



## Development Assessment Panel Meeting Agenda

Tuesday 05 April 2016 at 6pm

Council Chambers, 401 Greenhill Road, Tasmore

<b>Members:</b>	Bill Chandler (Presiding Member) Don Donaldson (Deputy Presiding Member) Ross Bateup, Graeme Brown, Peter Cornish, Grant Piggott and Di Wilkins
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**1 APOLOGIES**

Nil

**2 KAURNA ACKNOWLEDGEMENT**

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

**3 CONFIRMATION OF MINUTES**

Recommendation: That the minutes of the meeting held on Tuesday 01 March 2016 be taken as read and confirmed.

**4 APPLICATIONS WITHDRAWN FROM THE AGENDA**

(BY THE ADMINISTRATION)

(BY THE APPLICANT)

Nil

**5 DEVELOPMENT APPLICATIONS FOR CONSIDERATION – PERSONS WISH TO BE HEARD**

**(A) NON-COMPLYING DEVELOPMENT APPLICATIONS (HEARING)**

Nil

**(B) CATEGORY 3 DEVELOPMENT APPLICATIONS (HEARING)**

Nil

**(C) CATEGORY 2 DEVELOPMENT APPLICATIONS (HEARING)**

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

<b>Report Number:</b>	<b>5704.1</b>
<b>Page:</b>	<b>1</b>
Application Number:	180\1233\15
Applicant:	Chasecrown
Location:	5 Wilson Court, Rosslyn Park
Proposal:	Demolition of existing dwelling and construction of two storey detached dwelling including under storey garage and storage area, swimming pool, landscaping, earthworks and retaining walls.
Recommendation:	Development Plan Consent be granted.
Representors:	• 37 Rawson Penfold Drive

	• 4 Wilson Court
<i>Applicant:</i>	• 109A Archer Street, North Adelaide

<b>Report Number:</b>	<b>5704.2</b>
<b>Page:</b>	<b>39</b>
Application Number:	180\1199\15
Applicant:	M & V Kokolakis
Location:	8 Roslind Street, Kensington Gardens
Proposal:	Construction of a two storey dwelling and boundary fence.
Recommendation:	Development Plan Consent refused.
<i>Representors:</i>	• 6 Roslind Street • 17 Lincoln Street
<i>Applicant:</i>	• 12 Alma Street, Hectorville

## 6 DEVELOPMENT APPLICATIONS FOR CONSIDERATION – NO PERSONS TO BE HEARD

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

<b>Report Number:</b>	<b>5704.3</b>
<b>Page:</b>	<b>105</b>
Application Number:	180\0886\15
Applicant:	Heynen Planning Consultants
Location:	16 McBeath Drive, Skye
Proposal:	Non-Complying – Split level detached dwelling including garage, portico, balcony and cut/fill >9m3.
Recommendation:	Subject to concurrence from the Development Assessment Commission, that Development Plan Consent be granted.

<b>Report Number:</b>	<b>5704.4</b>
<b>Page:</b>	<b>186</b>
Application Number:	180\0108\16
Applicant:	Joseph Distasio, c/- State Surveys
Location:	136 Waterfall Gully Road, Waterfall Gully
Proposal:	Land Division (boundary realignment).
Recommendation:	Subject to concurrence from the Development Assessment Commission, that Development Approval be granted.

### (B) CATEGORY 3 DEVELOPMENT APPLICATIONS (NO HEARING)

Nil

### (C) CATEGORY 2 DEVELOPMENT APPLICATIONS (NO HEARING)

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 Development Assessment Panel dated Tuesday 05 April 2016 (with the exception of members of Council staff who are hereby permitted to remain), to enable the Panel to receive, discuss or consider legal advice, or advice from a person who is providing specialist professional advice.

**10 CONFIDENTIAL MATTERS****10.1 LEGAL MATTER APPEAL**

Nil

**NOTES FOR THE READER****Purpose**

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

**Development Plan Assessment**

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

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

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

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

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

**Representations**

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

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

## DEVELOPMENT APPLICATION

<b>Application Number:</b>	180\1233\15
<b>Applicant:</b>	Chasecrown
<b>Location:</b>	5 Wilson Court, Rosslyn Park
<b>Proposal:</b>	Demolition of existing dwelling and construction of two-storey detached dwelling including under storey garage & storage area, swimming pool, landscaping, earthworks and retaining walls.
<b>Zone/Policy Area:</b>	Residential Zone Residential Policy Area 9 Development Plan consolidated 30 January 2014
<b>Kind of Assessment:</b>	Merit
<b>Public Notification:</b>	Category 2 Three (3) representations received
<b>Appeal Opportunity</b>	Applicant only, no third party appeal rights
<b>Referrals – Statutory:</b>	N/A
<b>Referrals – Non Statutory:</b>	Engineering Services
<b>Delegations Policy:</b>	Unresolved representations
<b>Recommendation:</b>	Development Plan Consent be granted
<b>Recommending Officer:</b>	James Moss

## REPORT CONTENTS

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

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

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

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

## **1. DESCRIPTION OF PROPOSAL**

The applicant seeks development plan consent for the demolition of an existing two storey detached dwelling at 5 Wilson Court, Rosslyn Park, as well as the construction of a replacement two storey dwelling, swimming pool, landscaping, earthworks and retaining walls.

The proposed dwelling features five bedrooms, four bathrooms, open plan living areas, a front balcony, rear verandah and undercroft garage and store. The dwelling exhibits a modern architectural style with rendered external walls, timber cladding and louvre screens across the front facade.

## **2. BACKGROUND**

Development Application 180\1233\15 was lodged on 13 January 2016 by Chasecrown on behalf of the registered owners of the land. The proposal was 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 between 10 February 2016 and 24 February 2016, during which time Council received three (3) written submissions identifying concerns relating to building height, retaining walls, front set-backs and compliance with a local encumbrance.

The applicant has since responded to the matters raised with minor amendments to the built form and clarification of application details regarding fencing and landscaping.

As part of the assessment process the application was also referred to Council's Engineering services Department to assess the suitability of access arrangements, as well as general impacts on Council infrastructure.

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

## **3. SUBJECT LAND AND LOCALITY ATTRIBUTES**

### **3.1. Subject Land**

The subject land is an existing residential allotment on the eastern side of Wilson Court in the suburb of Rosslyn Park. The allotment is generally rectangular in shape, with an approximate area of 900 square metres and a single frontage to Wilson Court measuring approximately 25 metres. Due to the foothills location, the land has a considerable ascending slope towards the rear of approximately 10 metres over a 40 metre depth.

The land is currently occupied by a relatively large two storey detached dwelling constructed in 1989 in a contemporary architectural style, set back from the road at a distance ranging from 6.5 metres to 13 metres and sited approximately 5 metres above the road carriageway.

### **3.2. Locality**

The locality comprises those properties within the Wilson Court cul-de-sac, which resides within the northern portion of Residential Policy Area 9 – Northern Foothills, and has been designated as a Residential Code area by the State Government. The locality is characterised predominantly by medium-to-large residential allotments accommodating

large two storey detached dwellings on sloping land and orientated to take advantage of views over the Adelaide Plains.

Dwellings on the high side of Wilson Court are set back generously from the front boundary, providing ample landscaped front gardens contributing to the amenity of the streetscape. Architectural styles vary considerably.

#### **4. KIND OF ASSESSMENT**

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

#### **5. PUBLIC NOTIFICATION**

<b>Category:</b>	Category 2
<b>Reason:</b>	Residential Policy Area 9 Principle of Development Control 9 (a)
<b>Representations Received:</b>	<ul style="list-style-type: none"><li>• 39 Rawson Penfold Drive, Rosslyn Park (do not wish to be heard)</li><li>• 37 Rawson Penfold Drive, Rosslyn Park (wish to be heard)</li><li>• 4 Wilson Court, Rosslyn Park (wish to be heard)</li></ul>
<b>Third Party Appeal Opportunity:</b>	No

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

#### **6. AGENCY REFERRALS**

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

#### **7. EXECUTIVE SUMMARY**

##### **7.1. Land Use**

The site of development is an existing Torrens title allotment within the Residential Zone that satisfies the relevant land size criteria prescribed in RPA 9 for the accommodation of a single self-contained detached dwelling. The development maintains and continues the established residential use of the site and is not considered to be fundamentally at variance with the policies of the Burnside (City) Development Plan.

##### **7.2. Character and Amenity**

The Development Plan seeks to maintain and enhance an open residential and foothills character derived from the topographic and natural features of the foothills location, with medium-to-large detached dwellings in a variety of styles that are orientated to take advantage of views over the city. The proposed development is generally consistent with these design considerations and is considered to be a suitable addition to the local streetscape.

The two-storey form and scale is consistent with the desired character prescribed by the Development Plan for RPA 9, which makes specific allowance for medium-to-large scale detached dwellings with split-level or multi-storeyed construction. The modern design is

also considered to be of a suitably high standard and will contribute to the “variety of architectural styles” envisaged for the policy area.

Despite not strictly adhering to the minimum 8 metre front set-back or the 8.5 metre building height restriction imposed by the encumbrance, the overall bulk, scale and siting of the dwelling is considered appropriate within the local context. The front set-back encroachment is due to the stairs and front balcony, both of which do not represent the main bulk of the building. The overall building height remains comfortably below the non-complying threshold and has been amended to better reflect the height and proportions of neighbouring dwellings.

When viewed from external properties the proposed dwelling exhibits a bulk and scale that is typical of the locality, and incorporates a suitable degree of façade articulation to add visual interest. Council is satisfied that the proposed building has been designed and sited in a manner that will not adversely impact neighbouring properties in terms of overlooking, overshadowing, creating a sense of enclosure, or imposing an excessive visual impact.

### **7.3. Site Functionality**

The development is largely consistent with the relevant quantitative guidelines of the Development Plan and is not considered to be an overdevelopment of the site. Despite exceeding the total floor area guideline the dwelling achieves appropriate boundary set-backs to reflect the dominant character of the street. The land also retains a private open rear yard that complies with the desired floor area ratio and achieves the various qualitative criteria.

The development provides generous space for on-site car parking to meet the needs of residents and visitors and to avoid on-street parking that would restrict the free flow of traffic (including pedestrian traffic) along Wilson Court or cause significant nuisance to nearby residents or other users of land. Council's Engineering Services have reviewed the proposal and are satisfied with the design, subject to appropriate conditions.

### **7.4. Public Notification**

The proposal was determined to be a Category 2 development pursuant to Residential Policy Are 9 Principle of Development Control 9, 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”*

The proposal was placed on public notification at the start of February 2016, during which time Council received three written submissions from adjoining neighbours; two opposed to the development and one in favour, but with concerns. Two of the submissions identified as desire to appear in person before the Panel.

The primary issue raised through this process appears to be the proposed building's height and failure to comply with a local encumbrance which states buildings should be no higher than 8.5 metres. It should be noted the 11 metre building height measurement has been taken based on the latest method suggested by the Courts and does not necessarily



reflect the true bulk of the building as viewed from external vantage points. When viewed from the elevation drawings the true height of the building ranges from 6 metres to 9 metres, which is reasonable within the local context.

It is noted that Development Plan policy envisages two storey buildings of up to 9 metres height and that RPA 9 in particular envisages dwellings that are “medium-to-large in scale”. Add to this the fact that the locality resides within a Residential Code area, which allows building heights of up to 9 metres, and that the overall building height is comparable with the two adjacent dwellings, the proposed building height is a reasonable planning outcome.

The applicant has also responded individually to requests for addition clarification regarding fencing and landscaping matters, confirming that fencing does not form part of the current application and that proposed landscaping within the rear yard will have a mature height of 4 metres.

Council is satisfied that the planning matters raised through the public notification process are sufficiently addressed through the overall design of the development insofar as they are to be determined under the Development Act 1993.

#### 7.5. Conclusion

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

### 8. RECOMMENDATIONS

It is recommended that the Development Assessment Panel resolve that:

1. The proposed development is not seriously at variance with the policies in the Development Plan; and
2. Development Application 180\1233\15, by Chasecrown, is **granted** Development Plan Consent subject to the following conditions:

#### Conditions

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

#### Reason:

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

- 2 The driveway depicted on the stamped and approved plans granted Development Plan Consent shall be tapered to a maximum width of 6m at the property boundary.

#### Reason:

To ensure minimal impacts to Council verge.

- 3 The approved works may not commence until such time as the applicant has secured written authorisation for the construction of the new driveway crossover from the Council

pursuant to Section 221 of the *Local Government Act 1999*.

**Reason:**

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

- 4 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.

**Advisory Notes**

1 **Engineering Requirements:**

*Driveway Construction*

- *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 the completion of the proposed altered gutter crossing.*
- *A driveway width of 6 metres is permitted across the verge and at the kerb and gutter.*
- *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 should not be altered as a result of new development works.*

*Stormwater Detention*

- *Due to an increase of the impermeable area, detention shall be provided to limit post development flows to pre-development conditions for a 20 yr ARI event over 10 minutes.*
- *Calculations shall be provided verifying the proposed detention quantity.*
- *For stormwater management purposes, it is desirable that an additional detention storage of 1000ltrs to be provided in addition to the standard 1000ltrs retention tank provided, and that the development utilise permeable paving for the proposed external paving work within the development.*

*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 50mm, steel pipe housing is to be used as per Council's standards.*
- *The developer is responsible for locating all existing services and to consult with*

*the necessary service providers if there is a conflict when placing stormwater infrastructure.*

- *Construction of the stormwater infrastructure is in accordance with Council's Standard Specification and General Conditions and to the overall satisfaction of Council.*
- *Trenching and connections are to be undertaken as per Australian Plumbing Standards.*
- *Excess stormwater runoff from surfaces within the subject land shall be controlled and managed within the subject land.*
- *Excess stormwater runoff from the roof catchment shall be discharged to the street water table through a sealed system to the satisfaction of the Council.*

#### **RECOMMENDING OFFICER**

James Moss  
Development Officer – Planning

## APPENDIX 1

### AERIAL LOCALITY MAP



### Legend



Subject Land



Representor's Land

## APPENDIX 2

### DETAILED PLANNING ASSESSMENT

#### Summary of Policy Area Objectives and Principles

##### **Primary Residential Policy Area 9 Objectives:**

###### Objective 1:

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

- (a) the topographic and other natural features of the foothills location, and low density dwellings in a variety of architectural styles (typically, dwellings that are detached, medium to large in scale, and split-level or multi-storeyed);*
- (b) many dwellings on elevated land, orientated to take advantage of views across the Adelaide Plains; and*
- (c) moderate to deep building set-backs, well vegetated and generally unfenced front gardens, and the natural character of the adjoining Hills Face Zone.*

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

- (a) on land which, due to its elevation, gradient and aspect, is visible from the Adelaide plains or main public vantage points in the foothills;*
- (b) on land adjacent to the Hills Face Zone, or other open land where there may be significant risk of bushfire;*
- (c) on filled land near, and to the south east, of the terminus of Wyfield Street, and remnant native vegetation in its vicinity;*
- (d) within the "Penfold Estate" (generally east of Penfold Road and north of Kensington Road) located partly on the plains and where specific encumbrance provisions apply;*
- (e) on land with frontage to Penfold Road; and*
- (f) adjacent to the Winery (Magill Estate) Zone.*

###### Objective 2:

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

<b>Subject:</b> DP Ref	<b>Assessment:</b>
<b>Desired Land Use</b> O 1-2	<p>Satisfied.</p> <ul style="list-style-type: none"> <li>The proposal seeks to replace one dwelling with another and is therefore consistent with the desired residential use of the land.</li> <li>The proposal is not anticipated to impair the appearance of the foothills visible from the Adelaide Plains and is reflective of the established residential character.</li> </ul>
<b>Local Compatibility</b> PDC 1-2	<p>Satisfied.</p> <ul style="list-style-type: none"> <li>The construction of a single detached dwelling is consistent with the established and desired low density.</li> <li>The proposed building's two storey form and scale is consistent with the "medium-to-large" scale of dwellings throughout the policy area.</li> <li>The modern design contributes to the desired character comprising a "variety of architectural styles".</li> <li>The ground floor has been sited in a manner that reflects the dominant character of the locality and facilitates "views across the Adelaide Plains".</li> <li>The building has been set back from the road in a manner that is</li> </ul>

	<p>compatible with existing dwellings on the western side of the street and accords with the “moderate to deep” building set-backs envisaged.</p> <ul style="list-style-type: none"> <li>• The siting of the development facilitates substantial landscaping on all sides of the dwelling.</li> </ul>
<b>Site Areas and Frontages</b> PDC 3–5	<p>Satisfied.</p> <ul style="list-style-type: none"> <li>• Existing residential allotment exceeding area and frontage requirements.</li> </ul>
<b>Site Coverage</b> PDC 6	<p>Satisfied.</p> <ul style="list-style-type: none"> <li>• The building footprint covers approximately 30% of the subject land.</li> </ul>
<b>Building Set-backs</b> PDC 7	<p>Departure.</p> <ul style="list-style-type: none"> <li>• PDC 7 states that buildings should be set back not less than 8 metres from the boundary of a road.</li> <li>• The proposal features entry stairs sited between 3.3 metres and 5 metres from the road.</li> <li>• The main bulk of the building is set back further at a distance of 8 metres, which complies with PDC 7.</li> </ul>

## Summary of Residential Zone Objectives and Principles

### **Primary Residential Zone Objectives:**

#### Objective 1:

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

#### Objective 2:

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

#### Objective 3:

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

#### Objective 4:

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

#### Objective 5:

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

#### Objective 8:

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

<b>Subject:</b> DP Ref	<b>Assessment:</b>
<b>Zoning and Land Use</b> O 1–8 PDC 1	Satisfied. • See policy area comments.
<b>Building Appearance</b> PDC 2–4	Satisfied.
<b>Design for Topography</b> PDC 5–6	Satisfied.

## Summary of Council Wide Objectives and Principles

### **Primary Residential Development Objectives:**

Objective 11:

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

Objective 52:

*A compact metropolitan area.*

Objective 53:

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

Objective 54:

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

Objective 55:

*Safe, pleasant, accessible and convenient residential areas.*

Objective 56:

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

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.*

<b>Subject:</b>	<b>Assessment:</b>
DP Ref	
<b>Zoning and Land Use</b> O 52–60	Satisfied.
<b>Design and Appearance</b> O 11 PDC 14–18, 23–28	Satisfied.
<b>Building Set-backs</b> PDC 161–163	<p><b><u>Side Set-backs</u></b> Departure.</p> <ul style="list-style-type: none"> <li>• The proposal includes minor and acceptable variances from set-back guidelines to both side boundaries.</li> <li>• These departures are not anticipated to have an adverse impact on the character of the streetscape or on adjoining land.</li> </ul> <p><b><u>Rear Set-backs</u></b> Satisfied.</p>
<b>Building Height</b> PDC 164	<p>Departure</p> <ul style="list-style-type: none"> <li>• The proposed dwelling exceeds the 9 metre building height guideline by 2 metres when measured from the garage to the ridgeline at the westernmost end of the building.</li> <li>• The building height reduces from the west to east, with an approximate height of 6 metres at the rear.</li> </ul>



<b>Site Coverage</b> PDC 165	Departure <ul style="list-style-type: none"> <li>• The development complies with PDC 165 Parts (a) and (b), but exceeds the total floor area guideline by a considerable degree.</li> <li>• The departure in this instance is largely due to the undercroft garage and store, which is built into the hillside and only really visible from the street.</li> <li>• The ground floor and first floor portions of the building are not excessive or dominant in appearance.</li> <li>• The development provides private open space and off-street parking relative to the total floor area and number of bedrooms.</li> </ul>
<b>Private Open Space</b> PDC 166, 169	Satisfied.
<b>Amenity</b> O11, 20–22 PDC 14–18, 52-69, 170-173	Satisfied.
<b>Privacy</b> PDC 22, 174–176	Satisfied.
<b>Access and On-Site Car Parking</b> PDC 177–182	Satisfied.
<b>Access to Sunlight</b> PDC 21, 183–186	Satisfied.
<b>Fences and Retaining Walls</b> PDC 190–194	Satisfied.
<b>Safety and Security</b> PDC 195–198	Satisfied.

## APPENDIX 3

### DEVELOPMENT DATA TABLE

Site Characteristics	Proposed	Guideline
<i>Site Area</i>	900m <sup>2</sup>	750m <sup>2</sup>
<i>Street Frontage</i>	25.1m	20m
Design Characteristics	Proposed	Guideline
<i>Site Coverage</i>		
- Buildings only	30%	33%
- Buildings and driveways	40.1%	50%
- Total floor area	70.7% (including undercroft)	50%
<i>Building Height</i>		
- storeys	2 storeys + undercroft	2 storeys
- metres	10.9m	9m
<i>Set-backs</i>		
<i>Lower Ground Level</i>		
- front boundary	11.1m	8m
- side boundary	2.2m 10.7m – 12.9m	2m
- rear boundary	N/A	4m
<i>Upper Ground Level</i>		
- front boundary	3.3m (stairs) 7.5 (building)	8m
- side boundary	2.2m (n) 1.2m – 2.5m (s)	2 - 4m
- rear boundary	14m	8m
<i>First Floor</i>		
- front boundary	9.3m	8m
- side boundary	2.2m – 4.7m (n) 3.6m – 4.6m (s)	4m
- rear boundary	14m	8m
<i>Private Open Space</i>		
- percentage	50.1%	50%
- dimensions	14m x 19m	5m x 8m
<i>Car Parking and Access</i>		
- number of parks	5	3
- width of driveway	10.5m	4.5m
- width of garage/carport door	26.8%	33%

## DEVELOPMENT APPLICATION

<b>Application Number:</b>	180\1199\15
<b>Applicant:</b>	M & V Kokolakis
<b>Location:</b>	8 Roslind Street Kensington Gardens
<b>Proposal:</b>	Construction of a two storey dwelling and boundary fencing
<b>Zone/Policy Area:</b>	Residential Zone Residential Policy Area 2 Development Plan consolidated 30 January 2014
<b>Kind of Assessment:</b>	Merit
<b>Public Notification:</b>	Category 2 Four (4) representations received
<b>Appeal Opportunity</b>	Applicant only, no third party appeal rights
<b>Referrals – Non Statutory:</b>	Traffic Management Engineer / Tree Management Officer
<b>Delegations Policy:</b>	Unresolved representations
<b>Recommendation:</b>	Development Plan Consent refused
<b>Recommending Officer:</b>	James Booker

## REPORT CONTENTS

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

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

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

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

## **1. DESCRIPTION OF PROPOSAL**

The applicant seeks Development Plan Consent for the following:

- Construction of a two storey dwelling and boundary fencing.

## **2. BACKGROUND**

Although they don't factor into the assessment of this application, a number of previous development authorisations exist at the subject land:

- DA 180/0454/15 – *Demolition of existing dwelling and ancillary structures*. This application was assessed under Schedule 1A of the Development Regulations 2008 and granted Development Approval on 22/05/2015.
- DA 180/1368/14 – *Construction of a two storey detached dwelling*. This application was assessed under the Residential Code and was granted Development Plan consent on 24/02/2015. Full Development Approval was granted on 17/06/2015. Once construction commenced it was brought to Council's attention that the works were inconsistent with the approved plans. A compliance investigation commenced which found that the finished floor level had been increased from the approved 99.95 to 100.50. As a result of the compliance investigation the applicant lodged a subsequent amendment application.
- DA 180/0859/15 – *Amendment to previous DA 180/1368/14: change in height of floor levels*. This application was also assessed under the Residential Code and was granted Development Plan Consent on 09/10/2015 and Development Approval on 19/10/2015. On 22 October 2015 an application for a judicial review of this application under Section 86(1)(f)(ii) of the Development Act 1993 was lodged in the ERD Court by a third party. This matter is currently before the court.

Development Application 180\1199\15 was lodged on 17 December 2015, by M & V Kokolakis, the owners of the subject land. The application seeks Development Plan Consent for the construction of a two storey dwelling on an allotment which previously contained a single storey dwelling.

The current proposal was determined to be neither a complying nor non-complying form of development, prompting an assessment on merit pursuant to Section 35(5) of the *Development Act 1993*. The development also was determined to be a Category 2 development pursuant to Residential Policy Area 2 Principle of Development Control 7(a),(b) & (c) of the Burnside (City) Development Plan, due to the dwelling being more than one storey, has a wall located on a boundary and has a finished floor level in excess of 0.6m above the natural ground level.

During the public notification period four (4) written representations were received in relation to the proposal; three of the representations are opposed to the development and one is in favour with some concerns. All of the representations are from owners of adjoining property and are valid representations.

Concerns from representors focused on the following issues:

- Streetscape appearance;
- Retaining wall height;
- Overshadowing;
- Amenity;
- Privacy;
- Site coverage; and
- Floor level.

During the course of assessment the proposal was also referred to Council's Tree Management Officer and Traffic Engineer, their comments have been included as attachments.

Pursuant to Council's Delegation policy, the application is presented to the Development Assessment Panel (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 allotment described as allotment 58 deposited plan 1170 in the area named Kensington Gardens within the Hundred of Adelaide, as recorded on the Certificate of Title Volume 5675 Folio 376. The subject land is wholly contained within Residential Policy Area 2 – Northern.

The subject land is a rectangular allotment on the southern side of Roslind Street. The total area of the land measures 510.8m<sup>2</sup> and a frontage of 15.24m. The land is currently a construction site as works on the dwelling have commenced.

#### 3.2. Locality

The locality comprises of the streetscape of Roslind Street from Orient Road to Mahar Road. Dwellings fronting Lincoln Street with a physical connection to the site are also included in the locality as well allotments in White Avenue with a visual connection to the site. Single storey detached dwellings are the prominent building form within the locality however there are two examples of semi-detached dwellings and one example of residential flat buildings nearby.

Fencing within the locality is varied with some allotments having low, open fencing, masonry fencing with iron infill and brush fencing is also found within the locality. Roslind Street is a comparatively narrow street which contains semi-mature street trees. Dwellings have been built adhering to the topography of the locality avoiding large retaining walls.

### 4. KIND OF ASSESSMENT

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

### 5. PUBLIC NOTIFICATION

<b>Category:</b>	Category 2
<b>Reason:</b>	Residential Policy Area 2 Principle of Development Control 7(a),(b)&(c)
<b>Representations Received:</b>	<ul style="list-style-type: none"> <li>• 6 Roslind Street (wish to be heard)</li> <li>• 15 Lincoln Street (do not wish to be heard)</li> <li>• 17 Lincoln Street (wish to be heard)</li> <li>• 19 Lincoln Street (do not wish to be heard)</li> </ul>
<b>Third Party Appeal Opportunity:</b>	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 proposal is for residential development in the Residential Zone;
- The proposal is not listed as a non-complying development in the relevant policy area provisions of the Development Plan; 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, in terms of its land use.*

### **7.2. Character and Amenity**

The policy area envisages maintenance and enhancement of low scale residential development derived particularly from single storey, detached and semi-detached dwellings and of a similar scale to the dominant built form features of most streetscapes. Set-back within the locality vary but are generally between 3m – 6m from the front of allotments.

The proposed dwelling however is of a scale greater than the adjoining dwellings and other dwellings found throughout the locality. The reduced front set-back, reduced western upper level set-back and high finished floor level result in a building which is dominant to the streetscape. Whilst there is a two storey dwelling located adjacent to the subject land at 10 Roslind Street it remains set-back more in line with Development Plan guidelines and its construction did not significantly raise the level of the site, as such this dwelling does not have the same visual presence as the proposal at hand.

The floor level of the proposed dwelling ranges from 800mm above the natural ground level at the front of the building footprint to 500mm above the natural ground level at the rear of the property. This finished floor level is not reflective of the natural contours of the land is unnecessary for this locality. The proposal essentially raises the entire site above the adjoining properties requiring retaining walls up to 800mm in height. This benching of the site at a higher level is out of character with development within the locality and accentuates the dominance of the two storey dwelling.

### **7.3. Site Functionality**

The proposal plans to utilise the existing driveway crossover to gain access to the site. As a substantial degree of fill has been introduced to the site to accommodate the elevated finished floor level, the proposed driveway has a 1 in 5 maximum gradient. Although this meets the relevant Australian Standard as well as Council Wide Principle of Development Control 179(a) it would create a problematic transition grade for motor vehicle movements.

Council's Technical Officer – Engineering has reviewed the documentation and supplied some recommended notes should the panel be of the mind to grant consent to the application.

Council's Tree Management Officer has also supplied comment and has not flagged any issues with the proposal.

#### **7.4. Public Notification**

During the public notification period the application generated a response from four adjoining residents. The following concerns were raised during the public notification period:

- Streetscape appearance;
- Retaining wall height;
- Overshadowing;
- Amenity;
- Privacy;
- Site coverage; and
- Floor level.

Following the public notification, the applicant's lawyer submitted further details regarding the streetscape including photographs supplied by Realize Studio which show how the building would appear once the adjacent street tree reaches maturity. The response to representations also included additional shadow diagrams, which seeks to illustrate that the proposed development does not restrict northern sunlight access to an extent greater than anticipated by the Development Plan.

The proposal includes retaining walls and fencing with an overall height from 2.2m to 2.6m in height. Although somewhat higher than a typical fence, this fencing height is not considered to be overly dominant and not to a degree which would significantly impact adjoining properties.

The proposal slightly exceeds Council's site coverage and total floor area guidelines. This excess is considered minor in degree and not out of the ordinary for an allotment of approximately 500m<sup>2</sup>. Furthermore a number of nearby allotments exhibit a similar degree of site coverage.

The proposed development includes unobscured upper level windows to the side elevation and rear elevations of the dwelling. The unobscured side elevation window is towards the front of the dwelling. Although this window would not have views into the private open space of the adjoining property, it most likely would compromise the privacy of the occupiers of the adjoining land by providing views into their upper level windows. The rear elevation also includes an unobscured upper level window with a sill height of below 1.6m. Both these issues could be easily resolved by obscure glazing to a height of 1.6m above the finished floor level.

Issues relating to finished floor level, streetscape and amenity have been commented on in the Character and Amenity section of this report.

#### **7.5. Referrals**

The application was referred to Council's Technical Officer (Engineering) and Technical Officer (Arboriculture). There was no objection to the proposal, however in the event the Panel determines to grant development plan consent to the development, conditions

regarding the volume of stormwater runoff should be included, in line with the advice of Council's Engineering Services Department.

Council's Arborist concluded that the proposal does not impact on any nearby street tree.

#### 7.6. Conclusion

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

### 8. RECOMMENDATIONS

It is recommended that the Development Assessment Panel resolve that:

1. The proposed development is not *seriously at variance* with the policies in the Development Plan; and
2. The proposed development is at variance with the policies in the Development Plan and that Development Application 180\1199\15, by M & V Kokolakis, is **refused** Development Plan Consent for the following reasons:

#### Reasons

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

- Residential Policy Area 2 - Northern Principle of Development Control 1 in that the proposal does not compliment the scale, bulk, siting and positive elements of existing dwellings where a distinctive and attractive streetscape character exists.
- Residential Zone Principle of Development Control 2(d) in that the proposal is not consistent with the objectives of the policy area having due regard to (i) mass and proportion and (iv) ground height above ground level.
- Council Wide Objective 11 in that the proposal does not reinforce positive aspects of the local environment and built form.
- Council Wide Principle of Development Control 15 in that the proposal does not minimize the visual impact of the building as viewed from adjoining properties.
- Council Wide Principle of Development Control 56 in that the proposal does not relate well to adjacent buildings which contribute to streetscape quality.
- Council Wide Principle of Development Control 162(c) in that the upper level of the building is not located the minimum 4m from the western side boundary.
- Council Wide Principle of Development Control 162(iv) in that the resulting boundary wall will exceed 3m in height.
- Council Wide Principle of Development Control 174(a) & (b) relating to privacy.
- Council Wide Principle of Development Control 176(c)



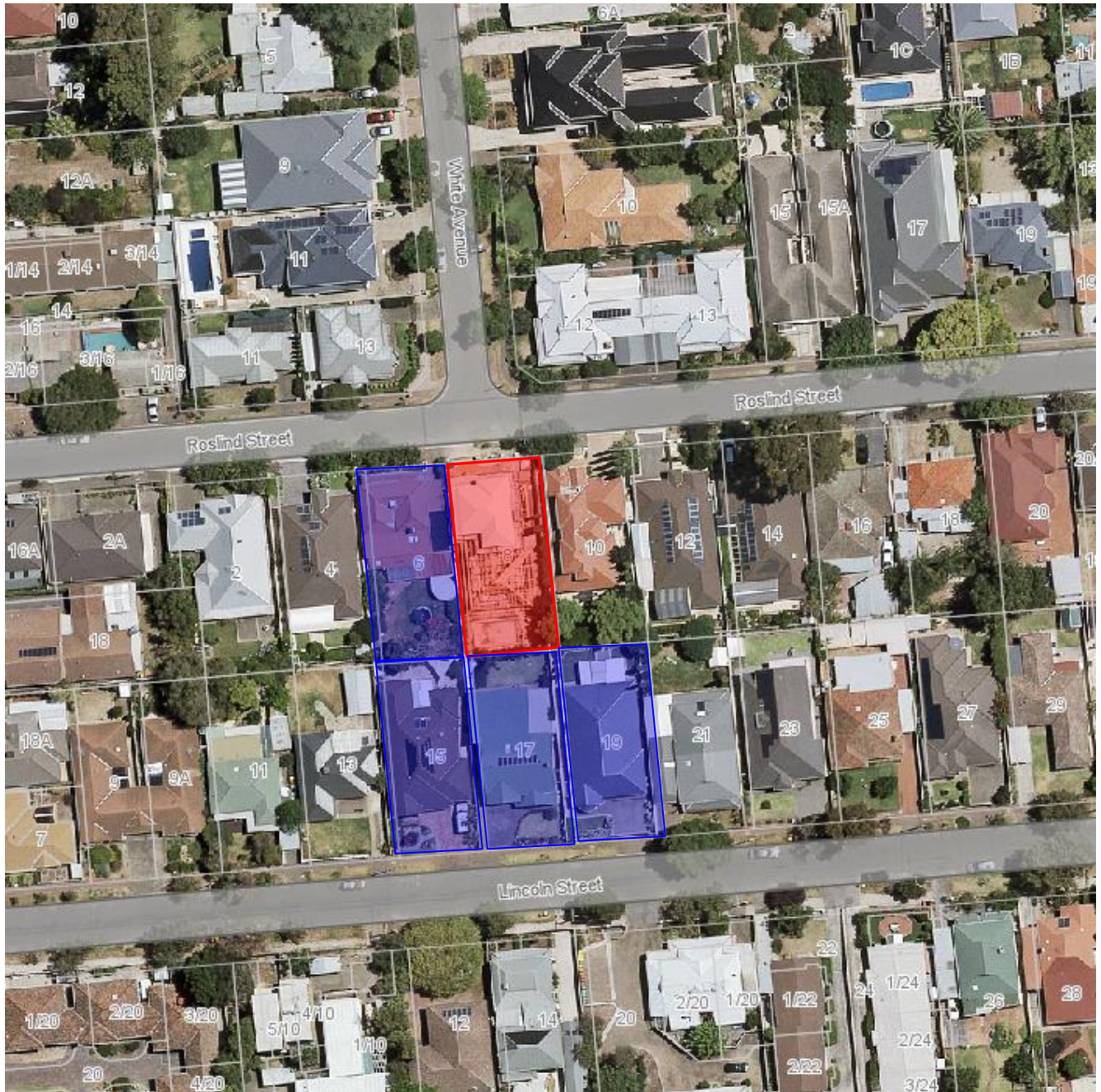
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**RECOMMENDING OFFICER**

James Booker  
Development Officer – Planning

**APPENDIX 1**

**AERIAL LOCALITY MAP**



**Legend**



**Subject Land**



**Representor's Land**

## APPENDIX 2

### DETAILED PLANNING ASSESSMENT

#### Summary of Policy Area Objectives and Principles

##### Primary Residential Policy Area 2 Objectives:

###### Objective 1:

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

- (a) dwellings of low-scale and low to medium density, widely varied in age but predominantly of the interwar and post-war periods; and*
- (b) single-storeyed, detached dwellings and semi-detached dwellings, moderately set-back from road boundaries and similar in scale, that are the dominant built-form features in most streetscapes.*

<b>Subject:</b> DP Ref	<b>Assessment:</b>
<b>Desired Land Use</b> O 1	Variance. Although the proposed development will continue the intended residential use of the land the proposed replacement building does not enhance the Policy Area due to its scale and nature.
<b>Local Compatibility</b> PDC 1	The proposed development fails to position the building adequately on the land, such that the two-storey building, which illustrates no set-back to the western side boundary and a reduced set-back to the eastern boundary of the site, will have a prominent position on the site and appear obtrusive within the streetscape. Furthermore the elevated finished floor level is out of character with the topography of the area and inconsistent with other dwellings within the locality.

## Summary of Residential Zone Objectives and Principles

### **Primary Residential Zone Objectives:**

#### Objective 1:

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

#### Objective 2:

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

#### Objective 3:

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

#### Objective 4:

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

#### Objective 5:

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

<b>Subject:</b> DP Ref	<b>Assessment:</b>
<b>Zoning and Land Use</b> O 1–8 PDC 1	Although the residential use of the land is appropriate for the Residential Zone, the execution of the dwelling is problematic and has not taken due consideration of the lay of the land and its impact on adjoining residences.
<b>Building Appearance</b> PDC 2–4	<p>The policy area seeks for dwellings to be of a low scale however the proposed dwelling however is of a greater bulk than the housing stock within the locality.</p> <p>The appearance of the dwelling, as viewed from the street, will be obtrusive. The development offers little separation of built form with a higher than usual boundary wall. Together with the elevated finished floor level of the building, this results in a conspicuous built-form. It is important to note that the Development Plan requires buildings of a greater bulk and/or height to be setback further than dwellings on adjoining land, to reduce their visual impact on the character of the locality.</p>
<b>Design for Topography</b> PDC 5–6	<p>Prior to works taking place the subject land was a relatively flat allotment with a 500mm rise from front to rear. The proposed dwelling has a finished floor level over 1m above the top of kerb height. This is out of character with existing development within the locality and inconsistent with Development Plan objectives.</p> <p>The visual impact of the raised finished floor level and finished yard level, is anticipated to significantly and negatively impact on the amenity of adjoining residents and streetscape amenity.</p>

## Summary of Council Wide Objectives and Principles

### **Primary Residential Development Objectives:**

Objective 11:

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

Objective 52:

*A compact metropolitan area.*

Objective 53:

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

Objective 54:

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

Objective 55:

*Safe, pleasant, accessible and convenient residential areas.*

Objective 56:

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

Objective 57:

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

<b>Subject:</b> DP Ref	<b>Assessment:</b>
<b>Zoning and Land Use</b> O 52–60	Satisfied.
<b>Design and Appearance</b> O 11 PDC 14–18, 23-28	Due to the proximity of the building to the front boundary of the land, together with its span from the east to the west, and elevated finished floor level, the building entails a greater massing than envisaged for this residential setting.
<b>Building Set-backs</b> PDC 161–163, 57(c)	<p><b><u>Front Set-backs</u></b> Although the building does not meet the Council Wide 6m front set-back guideline, it does achieve a similar set-back to the adjacent properties. However as the building is elevated and has the second storey section of the dwelling towards the front of the building, the proposal is inconsistent with Council Wide Principle of Development Control 56(c) which states the building should be setback a further distance due to its scale.</p> <p><b><u>Side Set-backs</u></b> The proposal fails to achieve appropriate side set-backs for both upper and ground floor sections of the building. The result of the set-back discrepancies is a broad dwelling façade which appears visually dominant to the streetscape. Furthermore the excessive height of the boundary wall compounds the dominant feel of the dwelling most notably when compared to the dwelling to the west.</p> <p><b><u>Rear Set-backs</u></b> Achieved.</p>
<b>Building Height</b> PDC 164	Achieved.
<b>Site Coverage</b>	Minor variance. The proposal marginally exceeds the site coverage

PDC 165	building footprint guideline as well as the total floor area guideline. These inconsistencies in themselves are not considered to be significant as a number of other dwellings within the locality exhibit a similar degree of site coverage.
<b>Private Open Space</b> PDC 166, 169	Achieved.
<b>Amenity</b> O11, 20–22 PDC 14–18, 52-69, 170-173	<p>The proposal is at odds with the amenity provisions of the Development Plan. The proposed dwelling does not include appropriate building elements that reflect the desired character of the locality in terms of:</p> <ul style="list-style-type: none"> <li>• Mass and proportion;</li> <li>• Height of finished floor level above natural ground level;</li> <li>• Set-backs; and</li> <li>• Boundary wall height.</li> </ul> <p>The proposed building would have an adverse amenity impact upon both adjoining residences and streetscape appearance.</p>
<b>Privacy</b> PDC 22, 174–176	<p>The proposed dwelling does not achieve the Development Plan criteria to ensure the privacy of adjoining residents due to unobscured upper level windows with sill heights below 1.6m above the finished floor level. This issue however could easily be solved by implementing obscure glazing to a level of 1.6m above the finished floor level.</p>
<b>Access and On-Site Car Parking</b> PDC 177–182	Achieved.
<b>Access to Sunlight</b> PDC 21, 183–186	Achieved.
<b>Fences and Retaining Walls</b> PDC 190–194	<p>The proposal includes combined fencing and retaining wall height of 2.2m – 2.6m. Although higher than usual the proposed fencing is not considered excessive and is of a height which would maintain privacy whilst not being domineering.</p>

## APPENDIX 3

### DEVELOPMENT DATA TABLE

Site Characteristics	Proposed	Guideline
<i>Site Area</i>	510.8m <sup>2</sup>	375m <sup>2</sup>
<i>Street Frontage</i>	15.24m	12 m
Design Characteristics	Proposed	Guideline
<i>Site Coverage</i>		
- Buildings only	41.8%	40%
- Buildings and driveways	47%	50%
- Total floor area	55.6%	50%
<i>Building Height</i>		
- storeys	2 storeys	2 storeys
- metres	7.5m	9m
<i>Set-backs</i>		
<i>Lower Level</i>		
- front boundary	5m	6m
- side boundary	1.03m, 0m	1.5m
- rear boundary	10m	4m
<i>Upper Level</i>		
- front boundary	5m	6m
- side boundary	2.3m, 4.2m	4m
- rear boundary	18m	8m
<i>Boundary Wall</i>		
- length	7.3m	8m
- height	3.73m	3m
<i>Private Open Space</i>		
- percentage	54.5%	50%
- dimensions	15m x 10m	5m x 8m
<i>Car Parking and Access</i>		
- number of parks	3	2
- width of driveway	N/A (existing crossover utilised)	N/A
- width of garage/carport door	34%	33%



## DEVELOPMENT APPLICATION

<b>Application Number:</b>	180\0886\15
<b>Applicant:</b>	Heynen Planning Consultants
<b>Location:</b>	16 McBeath Drive, Skye
<b>Proposal:</b>	Non-Complying - Split level detached dwelling including garage, portico, balcony and cut/fill >9m <sup>3</sup>
<b>Zone/Policy Area:</b>	Hills Face Zone Development Plan consolidated 30 January 2014
<b>Kind of Assessment:</b>	Non-complying
<b>Public Notification:</b>	Category 3 One (1) representation received
<b>Appeal Opportunity</b>	Third party only, no Applicant appeal rights
<b>Referrals – Statutory:</b>	CFS
<b>Referrals – Non Statutory:</b>	Traffic Management Engineer / Tree Management Officer
<b>Delegations Policy:</b>	Non-complying development
<b>Recommendation:</b>	Subject to concurrence from the Development Assessment Commission, that Development Plan Consent be granted
<b>Recommending Officer:</b>	Troy Fountain

## REPORT CONTENTS

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

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



## **1. DESCRIPTION OF PROPOSAL**

The Applicant seeks Development Plan Consent for the following:

- *Construction of a non-complying split level detached dwelling including garage, portico, balcony and cut/fill exceeding nine cubic metres.*

## **2. BACKGROUND**

Development application 180\0886\15 was lodged on 18 September 2015, by Heynen Planning Consultants acting on behalf of the registered owner of the subject land. The application seeks Development Plan Consent subject to the concurrence from the Development Assessment Commission for the construction of a split level detached dwelling including garage, portico, balcony and cut/fill exceeding nine cubic metres.

Previous applications include:

- 180\0197\04 – Detached dwelling (refused)
- 180\1233\04 – *Creation of two allotments from three existing (non-complying) (granted)*

The previous applications have no influence on the current proposal with the subject land an existing residential allotment within the Hills Face Zone.

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

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

*Detached Dwelling where:*

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

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

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

The proposal involves the construction of a split level detached dwelling where the distance between the top of external walls and the subsequent finished ground level below this point exceeds 3 metres. A section of excavation also exceeds 1.5 metres adjacent to the front façade of the dwelling.

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

A decision to proceed with an assessment in accordance with Council's Delegations Policy was made by the Team Leader – Planning on 28 September 2015.

The application was placed on Category 3 public notification for a period of two weeks commencing 16 December 2015 and concluding 7 January 2016. During the course of the public notification period one representation was received in favour of the proposal but with some concerns. The representation did not indicate a desire to be heard by the Development Assessment Panel.

During the course of assessment the proposal was referred to Council's Technical Officer - Engineering and Council's Tree Management Officer to assess the suitability of the proposal in regards to stormwater detention, stormwater discharge and impact to Council assets (street trees).

The Country Fire Service has also provided their assessment of the proposal as a result of a referral under Schedule 8 of the *Development Regulations 2008*.

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

### 3. SUBJECT LAND AND LOCALITY ATTRIBUTES

#### 3.1. Subject Land

The subject land is an existing vacant allotment on the western side of McBeath Drive, located wholly within the suburb of Skye and the Hills Face Zone. The allotment is large and irregular shape, with an approximate area of 8992m<sup>2</sup> and a single primary road frontage of 131m. Any built form opportunity is restricted to the area proposed primarily due to the steepness of the allotment and the opportunity for a driveway across the Council verge.

The entire site involves a steep fall downwards from McBeath Drive towards the west of approximately 10m for the extent of the dwelling footprint. The subject land includes some vegetation with the majority of native vegetation located in the Council verge area.

#### 3.2. Locality

The locality is characterised by the varied and steep topographical nature of the Hills Face Zone. The locality is characterised by detached residential dwellings both single and two storey in a variety of architectural styles with varied front setbacks. The densely vegetated natural landscape character is a key feature of the locality and contributes a high level of visual amenity through the provision of a natural landscape character.

### 4. KIND OF ASSESSMENT

<b>Kind:</b>	Non-complying
<b>Reason:</b>	<p><u>Detached Dwelling where:</u></p> <p>(b) the scale and design is such that:</p> <p>(i) the vertical distance between any point at the top of any external wall and the finished ground level immediately below that point on the wall <u>exceeds three metres</u>, other than gable ends of the dwelling where the distance exceeds five metres; and</p> <p>(c) the depth of excavation and/or height of filling of land exceeds 1.5 metres; or</p>
<b>Applicant Appeal Opportunity:</b>	No

### 5. PUBLIC NOTIFICATION

<b>Category:</b>	Category 3
<b>Reason:</b>	Section 38 (2) (c) of the <i>Development Act 1993</i> .

<b>Cut / Fill:</b>	<p>Some cut and fill is required given the topography of the subject land. The cut and fill is not evident to the streetscape nor the adjacent properties.</p> <p>The cut and fill element of the proposal has been determined to meet the test prescribed by Schedule 9, Part 1 (2)(g) of the <i>Development Regulations 2008</i>, as it has been deemed that the earthworks are of a minor nature only and would not unreasonably impact the amenity of adjoining land owners.</p>
<b>Representations Received:</b>	<ul style="list-style-type: none"> <li>44 Knox Terrace, Skye 5072 (do not wish to be heard)</li> </ul>
<b>Third Party Appeal Opportunity:</b>	Yes

- Representation received is provided as an attachment to the Panel.
- Applicant's response to the representation is 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 proposal is for residential development within the Hills Face Zone;
- A minimal loss of native vegetation is anticipated as a consequence of the proposed development;
- The building presents to the street as a single storey dwelling and is located on stilts, the dwelling will not be a prominent feature from the Adelaide Plains due to its siting on the western side of McBeath Drive and its overall size; 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

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

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

The proposed development is in accordance with Hills Face Zone Principle of Development Control 7 in that the proposal will not be built in a manner which is considered to be visually obtrusive or detrimental to the existing natural landscape character. This is based on the following:

- The proposed dwelling although raised above the natural ground level through the use of stilts is of a small size and does attempt cohesion to the natural ground level whilst minimising the amount of cut/fill;
- The dwelling is not overly large, is well articulated and is therefore not considered to be a dominant feature when viewed from the Adelaide Plains or visually obtrusive when observed from land within the Hills Face Zone;
- The subject land is most prominent from Coach Road but the dwelling is not considered to dominant the hillside given the retention of existing vegetation located within the Council verge;
- The proposed development is located predominantly below the street level and presents to the street as a single storey dwelling. This reduces any visual bulk and vertical height of built form impacts to the abutting property owners; and
- The site for construction of the proposed development is largely clear of native remnant vegetation with examples of exotic shrubs located within the property boundaries.

The proposed development is also considered to be in accordance with Hills Face Zone Principle of Development Control 8 with regard to appropriate building scale and preservation of the natural landscape character.

### **7.3. Amenity**

The proposal is not considered to be an unacceptable form of development when viewed from adjoining properties as it is of modest scale and proportions relative to other dwellings in the locality. When viewed from land to the east the proposal is not considered to be dominant, particularly from the eastern side of McBeath Drive.

Although the proposal exceeds the non-complying wall height threshold of 3m, the building height is generally consistent with other dwellings within the locality. The building height slightly extends above 12m when measured from the ridgeline to the extent of the building form to directly beneath the balcony area.

A low profile conventional roof form reduces the building mass and corresponds with the low roofing profiles of adjoining dwellings. Although the proposed development includes external wall heights in excess of the threshold (3m) due to the 10m fall of the subject land, the dwelling features a sufficient degree of articulation and generous set-backs in order to minimise the perceived vertical profile of the building and add visual interest. A stepped dwelling design would be difficult to achieve on such a steep allotment. The dwelling is single-storey in nature and involves some excavation to enable a level driveway and the minimisation of fill and overall stilt heights.

The proposal incorporates a significant degree on fenestration to the western elevation at to maximise the visual amenity for the future occupants by taking in views across the gully ad to the Adelaide Plains. There are no privacy concerns from the dwelling given the nature of the terrain and minimal use of areas as private open space surrounding the subject land. There is also a significant distance from the proposed dwelling to the abutting properties. The dwelling is stepped in distance to reduce cut/fill on Council land and enable safe and convenient access at the only likely location to the subject land. This stepped design also adheres to the natural ground level well.

No protected trees are located on the subject land with the landscaping plan submitted addressing all requirements from the CFS.

### **7.4. Site Functionality**

The Applicant proposed a new driveway crossover towards the Southern end of the subject land. The site does not currently have a direct access point.

The proposed crossover point has been assessed by Council's Traffic Engineer who supports both the driveway gradient, transition grades over Council land and turning circles. Vehicles are able to reverse into McBeath Drive and use the reversing bay at the southern end of 17 McBeath for manoeuvrability. McBeath is not a busy road with no safety concerns with cars reversing or pedestrians. Additionally Council's Engineering Services Department has provided advisory notes detailing specific stormwater management requirements.

A referral under Schedule 8 of the *Development Regulations 2008* was undertaken as part of the assessment of the application. The Country Fire Service (CFS) requirements have been incorporated as conditions as part of the recommendation.

#### **7.5. Public Notification**

As mentioned previously the application was placed on Category 3 public notification for a period of two weeks. One representation was received during that time, being in favour of the proposal with some concerns.

#### **7.6. Agency Referrals**

A referral under Schedule 8 of the *Development Regulations 2008* was undertaken as part of the assessment of the application. The Country Fire Service (CFS) requirements have been incorporated as conditions as part of the recommendation.

#### **7.7. Conclusion**

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

### **8. RECOMMENDATIONS**

It is recommended that the Development Assessment Panel resolve that:

1. The proposed development is not seriously at variance with the policies in the Development Plan; and
2. Subject to concurrence from the Development Assessment Commission, that Development Application 180\0886\15, by Heynen Planning Consultants, 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 **Access (to dedicated water supply)**

The Code Part 2.3.4.1 requires a dedicated and accessible water supply to be made available at all times for fire-fighting.

Ministers Specification SA 78 describes the mandatory provision for access to the dedicated water for fire-fighting vehicles where the path of travel from the entrance to the property to the water storage facility is more than 30 metres in length, by an all-weather roadway:

- Access to the dedicated water supply shall be of all-weather construction, with a minimum formed road surface width of 3 metres.
- The driveway shall be constructed to be capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes, AND
- Provision shall be made adjacent to the water supply for a hardstand area (capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes) that is a distance equal to or less than 6 metres from the water supply outlet.
- CFS appliance inlet is rear mounted; therefore the outlet/water storage shall be positioned so that the CFS appliance can easily connect to it rear facing.

*(NOTE: the water supply outlet may be remotely located from the tank to provide adequate access).*

- The dedicated water supply outlet must not exceed the 5 metre maximum vertical lift for drafting purposes (calculated on the height of the road surface to the lowest point of the storage).

NB: The suction outlet pipework from the existing tank shall be fitted with an inline non return valve of nominal internal diameter not less than that of the suction pipe and be located from the lowest point of extract from the tank. All non-metal water supply pipes for bushfire fighting purposes shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.

**NB: The proposed location of dedicated fire water has not been detailed on drawings provided.**

### **Reason:**

To ensure requirements of the CFS are upheld.

## 3 **Access**

Private roads and access tracks shall provide safe and convenient access/egress for bushfire fighting vehicles.

The Code Part 2.3.3.1 describes the mandatory provision for 'Private' roads and driveways to buildings, where the furthest point to the building from the nearest public road is more than 30 metres, shall provide safe and convenient access/egress for large Bushfire fighting vehicles.

**NB: CFS notes the proposed development is sited less than 30 metres from the public road as indicated on drawing dated 09 Sep 2015.**

**Reason:**

To ensure requirements of the CFS are upheld.

**4 Vegetation**

The Code Part 2.3.5 mandates that landscaping shall include Bushfire Protection features that will prevent or inhibit the spread of bushfire and minimise the risk to life and/or damage to buildings and property.

- A vegetation management zone (VMZ) shall be established and maintained within 20 metres of the dwelling (or to the property boundaries - whichever comes first) as follows:
  - The number of trees and understorey plants existing and to be established within the VMZ shall be reduced and maintained such that when considered overall a maximum coverage of 30% is attained, and so that the leaf area of shrubs is not continuous. Careful selection of the vegetation will permit the 'clumping' of shrubs where desirable, for diversity, and privacy and yet achieve the 'overall maximum coverage of 30%'.
  - **NB: CFS notes that coverage of vegetation within 20m of the dwelling is currently greater than 30%.**
  - Reduction of vegetation shall be in accordance with SA Native Vegetation Act 1991 and SA Native Vegetation Regulations 2003.
  - Trees and shrubs shall not be planted closer to the building(s) than the distance equivalent to their mature height.
  - Trees and shrubs must not overhang the roofline of the building, touch walls, windows or other elements of the building.
  - Shrubs must not be planted under trees and must be separated by at least 1.5 times their mature height.
  - Grasses within the zone shall be reduced to a maximum height of 10cm during the Fire Danger Season.
  - No understorey vegetation shall be established within 1 metre of the dwelling (understorey is defined as plants and bushes up to 2 metres in height).
  - Within 10 metres of a building, flammable objects such as plants, mulches and fences must not be located close to vulnerable parts of the building such as windows, decks and eaves
  - The VMZ shall be maintained to be free of accumulated dead vegetation.

**Reason:**

To ensure requirements of the CFS are upheld.

**5 Water Supply**

The Code Part 2.3.4.1 prescribes the mandatory provision of a dedicated and accessible water supply to be made available at all times for fire-fighting.

Ministers Specification SA78 provides the technical details of the dedicated water supply for bushfire fighting for the bushfire zone. The dedicated bushfire fighting water supply shall also incorporate the installation of a pumping system, pipe-work and fire-fighting hose(s) in accordance with Minister's Specification SA78:

- A minimum supply of 22,000 litres of water shall be available at all times for bushfire

fighting purposes.

- The water storage facility may combine the bushfire fighting water supply with domestic use, providing the outlet for domestic use is located above the 22,000 litres of dedicated fire water supply in order for it to remain as a dedicated supply.
- The bushfire fighting water supply shall be clearly identified and fitted with an outlet of at least 50mm diameter terminating with a compliant CFS fire service adapter, which shall be accessible to bushfire fighting vehicles at all times.
- The water storage facility (and any support structure) shall be constructed of non-combustible material.
- The dedicated fire-fighting water supply shall be pressurised by a pump that has -
  - A minimum inlet diameter of 38mm, AND
  - Is powered by a petrol or diesel engine with a power rating of at least 3.7kW (5hp), OR
  - A pumping system that operates independently of mains electricity and is capable of pressurising the water for fire-fighting purposes.
- The dedicated fire-fighting water supply pump shall be located at or adjacent to the dwelling to ensure occupants safety when operating the pump during a bushfire. An 'Operations Instruction Procedure' shall be located with the pump control panel.
- The fire-fighting pump and any flexible connections to the water supply shall be protected by a non-combustible cover that allows adequate air ventilation for efficient pump operation.
- All bushfire fighting water pipes and connections between the water storage facility and a pump shall be no smaller in diameter than the diameter of the pump inlet.
- All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.
- A fire-fighting hose (or hoses) shall be located so that all parts of the building are within reach of the nozzle end of the hose and if more than one hose is required they should be positioned to provide maximum coverage of the building and surrounds (i.e. at opposite ends of the dwelling).
- All fire-fighting hoses shall be capable of withstanding the pressures of the supplied water.
- All fire-fighting hoses shall be of reinforced construction manufactured in accordance with AS 2620 or AS 1221.
- All fire-fighting hoses shall have a minimum nominal internal diameter of 18mm and a maximum length of 36 metres.
- All fire-fighting hoses shall have an adjustable metal nozzle, or an adjustable PVC nozzle manufactured in accordance with AS 1221.
- All fire-fighting hoses shall be readily available at all times.

**Reason:**

To ensure requirements of the CFS are upheld.

6 **Building Considerations**

Bushfire prevention and safety requirements shall be completed prior to occupancy of the building(s).

For construction requirements and performance provisions, refer to the BCA Part 3.7 "FIRE SAFETY" Australian Standard *TM*3959 (AS3959) "Construction of Buildings in Bushfire Prone Areas".



Compliance with the fire protection requirements is not a guarantee the dwelling will not burn, but its intent is to provide a '*measure of protection*' from the approach, impact and passing of a bushfire.

Should there be any need for further information, please contact the undersigned at the Development Assessment Service on (08) 8391 6077.

**Reason:**

To ensure requirements of the CFS are upheld.

7 **SITING**

The Code Part 2.3.2 describes the requirements for buildings to be sited away from areas that pose an unacceptable bushfire risk. This includes areas with rugged terrain or hazardous vegetation.

**NB: CFS notes, in order for a lower Bushfire Attack level to be considered, CFS would require that the southern western elevation of the proposed dwelling be sited no less than 10 metres from the boundary, in order to achieve an adequate asset protection zone around the dwelling.**

**Reason:**

To ensure the requirements of the CFS are addressed.

- 8 The approved works may not commence until such time as the applicant has secured written authorisation for the construction of the new driveway crossover from the Council pursuant to Section 221 of the *Local Government Act 1999*.

**Reason:**

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

**Advisory Notes**

1 **Engineering Requirements:**

- Unless approved otherwise, construction of the driveway crossover shall be in accordance with Council's Standard Specification and General Conditions and completed to the reasonable satisfaction of Council.
- The Driveway is to be constructed as per the drawings 150303-C01 and 150303-S02 submitted to Council on 15 November 2015
- A driveway width of 5.5 metres is permitted across the verge and at the kerb and gutter.
- Evidence of Public Liability Insurance must be provided to Council
- Before any works can commence on the public verge/road.

**RECOMMENDING OFFICER**

Troy Fountain  
Development Officer– Planning

**APPENDIX 1**

**AERIAL LOCALITY MAP**



**Legend**



**Subject Land**



**Representor's Land**

**APPENDIX 2**
**DETAILED PLANNING ASSESSMENT**
**Summary of Policy Area Objectives and Principles**
**Primary Hills Face Zone Objectives and Principles:**
Objective 1:

*A zone in which the natural character is preserved and enhanced or in which a natural character is re-established in order to:*

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

Objective 2:

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

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

Hills Face Zone Principle of Development Control 1 states:

*Development should not be undertaken unless:*

- (a) it is associated with a low-intensity agricultural activity, a public open space area or a private use of an open character, or is a detached single-storey dwelling, including outbuildings and structures normally associated with such dwellings, on a single allotment; and*
- (b) together with associated native landscaping, it preserves and enhances the natural character of the zone or assists in the re-establishment of a natural character.*

Hills Face Zone Principle of Development Control 2 states:

*The excavation and/or filling of land should:*

- (a) be kept to a minimum so as to preserve the natural form of the land and the native vegetation;*
- (b) only be undertaken in order to reduce the visual impact of buildings, including structures, or in order to construct water storage facilities for use on the allotment; and*
- (c) result in stable scree slopes which are covered with top soil and landscaped so as to preserve and enhance the natural character or assist in the re-establishment of the natural character of the zone.*

<b>Subject:</b> DP Ref	<b>Assessment:</b>
<b>Desired Land Use</b> O 1	Achieved.  The proposed dwelling is in a locality where residential allotments are a common feature amongst the natural landscape setting. Additionally it is considered that the development will continue the preservation of the natural character of the Hills Face Zone through minimal cut and fill and large bulky structures.
<b>Local Compatibility</b> PDC 7 & 8	Achieved.  Although a more modern design, the proposed dwelling is considered to be in harmony with existing large dwellings within the locality and

	<p>responds to the local topography and natural landscape characteristics.</p> <p>The stilt design of the dwelling is the only possibility of site development given the land falls away by 10-15m in the first 15m of the site where the dwelling is proposed.</p>
<p><b>Non-complying classification</b> PDC 27</p>	<p>The proposal is classified as a non-complying development for the following reason:</p> <p><u>Detached Dwelling where:</u></p> <ul style="list-style-type: none"> <li>(b) <i>the scale and design is such that:</i> <ul style="list-style-type: none"> <li>(i) <i>the vertical distance between any point at the top of any external wall and the finished ground level immediately below that point on the wall <u>exceeds three metres</u>, other than gable ends of the dwelling where the distance exceeds five metres; and</i></li> <li>(c) <i>the depth of excavation and/or height of filling of land exceeds 1.5 metres; or</i></li> </ul> </li> </ul> <p>Although the proposal does trigger a non-complying assessment for the above reasons, they in themselves are not considered to be fatal to the merits of the application. The assessment of this application has concluded that the built form is appropriate for the locality with no option for a dwelling lower to the corresponding natural ground level.</p>

## **Summary of Residential Zone Objectives and Principles**

### **Primary Residential Zone Objectives:**

#### Objective 1:

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

#### Objective 2:

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

#### Objective 3:

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

#### Objective 4:

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

#### Objective 5:

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

#### Objective 6:

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

#### Objective 7:

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

#### Objective 8:

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

<b>Subject:</b> DP Ref	<b>Assessment:</b>
<b>Zoning and Land Use</b> O 52–60	Achieved.
<b>Building Set-backs</b> PDC 161–163	<p>Minor variance.</p> <p>The proposed front setback of 2m does not achieve the Council Wide 6m guideline. This particular section of McBeath Drive is unique in that it has an 10m wide Council verge at its widest point and dwellings are located very close to front boundaries to reduce the height of each dwelling from the corresponding natural ground level. If the dwelling was to be setback further, the dwelling would be more dominant located substantially higher than the natural ground level therefore creating additional visual bulk and scale.</p> <p>The dwelling is also predominantly located below the street level to reduce its prominence within the existing streetscape character. As such the proposal is consistent with the established front set-backs of the area and considered acceptable.</p>
<b>Design for Topography</b> PDC 14	<p>The dwelling achieves some harmony with the natural ground level which steeply falls away over the extent of the subject land. The dwelling although substantially raised above the natural ground level does not have any other choice and is not overly large in size therefore minimising its impacts from various view points within the locality and Hills Face Zone.</p>

<b>Building Height</b> PDC 164	Achieved.
<b>Site Coverage</b> PDC 165	Achieved.
<b>Private Open Space</b> PDC 166, 169	Achieved.
<b>Amenity</b> O11, 20–22 PDC 14–18, 52-69, 170-173	Achieved.
<b>Privacy</b> PDC 22, 174–176	As mentioned previously within the Executive Summary, the proposal does not include privacy features such as obscure glazing or privacy screens. In this instance this having no privacy treatments is considered acceptable as the topography of the land is such that unreasonable overlooking will not occur.
<b>Access and On-Site Car Parking</b> PDC 177–182	Achieved.
<b>Access to Sunlight</b> PDC 21, 183–186	Achieved.

## APPENDIX 3

### DEVELOPMENT DATA TABLE

Site Characteristics	Proposed	Guideline
<i>Site Area</i>	8992m <sup>2</sup>	N/A
<i>Street Frontage</i>	131m	N/A
Design Characteristics	Proposed	Guideline
<i>Site Coverage</i>		
- Buildings only	5%	40%
- Buildings and driveways	6%	50%
<i>Building Height</i>		
- storeys	1 storey	2 storeys
- metres	12.5m (inc balcony)	9m
<i>Set-backs</i>		
<i>Lower Level</i>		
- front boundary	0m	8m
- side boundary	1m (South), 73m	2m
- rear boundary	46m	4m
<i>Boundary Wall</i>		
- length	N/A	8m
- height	N/A	3m
<i>Private Open Space</i>		
- percentage	>50%	50%
- dimensions	11.5m x 3m	5m x 8m
<i>Car Parking and Access</i>		
- number of parks	2 undercover	2
- width of driveway	3.5m	4.5m
- width of garage/carport door	3%	33%



## DEVELOPMENT APPLICATION

<b>Application Number:</b>	180\0108\16
<b>Applicant:</b>	Joseph Distasio C/- State Surveys
<b>Location:</b>	136 Waterfall Gully Road WATERFALL GULLY
<b>Proposal:</b>	Land Division (Boundary Realignment)
<b>Zone/Policy Area:</b>	Hills Face Zone Development Plan consolidated 30 January 2014
<b>Kind of Assessment:</b>	Non-complying
<b>Public Notification:</b>	Category 1
<b>Appeal Opportunity</b>	No appeal rights
<b>Referrals – Statutory:</b>	SA Water, DAC
<b>Delegations Policy:</b>	Non-complying development
<b>Recommendation:</b>	Subject to concurrence from the Development Assessment Commission, that Development Approval be granted
<b>Recommending Officer:</b>	James Booker

## REPORT CONTENTS

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

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

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

- Plans and supporting documents
- External agency referral reports
- Photographs
- 03 March 2016 delegated report to proceed



## 1. DESCRIPTION OF PROPOSAL

The Applicant seeks Development Approval for the re-alignment of a portion of the common boundary between 138 Waterfall Gully Road and 136 Waterfall Gully Road, with the balance of land to be absorbed by the latter of the two properties. The area of land which is proposed to be transferred to 136 Waterfall Gully Road is 27.72m<sup>2</sup>.

## 2. BACKGROUND

Development Application 180\0108\16 was lodged with Council on 19 February 2016, by Joseph Distasio, the registered owner (with others) of both parcels of land.

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

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

The Planning Team Leader determined to proceed to an assessment of the application on 03 March 2016 under delegated authority. The application was processed as a Category 1 development pursuant to Schedule 9, Part 1, 3, (c) of the *Development Regulations 2008* and therefore no public notification was undertaken. No additional external or internal referrals were required due to the minor nature of the development, nor was a Statement of Effect required under Section 17 of the *Development Act 1993* (the Act).

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

## 3. SUBJECT LAND AND LOCALITY ATTRIBUTES

### 3.1. Subject Land

The subject land comprises two abutting allotments, namely 136 Waterfall Gully Road (Lot 701) and 138 Waterfall Gully Road (Lot 702), each of which share a common side boundary running north to south.

Lot 701 is an allotment of 1995m<sup>2</sup> with a frontage width to Waterfall Gully Road of 21.28m. The site currently contains a two-storey detached dwelling of Contemporary style with vehicle access gained via Waterfall Gully Road. The land also contains outbuildings relating to the commercial bottling of spring water on site. The subject land includes a substantial rise in the natural ground level from the rear of the existing outbuildings located adjacent to Waterfall Gully Road towards the rear eastern boundary.

Lot 702 is an allotment of 1793m<sup>2</sup> with a frontage width to Waterfall Gully Road of 20.09m. The site currently contains outbuildings used in association with the spring water business. Vehicle access gained via Waterfall Gully Road. The land features a generous amount of vegetation reflective of the Hills Face surrounds and has a similar gradient towards the rear of the site as Lot 701.

### 3.2. Locality

The locality comprises adjacent land with a frontage to Waterfall Gully Road between 130 Waterfall Gully Road to the North and 152 Waterfall Gully Road to the South. The dwellings are generally set close to the front boundary given that the natural terrain rises steeply towards the east on allotments to the eastern side of Waterfall Gully Road. The locality is comprised of deep allotments with steep terrain and dense vegetation. Overlooking is common within the area with minimal screening devices having impact due to the steep terrain and lack of fencing within the area.

#### 4. KIND OF ASSESSMENT

<b>Kind:</b>	Non-complying.
<b>Reason:</b>	Burnside (City) Development Plan – Hills Face Zone, Principle of Development Control 27
<b>Applicant Appeal Opportunity:</b>	No

#### 5. PUBLIC NOTIFICATION

<b>Category:</b>	Category 1
<b>Reason:</b>	Development Regulations 2008 – Schedule 9, Part 1, 3, (c)
<b>Third Party Appeal Opportunity:</b>	No

#### 6. AGENCY REFERRALS

- External 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 proposed development has no impact on the established use of either of the two allotments;
- The proposed boundary re-alignment is to accommodate recently built additions at 136 Waterfall Gully Road. The works will ensure that all of the dwelling located at 136 Waterfall Gully Road are contained within that parcel of land;
- Although the proposal is listed as a non-complying type of development, the proposal does not create an additional allotment within the Hills Face Zone;
- The subject land has limited or no value in terms of potential horticultural use;
- The proposed development will not affect existing residential density, nor does it create a demand for the provision of additional services and infrastructure; 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

The proposed development will have no tangible impact on the natural character of the locality in terms of established land use and patterns of subdivision as the proposed realignment only effects a 27.72m<sup>2</sup> area of land.

##### 7.3. Amenity

The development is not anticipated to have any adverse impacts on the amenities of the locality.

#### **7.4. Site Functionality**

The proposed boundary re-alignment will have no tangible impact on the functionality of either property.

#### **7.5. Public Notification**

The proposed development is classified as a Category 1 development and as such the development was not publically notified.

#### **7.6. Agency Referrals**

As part of the assessment process, the proposal was referred to SA Water and reviewed by the DAC. No comments or requirements were raised in relation to the development, other than a request for a certified survey plan being lodged with the DAC for certificate purposes.

No internal referrals were required due to the minor and inoffensive nature of the proposed development.

#### **7.7. Conclusion**

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

### **8. RECOMMENDATIONS**

It is recommended that the Development Assessment Panel resolve that:

1. The proposed development is not seriously at variance with the policies in the Development Plan; and
2. Subject to concurrence from the Development Assessment Commission, that Development Application 180\0108\16, by Joseph Distasio C/- State Surveys, is **granted** Development Approval subject to the following conditions:

#### **Conditions**

- 1 The development granted Development Approval 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.

#### **Land Division Conditions**

- 1 A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate

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purposes.

**Reason:**

To satisfy the requirements of the Development Assessment Commission.

**RECOMMENDING OFFICER**

James Booker  
Development Officer – Planning

**APPENDIX 1**

**AERIAL LOCALITY MAP**



**Legend**



**Subject Land**

## APPENDIX 2

### DETAILED PLANNING ASSESSMENT

#### Summary of Hills Face Zone Objectives and Principles

##### **Primary Hills Face Zone Objectives:**

###### Objective 1:

*natural character is re-established in order to:*

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

###### Objective 2:

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

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

<b>Subject:</b>	<b>Assessment:</b>
DP Ref	
<b>Desired Land Use</b> O 1-2 PDC 1	Satisfied. Both properties will continue to function in accordance with the established residential use of land.
<b>Service Provision</b> PDC 11	Satisfied. The proposal does not create an additional allotment within the Hills Face Zone, nor does it create a demand for the provision of additional services and infrastructure.

**Summary of Council Wide Objectives and Principles****Primary Land Division Objectives:**Objective 10:*Land in appropriate locations divided into allotments in an orderly and economic manner.*

<b>Subject:</b>	<b>Assessment:</b>
DP Ref	
<b>Zoning and Land Use</b> O 8–9, 50–54 PDC 1, 3	Satisfied.
<b>Allotment Configuration</b> PDC 8	Satisfied.
<b>Bushfire Protection Area</b> PDC 13	Satisfied.