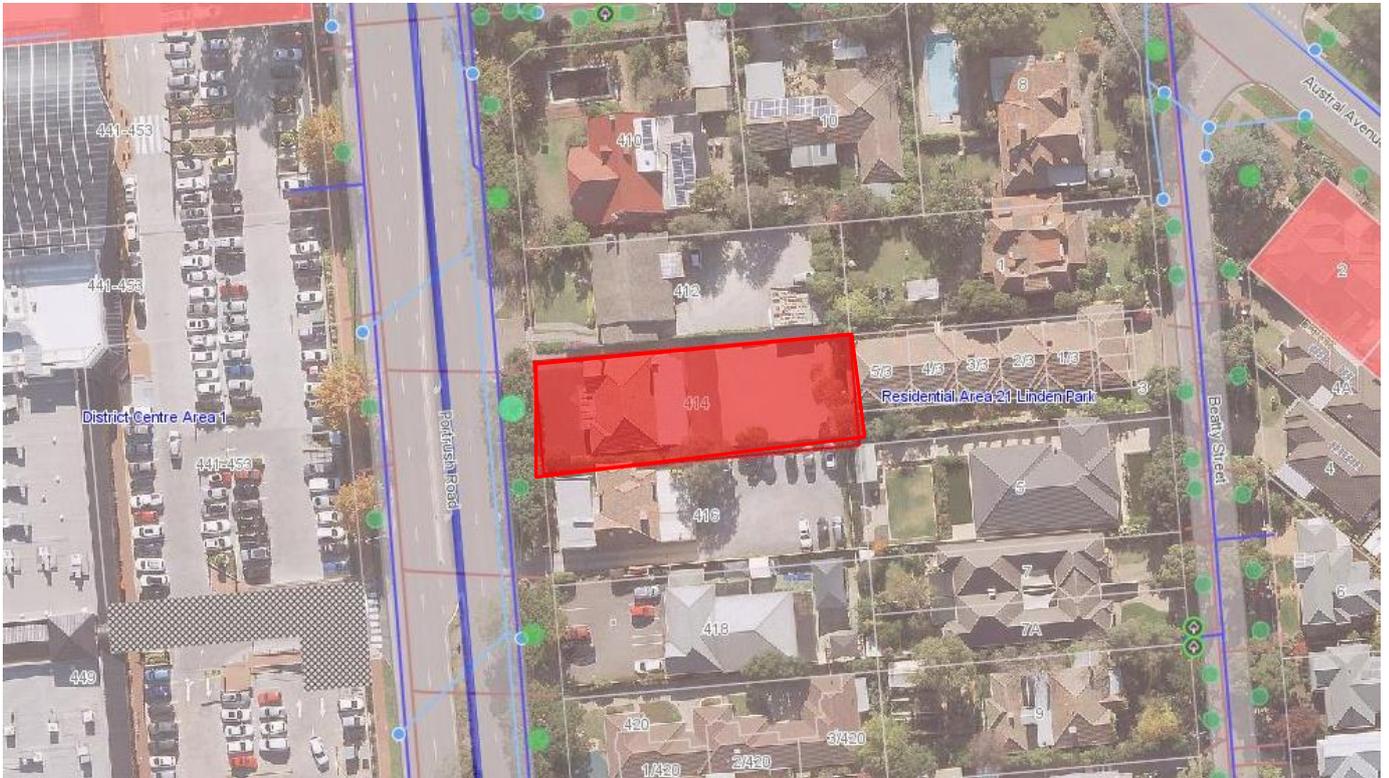
To ensure the development is undertaken in accordance with the plans and details submitted.

RECOMMENDING OFFICER

Renae Grida
Development Officer – Planning

APPENDIX 1

AERIAL LOCALITY MAP



Legend



Subject Land

DETAILED PLANNING ASSESSMENT

Summary of Policy Area Objectives and Principles

Primary Residential Policy Area 21 – Linden Park Objectives:

Objective 1:

Maintenance and enhancement of the low scale and low-to-medium density residential character that is derived particularly from:

- (a) residential development, including detached dwellings, in a wide variety of styles, predominantly of the interwar period, near Greenhill Road, and the post-war period;*
- (b) limited opportunity for a greater range and increased density of residential development, notwithstanding the proximity of the Policy Area to the District Centre Zone and to public transport services;*
- (c) moderate building set-backs to streets; and*
- (d) generally open, well-established, front gardens, and grassed verges.*

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 Portrush Road and to Greenhill Road, including the two unbuilt-on and partly landscaped allotments of Council-owned on the corner of those roads; and*
- (b) in the interface with the Local Centre Zone.*

Subject:	Assessment:
DP Ref	
Desired Land Use O 1	Satisfied. <ul style="list-style-type: none"> • The subject land is approved for non-residential use.
Local Compatibility PDC 1	Satisfied.

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 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.

Subject:	Assessment:
DP Ref	
Zoning and Land Use O 1–8 PDC 1	Satisfied. <ul style="list-style-type: none"> The proposed signage and store associated with the existing and lawful non-residential land use are considered small in scale and benign in external impacts as per Objective 6.
Building Appearance PDC 2–4	Satisfied.
Non-residential Development PDC 7–9	Satisfied. <ul style="list-style-type: none"> The proposed signage and store are considered to be of a nature and scale that does not detrimentally affect the amenity or character of the locality; and The established and lawful land use is non-illuminated and whilst exceeds guidelines for height and advertising area as per Residential Zone PDC 9, is consistent with other signage in the locality within the Residential Zone, and is not considered to impart unreasonable impacts on the locality.

Summary of Council Wide Objectives and Principles

Primary Council Wide Objectives:

Objective 1:

Satisfaction of the social, cultural, economic, environmental and health needs of the community.

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 83:

Advertisement and advertising displays confined to appropriate areas, and designed and located to:

- a) complement and improve the character and amenity of the area within which it is located, including the appropriate rectification of existing unsatisfactory signage;*
- b) maintain equity of exposure for all business premises;*
- c) avoid creating or contributing to any hazard; and*
- d) be concise and efficient in communicating with the public to:

 - i. avoid proliferation of confusing and cluttered information; and*
 - ii. minimise the number of advertisements displayed.**

Subject: DP Ref	Assessment:
Advertising Displays PDC 246-252	<p>Satisfied.</p> <ul style="list-style-type: none"> • The proposed signage conveys a simple and clear design and layout as per CW PDC 246(a); • The proposed signage is of a form, style, scale, height and size which is appropriate to the location of the land and character of the locality where signage is commonplace, being directly adjacent the District Centre Zone and amongst a number of other non-residential land uses within RPA 21; • The location of the signage, and that it is not illuminated and predominantly black and white, will not result in any distraction to motorists, and did not require a mandatory referral to DPTI; • The purpose of the signage is for identification of the associated business, as considered appropriate by CW PDC 247(c); • The size and scale of the signage does not detract from the presentation of the existing building to Portrush Road, and does not dominate the streetscape in any manner.