

Council Assessment Panel

Meeting Agenda

Monday, 30 September 2019, at 5.30 pm, Colonel Light Room, Town Hall, Adelaide.

Presiding Member – Mr John Hodgson

Acting Presiding Member – Councillor Anne Moran

Specialist Members – Mr Ross Bateup, Mr Heath Edwards and Mads Gaardboe

1. Confirmation of Minutes – 9/9/2019 [CAP]

That the Minutes of the meeting of the City of Adelaide Council Assessment Panel held on 9 September 2019, be taken as read and be confirmed as an accurate record of proceedings.

2. Non-Complying Applications - Nil

3. Applications for consideration on Merit

3.1 Subject Site 39 Mills Terrace, North Adelaide SA 5006 [Page 2]

Application No. DA/122/2019

Proposal Replace retaining wall and construct replacement fence along portion of western rear boundary

Recommendation Development Plan Consent Be GRANTED

3.2 Subject Site 382 Gilles Street, Adelaide SA 5000 [Page 47]

Application No. DA/657/2018/A

Proposal Vary previous authorisation to demolish rear of existing dwelling and construct two storey addition and retaining walls - VARIATION - Internal and external amendments including - 2.7m internal pitching height resulting in 200mm height increase, an additional window at ground level and obscured glazing instead of screening for upper level master bedroom window

Recommendation Development Plan Consent Be GRANTED

4. Other Applications - Nil

5. Other Business

5.1 List of Recent Lodgements for Planning Consent (2017/02505) [Page 73]

5.2 Other Business

6. Exclusion of the Public from attendance to Receive, Discuss or Consider Information/Matter on a Confidential Basis (If required)

7. Confidential Matters (If any)

8. Closure

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CITY OF ADELAIDE COUNCIL ASSESSMENT PANEL ON 30/9/2019

Item No	3.1
Address	39 Mills Terrace, North Adelaide SA 5006
Proposal	Replace retaining wall and construct replacement fence along portion of western rear boundary (DA/122/2019, SG) [CAP]
Applicant	Ms A K S Newington
Relevant Development Plan	7 June 2018
Lodgement Date	26 February 2019
Zone / Policy Area	North Adelaide Historic (Conservation) Zone/Hill Street Policy Area 1
Public Notification	Category 2
Application Type	Application Assessed on Merit
Delegations Policy	Unresolved Representation
Recommendation	Development Plan Consent Be GRANTED

ATTACHMENTS

Plans and Supporting Information

- Proposal Plans 1 - 5
- Certificates of Title 6 - 9

Comments from Public Notification 10 - 21

Applicant Response to Representation 22 - 29

PERSONS SPEAKING BEFORE THE PANEL**Representor**

- Ms Emma Herriman of HWL Ebsworth Lawyers on behalf of Mr Wayne Owen and Ms Deborah Miller – 36 Mills Terrace, North Adelaide

Applicant

- Mr James Jordon of Botten Levinson Lawyers on behalf of the applicant Ms Anna Newington

1. DESCRIPTION OF PROPOSAL

- 1.1 Planning consent is sought for the construction of a replacement retaining wall and fence along a portion of the western rear boundary at 39 Mills Terrace, North Adelaide.
- 1.2 The concrete sleeper retaining wall will have a height of approximately 1.2 metres and will be constructed to stabilise the existing raised garden bed located on the subject site.
- 1.3 A Rendex lightweight fence is proposed to be directly abutting the retaining wall and will have a height of 2.7 metres. The retaining wall and fence will have a length of approximately 12.5 metres.
- 1.4 The Rendex fencing is designed to have the appearance of a rendered masonry wall.

2. DEVELOPMENT DATA

Not relevant to this application.

3. BACKGROUND

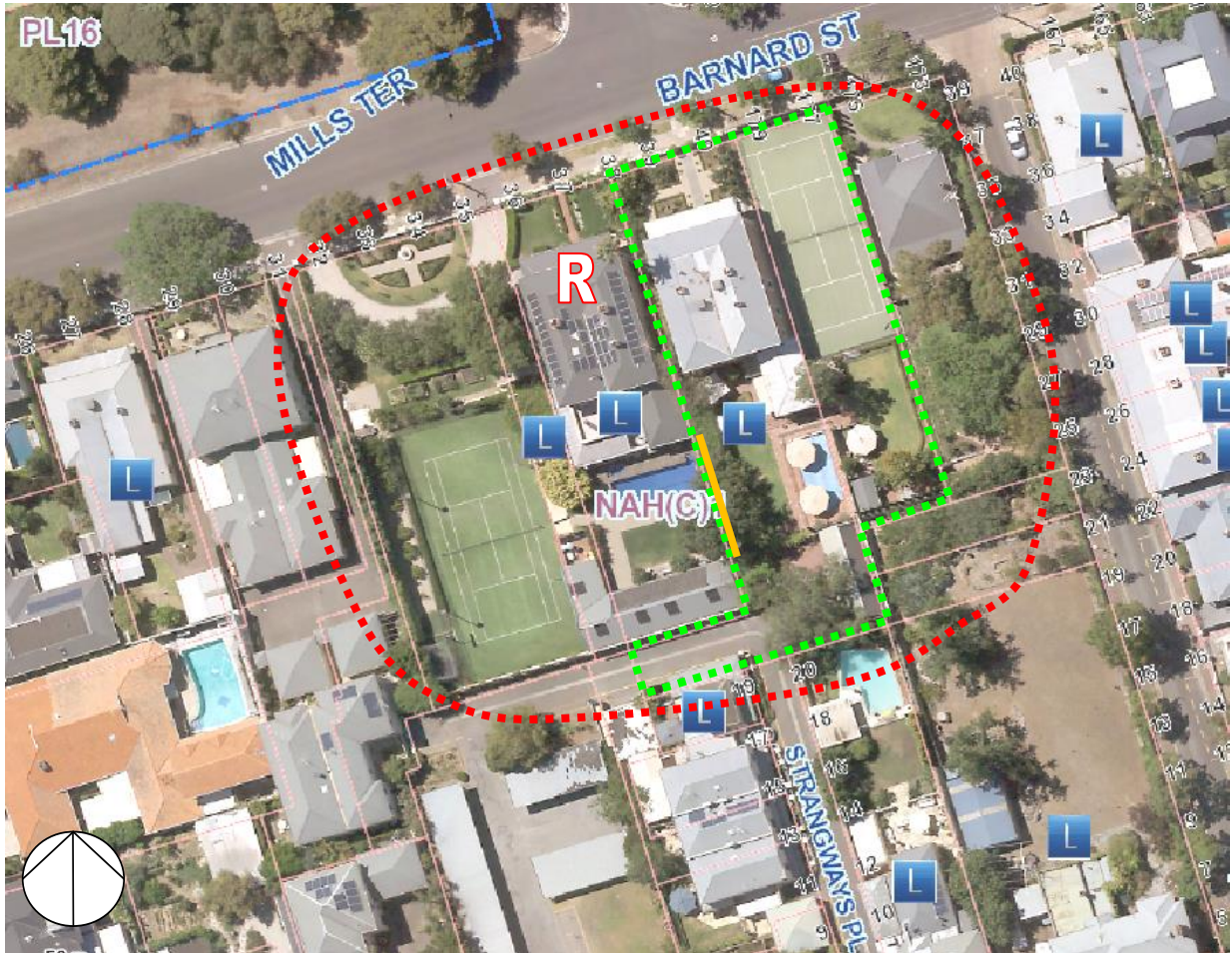
- 3.1 The fence is proposed to replace a fence of similar dimensions previously located along this portion of the boundary that was covered in ivy. The fence was gradually removed over time following the structural failure of a small portion. The current extent of removal has been evident since approximately October 2018.
- 3.2 The representors referred to a lattice screen along a portion of the boundary where the fence is proposed. This was apparently erected by the applicants within the last year. The screen is not approved, has been referred to Council's compliance section and is being addressed separately from this application.

4. SITE

- 4.1 The site is located on the southern side of Mills Terrace at the junction between Mills Terrace and Barnard Street.
- 4.2 The site has a frontage to Mills Terrace of 28.62 metres, an eastern side boundary length of 51.66 metres and a western side boundary length of 63.84 metres (including the Right of Way). The land has an area of approximately 1,770m².
- 4.3 The site is subject to a 5.47 metre wide right of way over the rear western portion. This right of way provides access to the site via Strangways Place. The site also has a 3.05 metre right of way over land to the east to Gibbon Lane.
- 4.4 A two storey detached dwelling (Local Heritage Place), garage, swimming pool and tennis court are located on the site.
- 4.5 Several trees are located on the site, some of which are likely to be regulated or significant. A large liquid amber tree located near the western boundary, where the fence has been removed, is not regulated or significant.
- 4.6 The site is undulating, particularly where a raised garden bed is located adjacent to the proposed retaining wall and fence. This results in the site being approximately 1.2 metres higher than the adjacent property at 36 Mills Terrace at this point.
- 4.7 Vehicle access is provided to the rear of the property via Strangways Place.

5. LOCALITY

- 5.1 The locality contains residential properties in both single and two storey buildings.
- 5.2 There is a combination of contemporary and heritage listed buildings in the locality.
- 5.3 Mills Terrace is a tree lined street and the Park Lands (North Adelaide Golf Course and tennis courts) are located on the northern side of Mills Terrace.
- 5.4 In summary, the locality has a mixed residential and Park Lands character.








KEY			
	Subject Site		Local Heritage Place
NAH(C)1	North Adelaide Historic (Conservation) Zone/Hill Street Policy Area 1		Policy Area Boundary
PL16	Park Lands Zone/Golf Links Policy Area 16		Locality
R	Representor		Approximate location of replacement retaining wall and fence

Photo 1 – Northern portion of area where retaining wall and fence proposed, taken from 36 Mills Terrace



Photo 2 – Central portion of area where retaining wall and fence proposed, taken from 36 Mills Terrace



Photo 3 – Southern portion of area where retaining wall and fence proposed, taken from 36 Mills Terrace



6. **PUBLIC NOTIFICATION**

- 6.1 The proposal is a Category 2 form of development therefore public notification was undertaken.

Category of Notification	Category 2
Representation Received – 1	<ul style="list-style-type: none"> Wayne Owen and Deborah Miller – 36 Mills Terrace, North Adelaide

Summary of Representation	Applicant Response
Object to the proposed height of the fence at 2.7 from natural ground level on our side. Height is unnecessary and would result in adverse impact.	Proposed height is appropriate when considered in isolation and more so when the factual and historical context in which it will be implemented are allowed for.
Fence will be immediately adjacent our dwelling. This will have a greater impact on our property. It will appear as a 'huge, solid, blank 'prison wall' which is unacceptable.	Proposed height will result in a fence providing adequate privacy for both the applicant and the adjoining residents, while ensuring the safety of the occupants and visitors to 39 Mills Terrace.
The applicants have a 1.5 metre high raised garden bed in front of the proposed fence. This will soften the otherwise stark impression the fence may have on their property. With no garden bed on our side (and no ability to create one as the fence will be directly adjacent the pool) we will experience a solid wall from natural ground level.	There are vastly different ground levels on either side of the proposed fence. A fence that is only 500mm high would be plainly inadequate from a security and privacy point of view.
The fence will almost completely block out the morning sun until around 11am across the representors' back yard.	The fence will be 300mm shorter than the previous fence and will therefore result in an improvement to overshadowing. The proposal is substantially shorter than any development that might reasonably be undertaken near the boundary further to the north on the subject site.
The height, design and materials are not in keeping with the heritage value of either properties. A sympathetic bluestone and red brick garage has been constructed at the rear of our property, so sensitive development has taken place, however this fence will look harsh and out of character with its surrounds.	<p>The height will ensure the maintenance of adequate privacy to both properties, consistent with the character of the Hills Street Policy Area.</p> <p>The fence can be rendered or painted in a manner that is sensitive to the heritage character and acceptable to the applicants and the representors.</p>

<p>Proposal does not satisfy Zone PDCs 1, 14-16, Hill Street Policy Area 1 Desired Character or Council Wide PDCs 137, 145, 158 and 187.</p>	<p>The proposal satisfies Zone PDC 16. It should be noted that Zone PDCs 14 and 15 and Council Wide PDCs 145 and 158 relate specifically to fencing 'to the street boundary' and are of no relevance to the assessment of the proposal.</p>
<p><i>'High Rendex lightweight Fencing System with steel supports to be welded to retaining wall steel columns'</i> is proposed. No colour detail provided. The colour will have a substantial impact on how the fence 'fits' with its surrounds. The lightweight material is not in keeping with the Desired Character for the Zone or Policy Area.</p>	<p>The design and materiality of the proposal was suggested to the applicant by the representor.</p> <p>The material can be finished (rendered or painted) in a manner that is both sensitive to the heritage character of the area and acceptable to both the applicant and representors.</p>
<p>Discussions were held between applicants and representors previously regarding materials appropriate for the fencing. It was acknowledged by both parties that a rendered fence could be acceptable at a 1.9 metres in height. The representors do not understand how the material proposed at a height of 2.7 metres in any colour could be complementary to a heritage place, how it aligns with the Development Plan or how Council can consider the application without a proposed colour. Assume fence will be metallic which heightens objection.</p>	<p>The proposal will not have any impact on the heritage fabric of the area, nor the Local Heritage Places at 36 and 39 Mills Terrace. The proposal will instead enhance the heritage values of both properties.</p> <p>See response above regarding the design and previous discussions between the representors and applicant.</p>
<p>The representors believe the raised garden bed is 1.5 metres high, instead of 1.2 metres. The lightweight materials and 'water proof membrane' will likely be insufficient to hold back the weight of the raised garden bed and the continuous water flow over time. The pressure from this garden bed resulted in the existing retaining wall and fence collapsing into the representors' property. Further engineering assessments are required.</p>	<p>It is incumbent upon applicant to ensure the proposal is engineered properly and Council should assume compliance with the law in this regard.</p>
<p>Appears impossible to develop the retaining wall without either removing or severely impacting the root system of the liquid amber tree which is less than 1 metre from the boundary. Query how the applicants</p>	<p>The proposal may result in the need to prune the roots of a liquid amber tree situated on the applicant's land. The tree is not significant or regulated and this can occur without resulting in 'tree damaging' activity.</p>

propose to retain the water-proof membrane intact, long-term, right next to the substantial root system of this tree. What will prevent the roots growing through the membrane?	A multi-level waterproof membrane including "Gripset 11Y"/DM root resistant protective coating at a 2mm thickness will be adopted. With the "protector board" over the membrane surface, the membrane will be protected from any tree roots.
The proposed fence will sit alongside an existing unapproved 3 metre high lattice screen erected within the last year. The representors have made attempts with the applicant to have it removed. It does not form part of this application and Council should manage it.	The existing lattice fence does not form part of the application and thus is not relevant to the assessment of the proposal. Should the proposed development be approved, the existing lattice will be removed but only upon implementation of the proposed development.
A fence of the same height as the original fence (approximately 1.8 metres) would be acceptable to the representor.	No need to consider alternative forms of development.

7. **REQUIRED EXTERNAL REFERRALS**

7.1 No external referrals required.

8. **SPECIALIST ADVICE**

8.1 No internal referrals required.

RELEVANT CITY OF ADELAIDE 2016-2020 STRATEGIC PLAN ACTIONS

Whilst an assessment against the Strategic Plan is not required, the Development Plan is informed by Council's Strategic Plan Actions.

SMART	GREEN
<ul style="list-style-type: none"> • Develop and promote an international City brand that showcases the smart, liveable, green and cultural advantages of Adelaide 	<ul style="list-style-type: none"> • Improve energy performance and use of renewable energy in Council and privately-owned buildings, including consideration of solar heating, solar energy generation and battery storage • Work with private property owners and the State Government to embed better environmental performance into new and existing developments • Identify opportunities for building adaptation and re-use that supports heritage aspirations while reducing carbon emissions and waste • Work with all City stakeholders to increase public and private greening with street trees, gardens, community gardens, green walls and roofs, providing incentives where appropriate
LIVEABLE	CREATIVE
<ul style="list-style-type: none"> • Encourage growth in the full range of residential property development in a mixed-use environment in a manner that respects the human scale and different character of districts in the City • Promote and protect Adelaide's built character and heritage through our operations, incentives, policies and direct investment, while working with and advocating to Federal and State governments for an increase in City buildings protected under State or Local Heritage regulations 	<ul style="list-style-type: none"> • Increase public art and cultural expression in private development by using planning levers and requirements

9. DETAILED ASSESSMENT

9.1 Summary of Hill Street Policy Area 1 Objectives & Principles

Subject DP Ref	Assessment	Achieved ✓ Not Achieved ✗
Desired Character	<ul style="list-style-type: none"> No specific reference to the type of development proposed as not visible from the street. 	✓
Objectives and PDCs	<ul style="list-style-type: none"> None considered relevant to this application. 	N/A

9.2 Summary of North Adelaide Historic (Conservation) Zone Objectives & Principles

Subject DP Ref	Assessment	Achieved ✓ Not Achieved ✗
Desired Character	<ul style="list-style-type: none"> No specific reference to the type of development proposed. 	✓
Fencing P16	<ul style="list-style-type: none"> Refer Section 9.4. 	✓/✗

9.3 Summary of Council Wide Objectives & Principles

Subject DP Ref	Assessment	Achieved ✓ Not Achieved ✗
ENVIRONMENTAL		
Micro climate & Sunlight P27	<ul style="list-style-type: none"> Refer Section 9.4. 	✓
Heritage & Conservation P145 & 146	<ul style="list-style-type: none"> N/A as refers to fencing to the street boundary and to the alignment of the main face of a Heritage Place. 	N/A
Heritage & Conservation – North Adelaide Fencing P158 & 159	<ul style="list-style-type: none"> N/A as refers to fencing to the street boundary and to the alignment of the main face of a Heritage Place. 	N/A

9.4 **Detailed Discussion**

Fencing

There are limited provisions in the Development Plan that specifically refer to requirements for side boundary fencing to the rear of a property.

The representors have referenced several provisions regarding fencing proposed forward of the main face of Heritage Place. Considering the fencing is proposed towards the rear of the site and behind the main face of the Local Heritage Place, these provisions are not relevant to an assessment of the proposal.

However, Zone PDC 16 is relevant as it stipulates the following:

'Fences on rear and side property boundaries (behind the main face of the building), should not be higher than 2 metres above ground level and should be constructed of traditional materials, including corrugated metal sheeting...'

The fence is proposed to have an overall height of 2.7 metres above ground level on the representors' side and a height of approximately 1.5 metres on the applicant's side where the existing raised garden bed is located.

The fence will have a height 600mm above that envisaged in PDC 16. In this instance, it is considered varied ground levels on either side of the proposed fence necessitate a fence of this height.

Although not directly relevant for this proposal, the visual privacy provisions do provide guidance as to how overlooking should be prevented. Generally screening to a height of 1.6 metres is considered adequate to prevent overlooking. Consequently, the proposed fence would need to be at least 100mm higher (at least 1.6 metres high on the eastern side as opposed to the proposed 1.5 metres) to prevent overlooking from the raised garden bed. Overlooking from this garden bed is unlikely as it is a relatively densely landscaped area that does not function as the primary usable outdoor area.

The representors have referred to a lack of detail in terms of the proposed colour of the fence. This aspect of the proposal is not considered crucial to the assessment given the location of the proposed fence towards the rear of the property. It is expected to be a rendered finish, which will have the appearance of a traditional material in accordance with Zone PDC 16. It can also be painted in any colour desired by the representors. Furthermore, any subsequent painting of the fence will not constitute development. It is expected the applicant and representors will need to reach an agreement regarding the colour of the fence separately from this application process through the *Fences Act 1975* (SA).

Overshadowing

The representors have expressed concern the height of the proposed fence will block morning sunlight to their private open space area.

The representors' private open space area is extensive and also comprises a tennis court and garden that extends over the western half of the property between Mills Terrace and the rear boundary.

The north-south orientation of the site will ensure that at least two hours of direct sunlight are provided to an area far greater than 20% of the representors' private open space area between 9am and 3pm on 22 June in accordance with Council Wide PDC 27.

Liquid Amber Tree

The representors have referred to the potential for a liquid amber tree, located on the subject land adjacent the western boundary where the retaining wall and fence is proposed, to cause damage to the proposed retaining wall and fence. Photo 9.4.1 shows the base of the tree and what appears to be large roots extending towards the area where the retaining wall and fence is proposed.

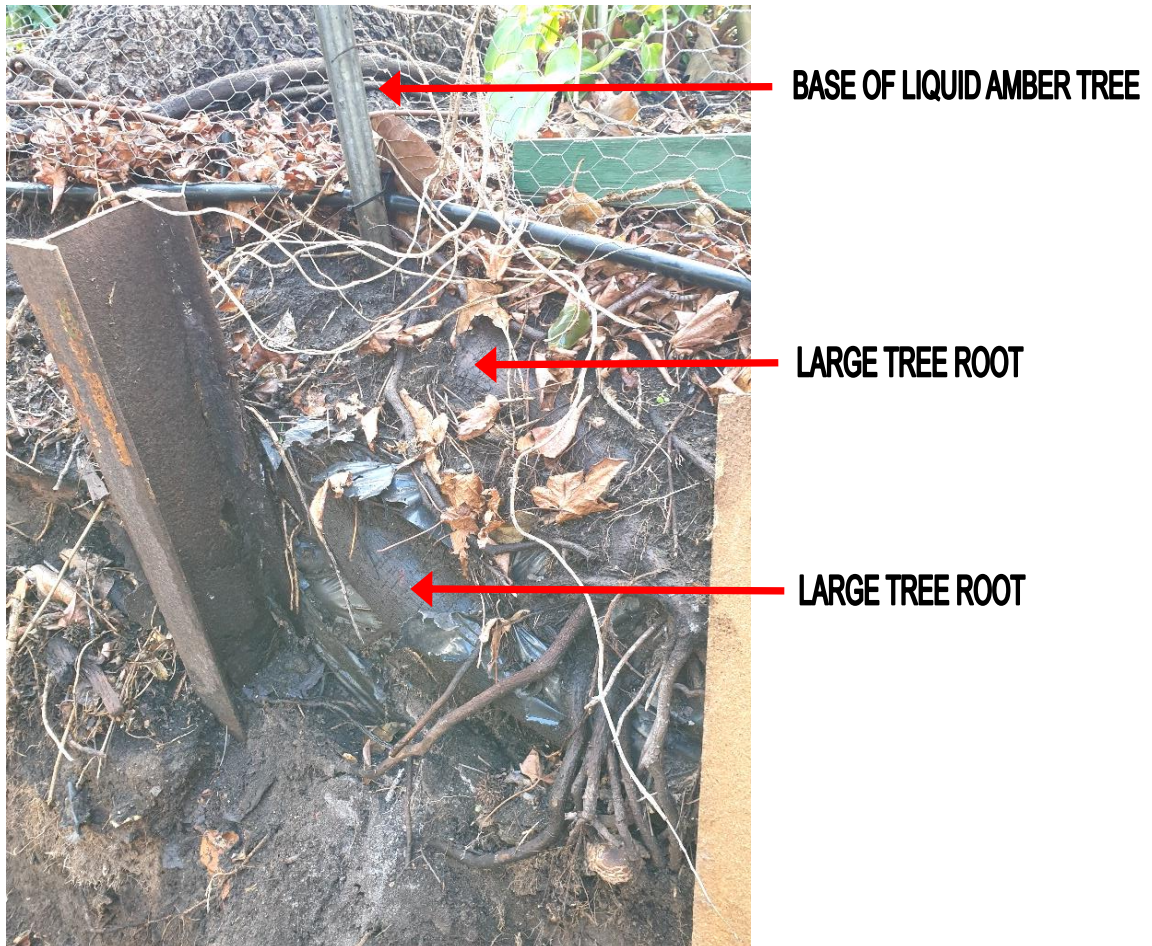


PHOTO 9.4.1 – RAISED GARDEN BED ADJACENT LIQUID AMBER TREE, VIEWED FROM 36 MILLS TERRACE

This tree is not listed as a significant tree in Table Adel/5. Furthermore, it is located within 10 metres of a swimming pool located at 36 Mills Terrace and is therefore not regulated or significant even if it met the relevant dimensional criteria. Consequently, any pruning of the tree or its roots will not constitute tree damaging activity.

The applicant has confirmed the retaining wall will be designed to include an appropriate multi-level waterproof membrane which includes a root resistant protective coating to ensure the structural integrity of the retaining wall and fence is maintained despite the location of this tree in proximity.

9.5 **Conclusion**

This application proposes the construction of a replacement retaining wall and fence along a portion of the western rear boundary of the subject site.

The majority of the relevant Development Plan provisions are satisfied by the proposal and it is considered acceptable as the development:

- Is proposed towards rear of the property and therefore not visible from surrounding streets.
- Is located along a portion of the boundary where levels vary between the subject site and the neighbouring property at 36 Mills Terrace which is considered to necessitate the proposed 2.7 metre height.
- Satisfies, overshadowing impacts satisfy Council Wide PDC 27.
- Minimises heritage impact as it located towards the rear of the site.

The proposal is not considered to be seriously at variance with the provisions of the Development Plan as it proposes a form of development that is desired in the Zone and Policy Area.

It has been determined that, on balance, the proposal warrants Development Plan Consent.

10. **RECOMMENDATION**

That the development, the subject of the application from Ms A K S Newington to replace retaining wall and construct replacement fence along portion of western rear boundary at 39 Mills Terrace, North Adelaide SA 5006 as shown on plans designated DA/122/2019:

1. Is not seriously at variance with the provisions of the Development Plan and
2. Be GRANTED Development Plan Consent, subject to the following condition and advices:

Condition

1. **The Development shall be undertaken in accordance with the plans, drawings, specifications and other documents submitted to the Council that are relevant to the consent as listed below:**

- **Site Plan, prepared by Spectra, DWG No 114.2018 Sheet 1 of 3, dated December 2018**
- **Section and Plan View, prepared by Spectra, DWG No 114.2018 Sheet 2 of 3, dated December 2018**
- **Elevations, prepared by Spectra, DWG No 114.2018 Sheet 3 of 3, dated December 2018**
- **Site Plan, prepared by SCA Engineers, DWG No 190237-S1/A, dated February 2019**
- **Sections, prepared by SCA Engineers, DWG No 190237-S2/A, dated February 2019**

to the reasonable satisfaction of the Council except where varied by conditions below (if any).

***Reason:** To ensure that the Development is undertaken in accordance with the plans and details submitted.*

Advices

1. Building Consent for Approval

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

2. Expiration Time of Approval

Pursuant to the provisions of Regulation 48 under the Development Act 1993, this consent / approval will lapse at the expiration of 12 months from the operative date of the consent / approval unless the relevant development has been lawfully commenced by substantial work on the site of the development within 12 months, in which case the approval will lapse within 3 years from the operative date of the approval subject to the proviso that if the development has been substantially or fully completed within those 3 years, the approval will not lapse.

3. Boundaries

It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.

4. Residential Parking Permits

No on-street residential parking permits will be issued for use by occupants of, or visitors to, the development herein approved (unless the subject site meets the relevant criteria).

Please contact Customer Centre on 8203 7203 for further information.

5. Fences Act 1975

The applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works require the removal, alteration or repair of an existing boundary fence a 'Notice of Intention' must be served to adjoining owners. Please contact the Legal Services Commission for further advice on 8463 3555.

Item No. 3.1 – Attachments 1 – 29 (39 Mills Terrace, North Adelaide SA 5006)

Pages 18 to 46

ATTACHMENTS

Plans and Supporting Information

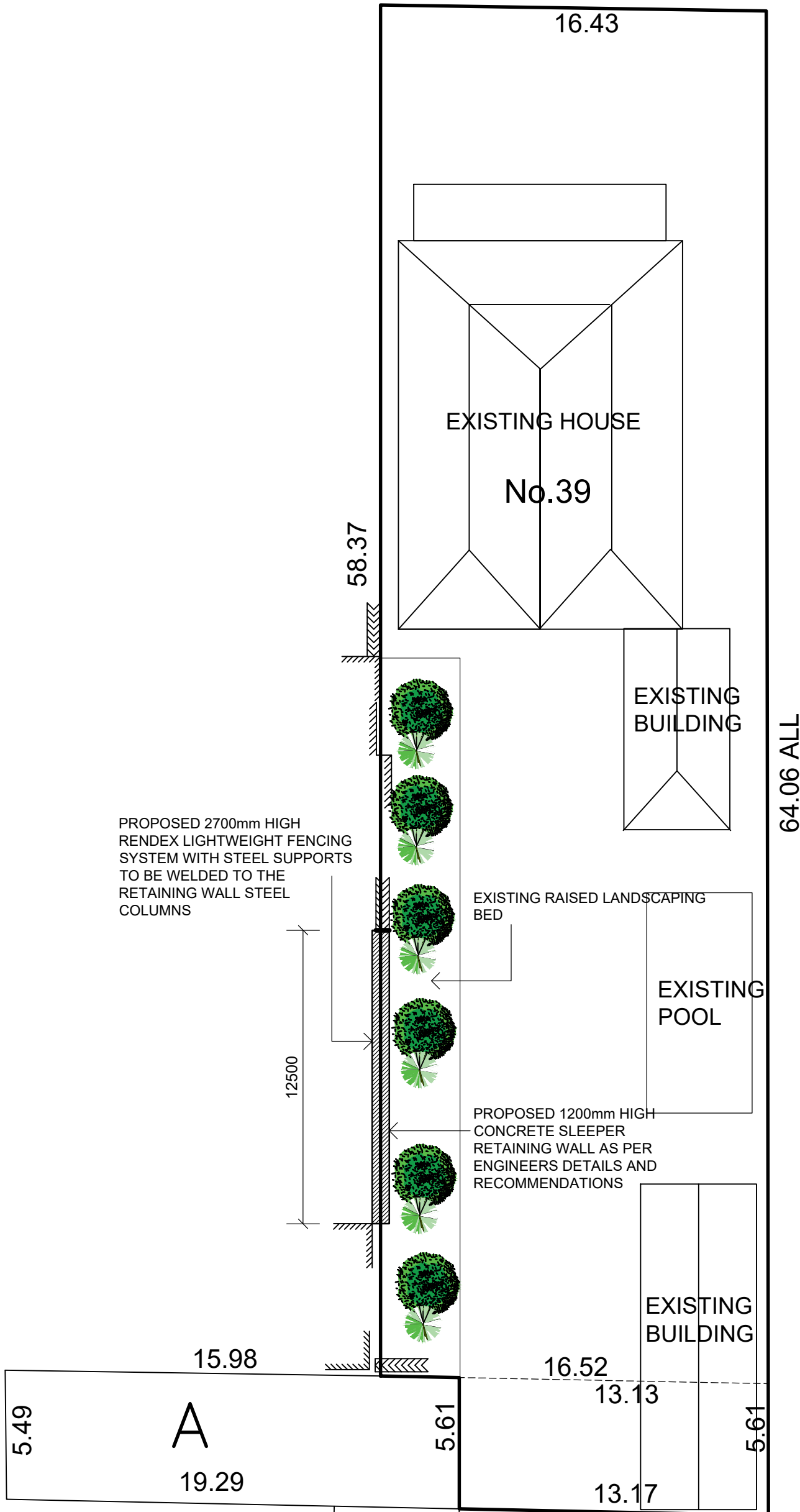
- Proposal Plans 1 - 5
- Certificates of Title 6 - 9

Comments from Public Notification 10 - 21

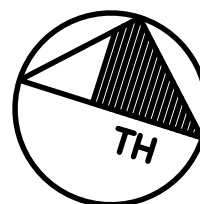
Applicant Response to Representation 22 - 29

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MILLS TERRACE



SITE PLAN 1 : 200



AMENDMENTS			
Rev	Date	Description	Drawn



SUITE 1 / 159 PORT ROAD
HINDMARSH SA 5007
T: 8338 2211 F: 8338 2188

PROJECT
PROPOSED FENCE / RETAINING WALL
AT:
39 MILLS TERRACE
(BARNARD STREET)
NORTH ADELAIDE

CLIENT
R & C CROWLEY

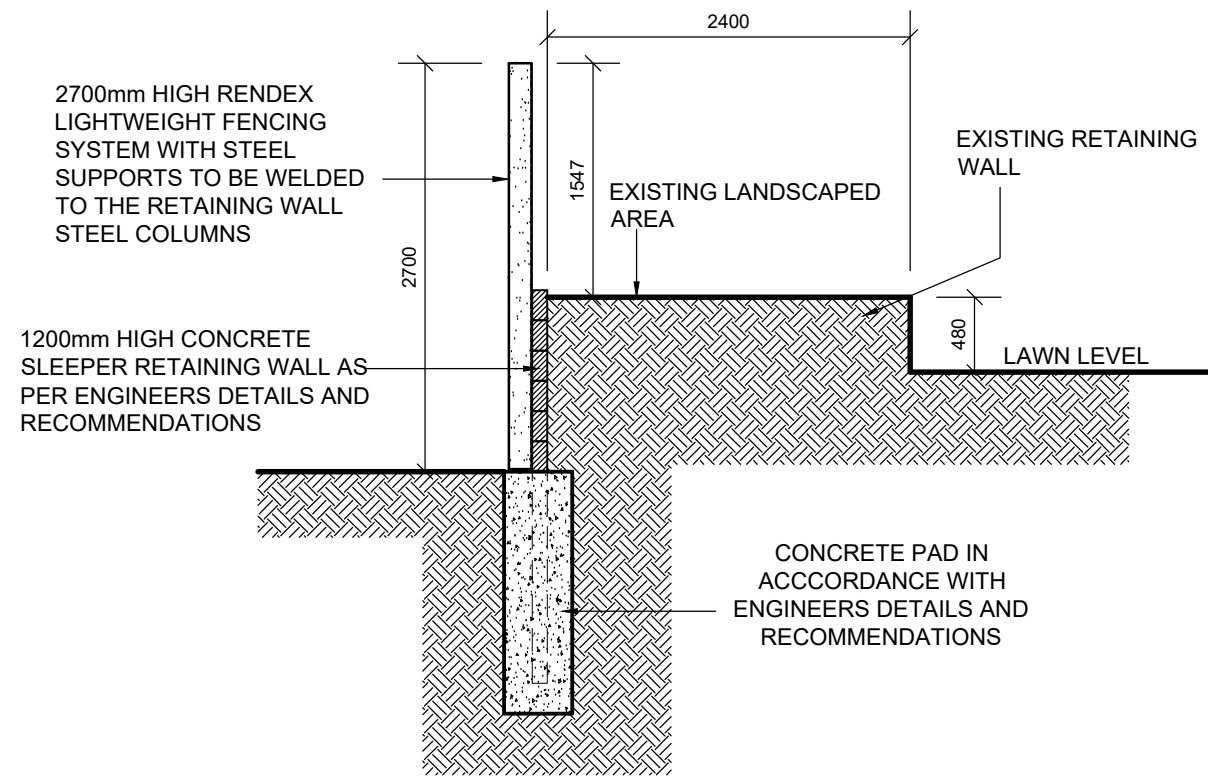
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DATE
DECEMBER 2018

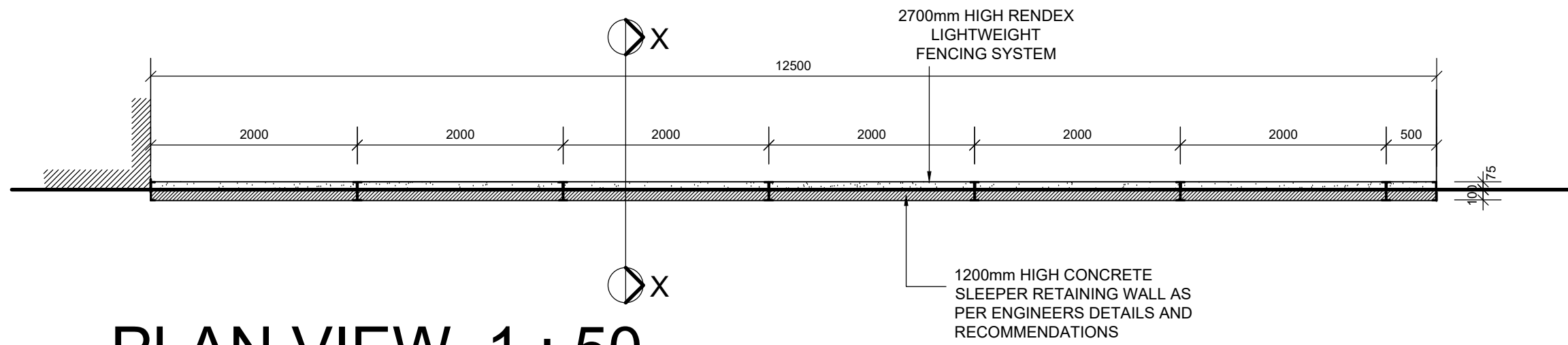
SCALE
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PROJECT No. SHEET No.
114.2018 PA 01 OF 03

CONTRACTORS ARE TO VERIFY ALL DIMENSIONS AND LEVELS ON SITE BEFORE COMMENCING ANY WORK OR MAKING SHOP DRAWINGS. FIGURED DIMENSIONS SHALL TAKE PREFERENCE OVER SCALED DIMENSIONS AND ANY DISCREPANCY SHALL BE REPORTED TO THE DESIGNERS IMMEDIATELY



SECTION X-X 1 : 50



PLAN VIEW 1 : 50

AMENDMENTS		
Rev	Date	Description

SPECTRA

SUITE 1 / 159 PORT ROAD
 HINDMARSH SA 5007
 T: 8338 2211 F: 8338 2188

PROJECT
 PROPOSED FENCE / RETAINING WALL
 AT:
 39 MILLS TERRACE
 (BARNARD STREET)
 NORTH ADELAIDE

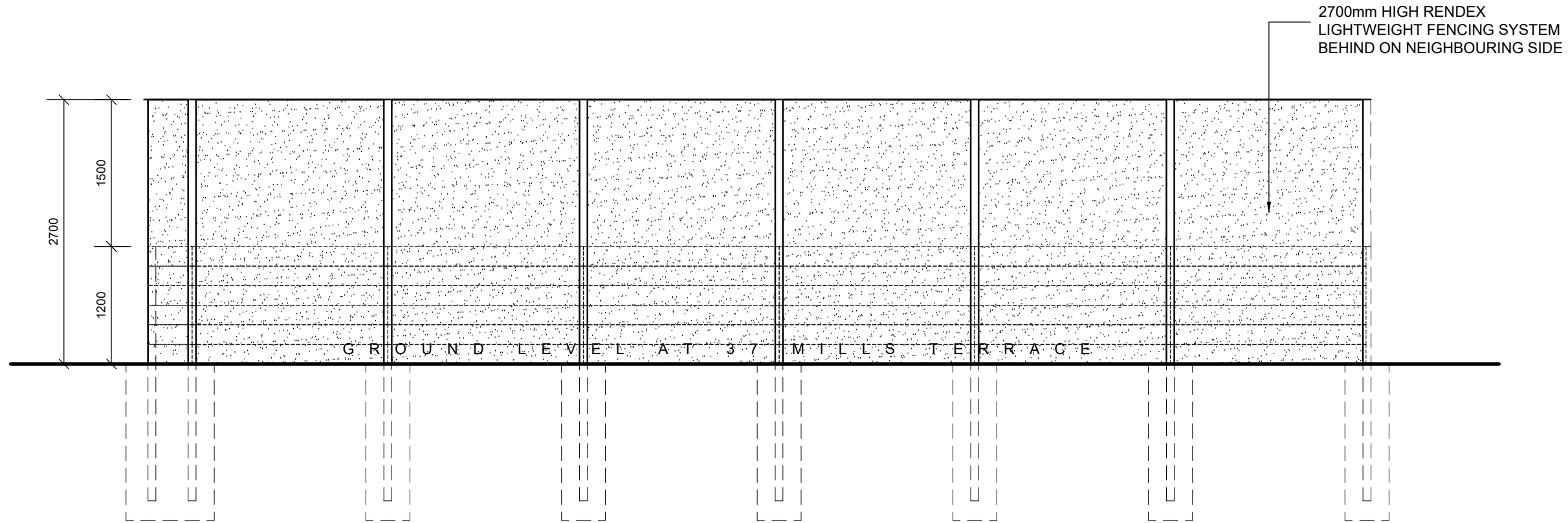
CLIENT
 R & C CROWLEY

DRAWN DATE
 FB DECEMBER 2018

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PROJECT No. SHEET No.
 114.2018 PA 02 OF 03

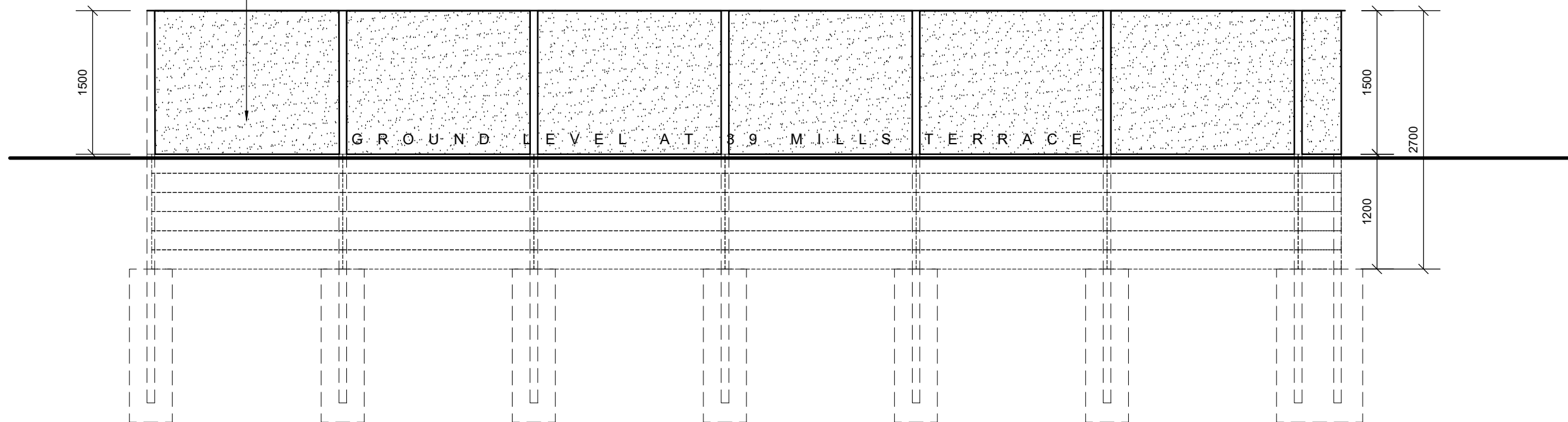
CONTRACTORS ARE TO VERIFY ALL DIMENSIONS AND LEVELS ON SITE BEFORE COMMENCING ANY WORK OR MAKING SHOP DRAWINGS. FIGURED DIMENSIONS SHALL TAKE PREFERENCE OVER SCALED DIMENSIONS AND ANY DISCREPANCY SHALL BE REPORTED TO THE DESIGNERS IMMEDIATELY



WESTERN ELEVATION 1 : 50

(NEIGHOURS SIDE)

2700mm HIGH RENDEX
LIGHTWEIGHT FENCING SYSTEM
BEHIND ON NEIGHBOURING SIDE



EASTERN ELEVATION 1 : 50

(CROWLEY SIDE)

AMENDMENTS		
Rev	Date	Description



SUITE 1 / 159 PORT ROAD
HINDMARSH SA 5007
T: 8338 2211 F: 8338 2188

PROJECT
PROPOSED FENCE / RETAINING
WALL
AT:
39 MILLS TERRACE
(BARNARD STREET)
NORTH ADELAIDE

CLIENT
R & C CROWLEY

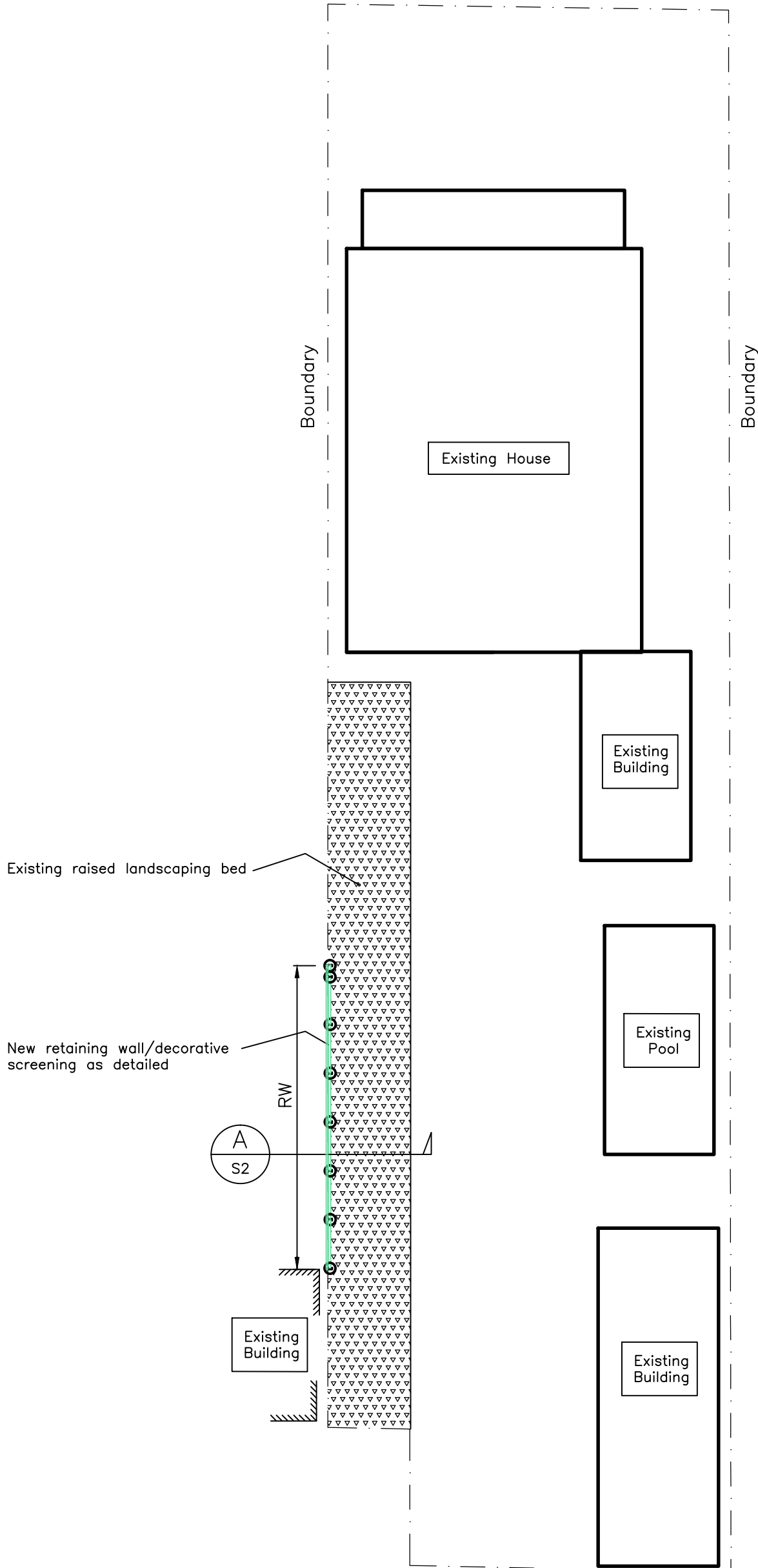
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FB DECEMBER 2018

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PROJECT No. SHEET No.
114.2018 PA 03 OF 03

CONTRACTORS ARE TO VERIFY ALL DIMENSIONS AND LEVELS ON SITE BEFORE COMMENCING ANY WORK OR MAKING SHOP DRAWINGS. FIGURED DIMENSIONS SHALL TAKE PREFERENCE OVER SCALED DIMENSIONS AND ANY DISCREPANCY SHALL BE REPORTED TO THE DESIGNERS IMMEDIATELY

MILLS TERRACE



A
S2



RETAINING WALL LAYOUT

1:200 @ A3

Amend	Date	Description
A	15.02.19	Issue for approval

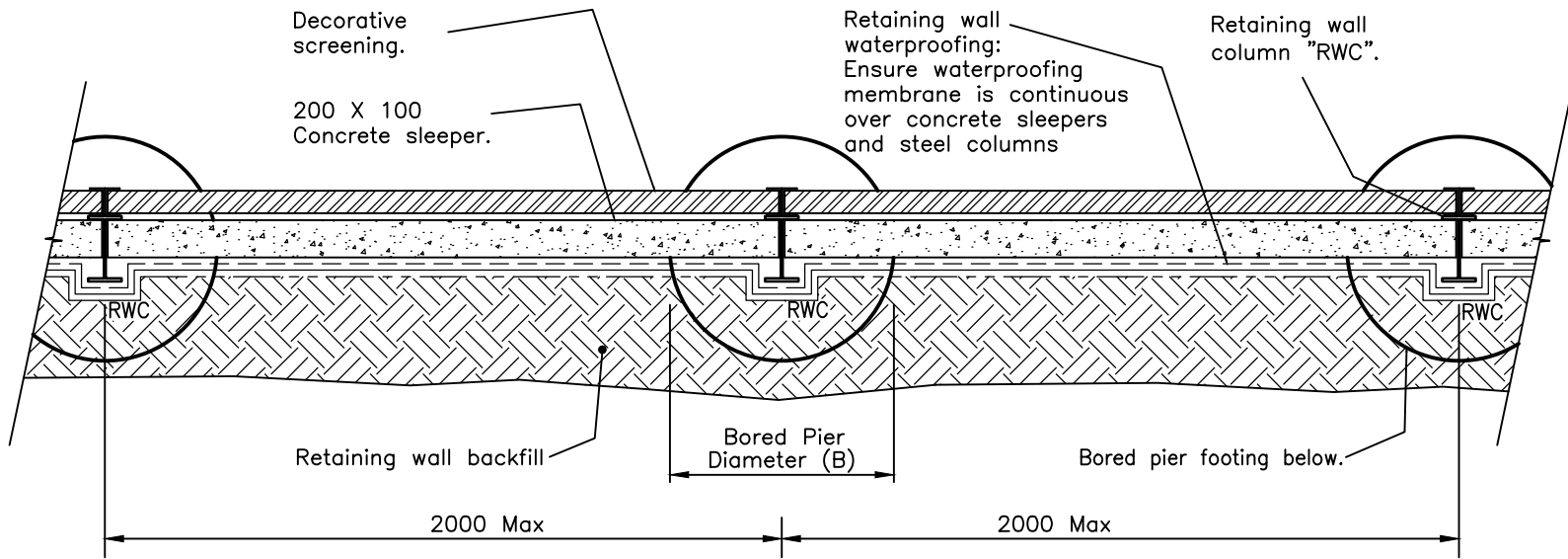
Sca PTY LTD
ENGINEERS
 SUITE 3, 76 OSMOND TERRACE NORWOOD SA 5067
 T:08 83310126 E:office@scaengineering.com.au

PROPOSED RETAINING WALL
39 MILLS TERRACE NORTH ADELAIDE
R & C CROWLEY

Title: ENGINEERING DETAILS - 1	
Design: CC	Scale: SHOWN
Drawn: AC	Dwg No:
Date: FEB 19	190237-S1/A

RETAINING WALL RW MEMBER SCHEDULE

Wall Height (H)	Bored Pier Depth (D)	Bored Pier Diameter (B)	Retaining Wall Column "RWC"
500 to 1000	1800	Ø450	180UB18 Hot dip galvanised to AS1650.
1000 to 1200	2100	Ø450	180UB18 Hot dip galvanised to AS1650.
1200 to 1500	2500	Ø450	180UB18 Hot dip galvanised to AS1650.
1500 to 2000	3500	Ø450	180UB18 Hot dip galvanised to AS1650.



SECTION B
1:20

Decorative screening:
RENDEX light weight fencing system with steel supports (as specified by manufacturer), fully welded for full length to the face of "RWC".

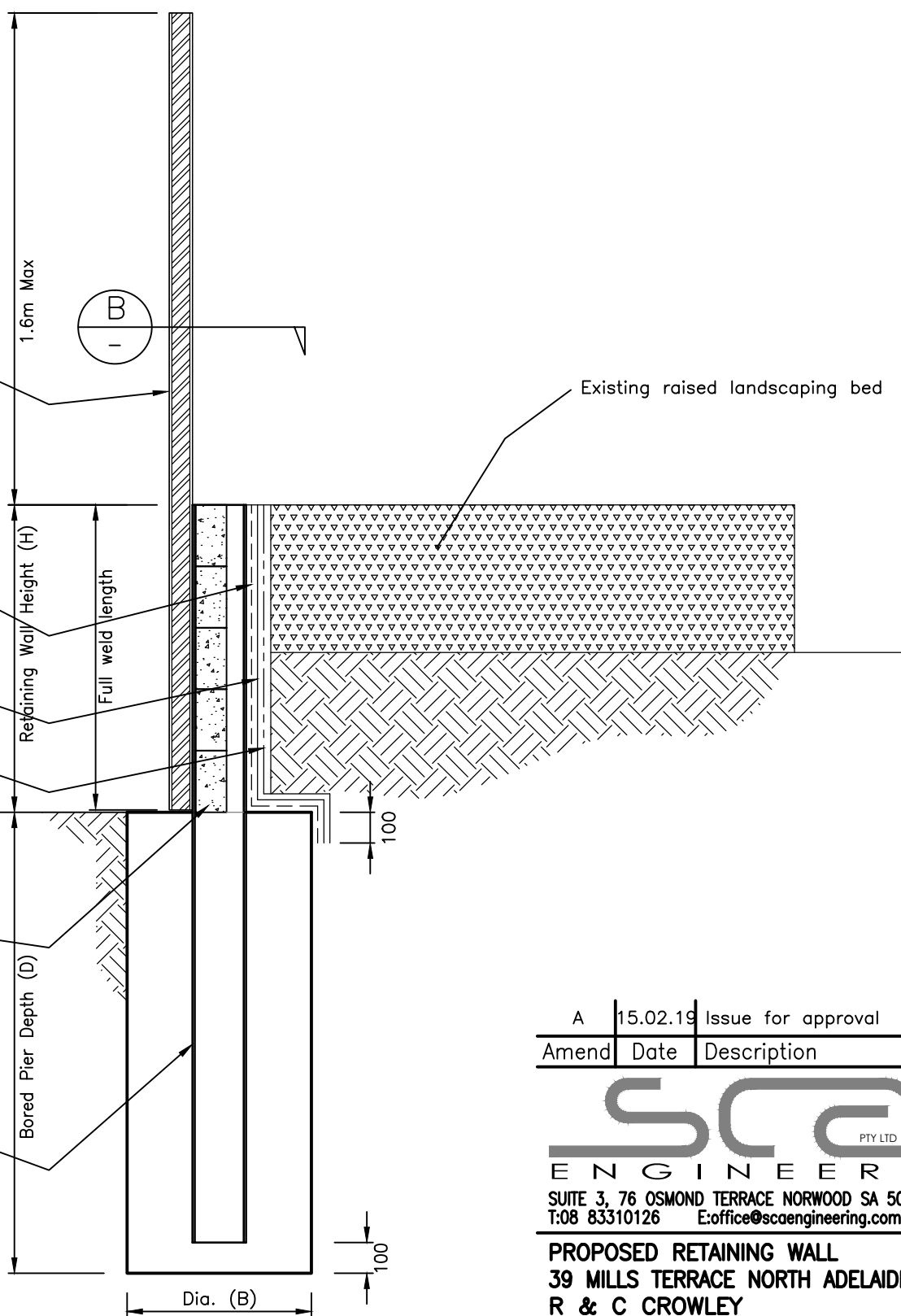
Retaining Wall Waterproofing:

To ensure no moisture/water permeate through the retaining wall the following water proofing system must to be installed to the back of concrete sleepers and column.

1. "Gripset 51" membrane to wall & base surfaces minimum 1.5mm thick in accordance with manufacturer's specification. Refer www.gripset.com
2. "Gripset 11Y"/DM root resistant protective coating over membrane surface at 2.0mm thickness in accordance with manufacturer's specification. Refer www.gripset.com
3. Protector Board over membrane surface before back fill.

Concrete sleepers to be positioned between the flanges of the "RWC". (TYPICAL)

Steel column to be cast into bored pier as shown.



SECTION A
1:20

Amend	Date	Description
A	15.02.19	Issue for approval

SCA PTY LTD
ENGINEERS
 SUITE 3, 76 OSMOND TERRACE NORWOOD SA 5067
 T:08 83310126 E:office@scaengineering.com.au

PROPOSED RETAINING WALL
39 MILLS TERRACE NORTH ADELAIDE
R & C CROWLEY

Title: ENGINEERING DETAILS - 2	
Design: CC	Scale: SHOWN
Drawn: AC	Dwg No:
Date: FEB 19	190237-S2/A



Product	Register Search (CT 5597/544)
Date/Time	18/02/2019 01:40PM
Customer Reference	55539005:86532784
Order ID	20190218007092

REAL PROPERTY ACT, 1986



The Registrar-General certifies that this Title Register Search displays the records maintained in the Register Book and other notations at the time of searching.



Certificate of Title - Volume 5597 Folio 544

Parent Title(s)	CT 3478/22, CT 5316/289		
Creating Dealing(s)	TG 8518734		
Title Issued	18/11/1998	Edition 4	Edition Issued 11/11/2011

Estate Type

FEE SIMPLE

Registered Proprietor

ANNA KATE SHARMAN NEWINGTON
OF 39 MILLS TERRACE NORTH ADELAIDE SA 5006

Description of Land

ALLOTMENT 93 FILED PLAN 170089
IN THE AREA NAMED NORTH ADELAIDE
HUNDRED OF YATALA

Easements

SUBJECT TO FREE AND UNRESTRICTED RIGHT(S) OF WAY OVER THE LAND MARKED A

Schedule of Dealings

Dealing Number	Description
11663676	MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA

Notations

Dealings Affecting Title	NIL
Priority Notices	NIL
Notations on Plan	NIL
Registrar-General's Notes	NIL
Administrative Interests	NIL



Product	Register Search (CT 5943/832)
Date/Time	18/02/2019 01:40PM
Customer Reference	55539005:86532785
Order ID	20190218007101

REAL PROPERTY ACT, 1886



South Australia

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Certificate of Title - Volume 5943 Folio 832

Parent Title(s) CT 5906/207, CT 5906/208, CT 5906/209
 Creating Dealing(s) T 10231033
 Title Issued 05/07/2005 Edition 2 Edition Issued 11/11/2011

Estate Type

FEE SIMPLE

Registered Proprietor

ANNA KATE SHARMAN NEWINGTON
 OF 39 MILLS TERRACE NORTH ADELAIDE SA 5006

Description of Land

ALLOTMENT 750 FILED PLAN 183212
 IN THE AREA NAMED NORTH ADELAIDE
 HUNDRED OF YATALA

Easements

TOGETHER WITH FREE AND UNRESTRICTED RIGHT(S) OF WAY OVER THE LAND MARKED A

Schedule of Dealings

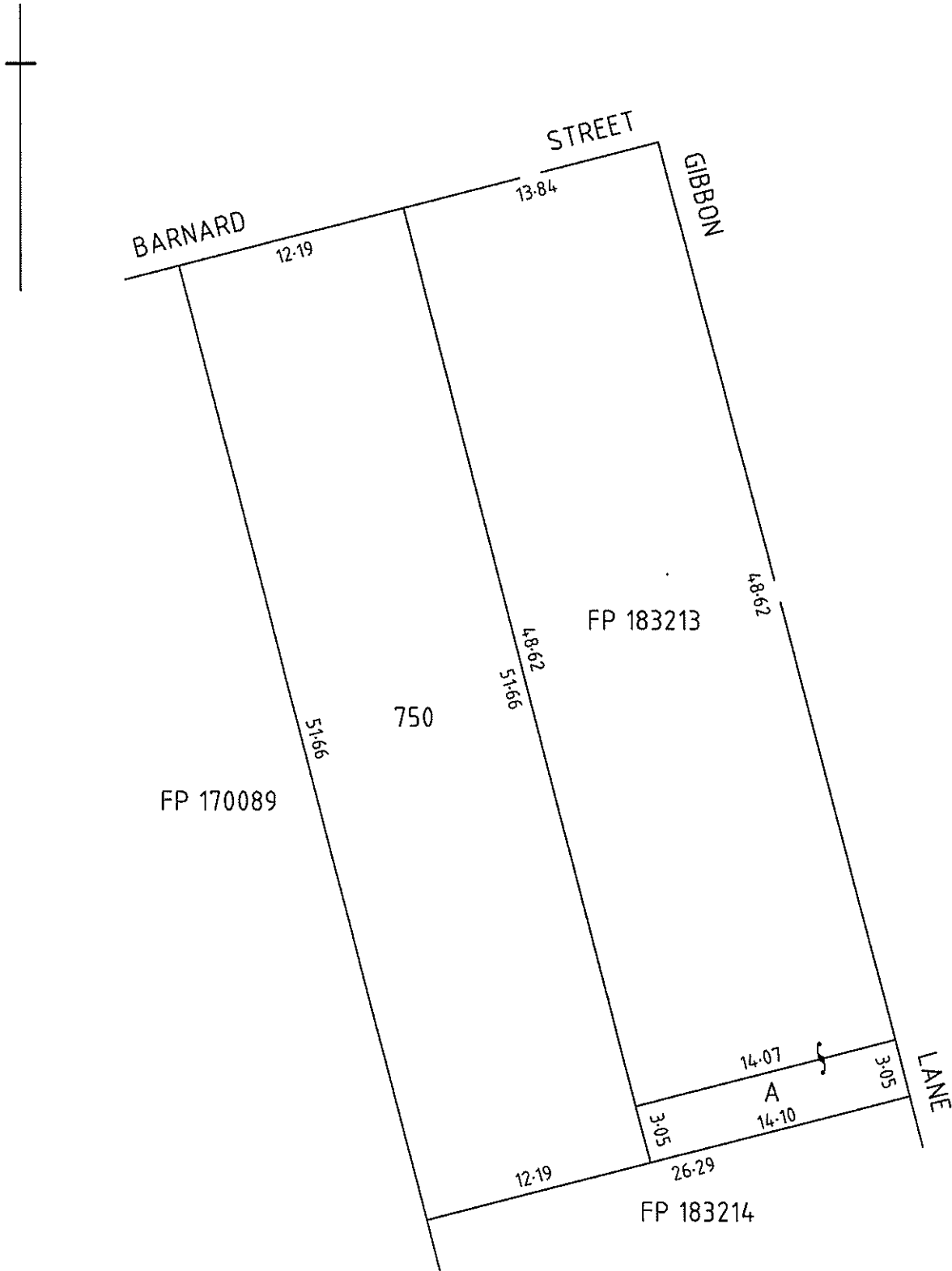
Dealing Number	Description
11663676	MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA

Notations

Dealings Affecting Title	NIL
Priority Notices	NIL
Notations on Plan	NIL
Registrar-General's Notes	NIL
Administrative Interests	NIL



Product	Register Search (CT 5943/832)
Date/Time	18/02/2019 01:40PM
Customer Reference	55539005:86532785
Order ID	20190218007101



10 July 2019

Seb Grose
Planning Department
The City of Adelaide
GPO Box 2252
Adelaide SA 5001

Dear Mr Grose

DA/122/2019 - 39 Mills Terrace, North Adelaide

We refer to the above development application in relation to 39 Mills Terrace (**application site**).

The development application relates to the building of a fence between the application site and our property (the owners of 36 Mills Terrace). Our land sits immediately adjacent to the application property to the west.

We object to the above application on the grounds set out below.

Application documents and relevant policy

We have downloaded the available application documents from the Council's website. We note that the application only includes plans; that no application form or description is provided. We note, further the description of the application, that the fence does not sit on top of the retaining wall, but alongside it, from natural ground level. No statement in relation to the policy impacts of the proposal have been provided.

We understand that the application must be considered against the relevant provisions of the Adelaide City Council Development Plan (**DP**). In addition to the Council-wide provisions of the DP, the application site (and our property) fall within the North Adelaide Historic (Conservation) Zone (**NA(C)Z**) and the Hill Street Policy Area 1 (**HPA1**).

Both the application site and our property are the subject of local listings under the DP. Our property is Heritage Number 366; the application site is Heritage Number 367 (both listed in Table Adel/2 of the DP). While the Elements of these listings are not directly relevant to fencing between our properties, we would argue that these listings add to the context and associated heritage considerations of our properties as falling within the above mentioned zone and policy area.

The Proposed Fence

The Height

Firstly, and most importantly, we object to the proposal on the basis of the fence height, being 2.7m from natural ground level on our side. Not only is this height unnecessary, but it would result in a serious adverse impact on our property and amenity, were it permitted to be built out. We note:

Doc ID 651029933/v1

(a) The impact of the proposed fence on our property is far greater than it will be on the applicants' property, in that:

(i) it will sit immediately adjacent to the back of our house, and as we have a significantly shorter distance between the house and our rear garage than do the applicants, its impact in terms of size/distortion comparatively to the arrangement of our back yard is much keener. The result is that it will effectively look like a huge, solid, blank "prison wall" from our side, which is simply unacceptable.

(ii) The applicants have a 1.5m raised garden bed in front of the proposed fence from their side, which will assumedly soften the otherwise stark impression that the fence may have on their property. As there is no garden bed on our side (and no ability to create one, as the fence sits directly adjacent to our pool), we will experience nothing but solid wall from natural ground level up, and which will butt up against our windows at the rear of our property.

(b) it will almost completely block out the morning sun until around 11am, across our back yard.

(c) its proposed height against its design and materials are not at all in keeping with the heritage value of either of our properties. A sympathetic bluestone and red brick garage has been added at the rear of the property (so sensitive development has taken place previously) but the type of solid-wall lightweight fence at the height proposed will look harsh and totally out of character with its surrounds.

As we note above, the application site and our own property fall within the NA(C)Z for the HPA1. Not only does PDC 1 of the NA(C)Z state that "*development should retain and conserve Heritage Places*" as a general requirement, but PDC 14-16 specifically speak to acceptable forms of 'Fencing' within the Zone. PDC 14 states (relevantly):

"Fencing to a street frontage (including any secondary street frontage) and returning along the side boundaries to the alignment of the main face of the principal building on the land, should:

- (a) be of traditional style and detailing that is compatible with the style of the building...;*
- (b) ...*
- (c) comprise materials compatible with traditional fencing materials such as stone and cast iron, brick, stone or rendered pillars and plinths or other traditional materials such as timber or well detailed masonry, but should not include metal sheeting; and*
- (d) not include solid masonry fences on the primary street frontage other than where it is required to be consistent with fencing of identified heritage value on the development site.*

PDC16 requires:

"Fences on rear and side property boundaries (behind the main face of the building), should not be higher than 2 metres above ground level and should be constructed of traditional materials, including corrugated metal sheeting. Side fences or walls above 1.2 metres are generally inappropriate forward of the main face of a building. Forward of the main face of the building, fences should be of a scale that allows oblique views of buildings."

Therefore, not only do we have strong objections to the proposed fence as noted above, but it also fails to align with the relevant provisions of the Council's DP, in terms of its height and its proposed material construction (please see comments on this below).

It also should be noted that the HPA1 Desired Character in the DP states:

"The Hill Street Policy Area should remain one of the lowest density residential areas in Upper North Adelaide and should be protected and enhanced as one of the most historically intact residential areas in South Australia."

Surely, in light of this recognition, even smaller Elements of development such as fencing must be only granted approval if they support and protect the heritage value of the HPA1. We are of the strong opinion that the proposed development does not.

The Material to be used for the Fence

The material to be used for the fence is a *'high Rendex Lightweight Fencing System with steel supports to be welded to the retaining wall steel columns'*. No colour of such material has been offered, nor is there any detail provided as the colour that the material may be painted.

We are of the view that this light-weight material is not in keeping with the desired character of the NA(C)Z, nor does it complement the above-mentioned 'Desired Character' typical of residential properties within the HPA1. It appears that no real effort has been made by the applicants to offer a materials or design solution for the fence that are in keeping with the surrounding properties and accord with the provisions of the DP. Indeed, the proposed colour of the fence will have a substantial impact on how it fits with its surrounds, which is currently unknown.

PDC 187 in the Council-wide provisions of the DP set a solid premise for how Elements within sensitive local areas (in this case, Zones and Policy Areas) should be considered:

"[t]he design, external materials, colours and finishes of buildings should have regard to their surrounding townscape context, built form and public environment, consistent with the desired character of the relevant Zone and Policy Area."

Relevant policies within the HA(C)Z of the DP only add to this by stating:

PDC 137: "development affecting a... local heritage place (Table Adel/2) including... additional construction/alterations... should facilitate its continued or adaptive use, and utilise materials, finishes... scale and other built form qualities that are complementary to the heritage place."

PDC 145: "[f]encing to the street boundary, and returning along the side boundaries to the alignment of the building front of a heritage place, should be compatible with the heritage value of the heritage place and any existing fencing."

PDC 158 : "[f]encing to the street boundary and returning along the side boundaries to the alignment of the main face of a Heritage Place should:

- (a) be of a design and incorporate materials compatible with the place and any existing fencing identified as an element of heritage value; and*
- (b) be of a height that complements any existing fencing identified as an element of heritage value or otherwise not compromise existing views of a Heritage Place from the primary street frontage."*

Also, the proposal must fail to meet the requirements of the HPA1, which expect that development, at a minimum, should be "*consistent with the desired character for the Policy Area.*" (PDC 1 of HPA1).

Continuous emphasis in the DP has been placed on the need for fencing applications to support and complement the heritage values of their surrounds. Discussions were had between the applicants and ourselves some time ago as to what materials could be used for the proposed fencing, and it was acknowledged by both parties that a rendered fence may be acceptable to each of us at a maximum height of 1.9m. However, we cannot understand how the material proposed at a height of 2.7m, in any colour, could be complementary to a heritage place, nor how it could align with the requirements of the Council's DP. We also do not understand how the Council can consider the application in full without a proposed fence colour being offered by the applicants. We reserve our position in relation to this point and ask to be consulted with if any colour is put forward by the applicants. If not, we can only assume the fence proposed is to be metallic, which only serves to heighten our objections.

Retaining wall and impact on tree

The application documents provide for the existence of a raised garden bed on the application site against the proposed fence, of 1.2m. The Council should note that we believe this measurement is conservative: that the more realistic height of the existing garden bed is 1.5m above natural ground level. We assume that the applicants are not applying for approval of the raised garden bed so we will limit our objections to it only on the basis that it gives rise to the requirements for a retaining wall. That retaining wall is clearly part of the development application. We object to the proposed retaining wall as follows:

(c) its light-weight materials and 'water proof membrane' will very likely be insufficient to hold back the weight of the raised garden bed and the continuous water flow over time. Such water flow must take place across our properties, given the natural slope of the land. The Council should note that the pressure of the existing garden bed against the previous retaining wall resulted in the applicants' fence and the retaining wall collapsing into our property. We cannot understand how a 1.2m concrete sleeper (which obviously requires approval, given it is over 1m from ground level) will hold back the weight of garden bed, especially when a full water membrane is pushing up against it on a constant basis. At a minimum, we could urge the Council to require further engineering assessments be undertaken in relation to this.

(d) the seeming impossibility of being able to develop out the retaining wall as proposed (including the concrete slab at its base) without either removing or severely impacting the root system of the existing liquid amber which sits less than a metre from the boundary-line of the two properties (on the applicants' land). Also, we query how the applicants propose to retain the water-proof membrane intact, long-term, right next to this tree's substantial root system. What is to prevent the roots, in time, from growing straight through the membrane?

Existing Lattice Fence

The Council should note that the proposed fence will sit alongside an existing and unapproved lattice wall which has been erected within the last year or so, on the application site, and is approximately 3m high.

We have had no indication from the applicants that this lattice fence is of a temporary nature. It is unpainted on our side and of a very substandard construction. While obviously of a different character and form to the proposed fence, it is also objectionable on many of the same grounds (height, not in keeping with the heritage character of the area, of poor materials etc). The height of this unauthorised development also creates a poor precedent for fence heights within the local area. We have made several attempts to obtain the removal of the lattice wall by the applicants, without success.

Indeed, we would assume that was this intended to be retained, it should have formed a part of the current application. As it does not, we ask that the Council make efforts to manage this issue, whether by seeking its removal; requiring an amendment this application, or the submission of a fresh application for development authorisation.

Miscellaneous

It may be worth the Council knowing that the proposed fence will replace what was a standard 6-foot corrugated iron fence between the applicants and our properties. Subject to the provision of a retaining wall that would clearly hold the applicants' garden bed in place long-term (or the preferred removal of the garden bed altogether), we would have no objection to a fence that was of the same height and in keeping as this previous one.

We **attach** a series of photographs, in relation to which a brief description is provided. We hope these will give the Council an understanding of the context and impact that the proposed development will have on our property.

In order to gauge the impact of the proposed fence on our property and more generally, we invite the Council to undertake a site visit. The Council is welcome to come into our property to view the impact from our side with minimal notice, and we would encourage it to do so. We can be available as needed.

Conclusion

Finally, we thank the Council for taking the contents of this objection into account. We respectfully ask that the Council give serious weight to the issues that we have raised, and that it not approve the application in its current form. Should the matter be referred to the Council Assessment Panel for consideration, we would ask that we be given the opportunity to present our position in relation to it.

Please do not hesitate to give us a call on 0417 810 187 (Wayne Owen), should you wish to discuss the above further.

Yours sincerely

The image shows two handwritten signatures in black ink. The signature on the left is a stylized, cursive signature, likely belonging to Wayne Owen. The signature on the right is a more legible, cursive signature, likely belonging to Deborah Miller.

Wayne Owen and Deborah Miller

10 July 2019

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Doc ID 651029933/v1

Photos - Descriptions

1. Overview of western wall of our property
2. Close up of collapsed retaining wall along western boundary line
3. View down boundary line
4. Evidence of raised garden bed at application site
5. Accurate measurement of proposed 2.7m height from natural ground on our side
6. Close up of liquid amber and intruding large root across our boundary













Our ref: JRJ/219147

19 July 2019

Paula Leske
Senior Planner
City of Adelaide
4th Floor, 25 Pirie Street
ADELAIDE SA 5000

By email: p.leske@cityofadelaide.com.au

Dear Paula

Response to Representations - DA/122/2019 - replacement of dilapidated portion of boundary fence - 39 Mills Terrace, North Adelaide

This firm acts for Anna Crowley and this response to the Representation is made on our client's behalf.

Approach to assessment

There are a number of general principles that have been established by the Courts to guide a planning authority in the interpretation and application of a Development Plan's principles in assessing the planning merits of an application. Those relevant principles include the following:

1. although provisions of the Development Plan are important, they are at the end of the day not mandatory, they are couched in the language of "guidelines";¹
2. the Development Plan is a practical "planning document" rather than a statute. In other words, it is to be approached on the basis that it expresses planning objectives and principles rather than hard and fast rules having mandatory effect;²
3. the Development Plan is a "practical code calling for practical application";³
4. the Development Plan is **not** applied in a "theoretical vacuum". The assessment of a proposed development against the provisions of the Development Plan must be undertaken having regard to the factual and historical context in which the proposed development will be implemented, and having regard to relevant surrounding circumstances;⁴ and
5. the particular factual circumstances of the proposed development will inform the planning judgement, and in particular, affect which of the principles and objectives will predominate. Ultimately an exercise of planning judgment within the ambit scope and purpose of the Act, Regulations and the applicable Development Plan is required.⁵

¹ *Alexandrina Council v Strath Hud Pty Ltd* [2003] SASC 382 at [35].

² *St Ann's College v Corporation for the City of Adelaide & Renton* (1999) SASC 479.

³ *City of Mitcham v Freckman* (1999) 74 SASR 56.

⁴ *Courtney Hill Pty Ltd v SAPC* (1990) 59 SASR 259 (**Courtney Hill**); *SA Housing Trust v DAC and CC of Marion* (1994) 63 SASR 35 (**SAHT**).

⁵ *DAC v A & V Contractors Pty Ltd* (2011) 109 SASR 276.

It is important that, in assessing the proposed development and considering the response provided below, these principles are kept at the forefront of ones mind.

No need to consider alternative forms development

The proposed development put forward by our client is clear and straightforward. It comprises:

1. a retaining wall 1.2m high, with secure concrete footings engineered to ensure stability and longevity; and
2. a Rendex fence of 2.7m in height when viewed from 36 Mills Tce, and 1.5m in height when viewed from 39 Mills Tce, secured to the retaining wall.

The fence can be rendered in appropriate finishes on both sides, sympathetic to the heritage character of the area.

While representors may find other iterations of the development more desirable when considering and making submissions, it is not the job of the relevant authority to consider such alternative development. The task of the relevant authority is to consider the development at hand against the relevant provisions of the Development Plan.⁶

Appropriate height

The proposed development is an appropriate height when considered in isolation, but even more so when one considers the factual and historical context in which it will be implemented,⁷ and has regard to the particular circumstances surrounding the proposed development.⁸

The proposed development is situated well beyond the main face of the primary building on the land. As such, Principle of Development Control 16 of the North Adelaide Historic (Conservation) Zone (**Zone**) is relevant. PDC 16 states:

Fences on rear and side boundaries (behind the main face of the building), should not be higher than 2 metres above ground level and should be constructed of traditional materials, including corrugated metal sheeting. Side fences or wall above 1.2 metres are generally inappropriate forward of the main face of a building. Forward of the main face of the building, fences should be of a scale that allows oblique views of buildings.

The proposed fence will be approximately 1.5 m above ground level on its eastern side (i.e., on 39 Mills Tce). By virtue of the existing state of the locality, which slopes east to west, and the landscaped areas on 39 and 36 Mills Terrace, the proposed fence will sit approximately 2.7 m above ground level on its western side (i.e., on 36 Mills Tce). The natural state of the land, being part of the factual context within which the development will exist, results in a differing height, which in the circumstances must be considered appropriate.

In the circumstances of the vastly different ground levels on either side of the proposed fence PDC 16 offers limited assistance. A fence that was only 0.5 metres high with respect to our client's property would be plainly inadequate from a security and privacy perspective.

⁶ *City of Burnside v City Apartments Pty Ltd* [2004] SASC 294 (**City Apartments**).

⁷ *Courtney Hill*; and *SAHT*.

⁸ *City Apartments*.

In the circumstances, the proposed 2.7 metre fence offers a reasonable compromise with respect to the policy in the Development Plan and the application to the particular circumstances of the proposed development.

Further, the proposed fence will replace the fence that previously existed in the same location, was the same length, and 0.3m higher than the proposed development. In addition, the old fence was covered with ivy, increasing its overall height even further.⁹ This old fence was gradually removed over time following the structural failure of a small portion, being fully removed in only October/November 2018.

The proposed development is therefore an improvement to the previous situation. Plainly, the existing situation, where there is no permanent dividing fence between the properties, is not a proper starting point with respect to the assessment of the proposed development.

To read PDC 16, and the 2.0 m height guideline stated therein, as mandatory would plainly be an erroneous and unlawful application of that Development Plan provision. Not only have the Courts held that such provisions are not mandatory, they have also considered use of the word "should" in such provisions.

The meaning and use of the word "should" in development plans was considered in *South Australian Housing Trust v Development Assessment Commission & Corporation of the City of Marion*¹⁰, where King CJ stated:

I am unable to agree that the use of the word "should" indicates an intention that the principle be mandatory. The word "shall" is prima facie a word of mandatory import. The same can be said for the word "must"... I think that the use of the word "should" rather than "shall" or "must" indicates that the sense is not mandatory.¹¹

If it were the intention of the policy makers to make any side fence in excess of 2.0m from natural ground level unacceptable, terms such as "must" or "shall" would have been used instead of "should".

The proposed height will result in a fence which provides an adequate amount of privacy for both the applicant and the adjoining residents, while ensuring the safety of the occupants and visitors to 39 Mills Terrace. Plainly, the proposed development, given the factual and historical context, and a proper reading of PDC 16, is appropriate.

PDC 14 and 15 of the Zone are clearly irrelevant as the proposed development is neither "to a street frontage" nor situated on a "corner site[s]".

No adverse amenity impacts

The proposed development will have no adverse amenity impacts and certainly will not result in any additional undue overshadowing.

The proposed fence will run in a north-south direction for a distance of 12.5 m along the rear (southern) portion of the common boundary separation 36 and 39 Mills Tce.

⁹ Both a clean and marked up *photograph* of the old fence, including the ivy grown thereon, can be found in Annexure A to this letter, with its upper limits identified in red. Note this photo is taken from 39 Mills Tce.

¹⁰ *South Australian Housing Trust v Development Assessment Commission & Corporation of the City of Marion* (1994) 63 SASR 35 (SAHT).

¹¹ SAHT at pg. 38.

Given the fence is some 0.3m shorter than the fence previously in existence on the site, as shown in Annexure A, it will result in an improvement to the overshadowing that had, until the removal of the old fence, previously occurred.

Further, as the proposed fence is situated to the rear (southern) portion of the common boundary, the proposed development will have even less an impact than any such development that might occur towards the northern section of the common boundary.

The proposed development is substantially shorter than any development that might reasonably be undertaken within close proximity to the boundary on 39 Mills Tce, given that buildings up to two buildings levels in height, with ceiling up to 6 m above median natural or finished ground level are contemplated within the Policy Area.

As has been outlined above, the proposed development is of an appropriate height and length, given the factual and historical context within which the development will be implemented. This is particular so in light of the fact that it is the same length, but shorter in height than the old fence. Indeed, the proposed development will result in improved amenity for both the occupants of 36 Mills Tce and 39 Mills Tce, through additional privacy of the private open space of each dwelling.

No adverse impacts on heritage fabric

The proposed development will not have any impact on the heritage fabric of the area, nor the local heritage places at 36 and 39 Mills Tce.¹² In fact, the proposed development will enhance the heritage values of both properties.

The landscaped areas of 39 Mills Tce will be protected and enhanced through the replacement of the dilapidated original fence and the sympathetic and heritage sensitive rendering of the new fence. It ought to be noted that the design and materiality adopted in the proposed development was suggested to our client by the sole representor. The material can be finished (rendered or painted) in a manner that is both sensitive to the heritage character of the area and acceptable to both our clients and the owners of 36 Mills Tce.

Further, the proposed height will ensure the maintenance of adequate privacy to both properties, consistent with the character of the Hills Street Policy Area, which provides:

*The variety of dwellings types should be retained by the conservation of Heritage Places characterised by nineteenth and early twentieth century elegant and finely detailed mansions and other large villas set on large allotments...*¹³

Plainly the character and nature of the dwellings includes the visual privacy (both inwards and outwards) that are afforded to the properties.

The proposed development is well set back from the primary road frontage, and the main façade of both dwellings on 36 and 39 Mills Tce, leaving the *frontage and side wall returns visible from the street* in an unaltered state.¹⁴ The proposed fence can be rendered in a manner which is sensitive and complementary to the heritage places situated on both properties.¹⁵

It ought to be noted that Council Wide PDC's 145 and 158 are relate specifically to fencing *"to the street boundary"* and are thus are of little to no relevance to the assessment of the proposed development.

¹² Being Heritage Places numbered 366 and 377 respectively.

¹³ Hill Street Policy Area, Desired Character.

¹⁴ Table Adelaide/2, description of place and heritage value, places 366 and 367.

¹⁵ Council Wide PDC 137, North Adelaide Historic (Conservation) Zone, PDC 4.

No tree damaging activity

The proposed development may, during its construction, result in a need to prune the roots of a liquid amber situated on the applicant's land. That tree is not listed in Table Adelaide/5 as a significant tree.

Further, I understand that that tree is **not** a significant or regulated tree by virtue of regulation 6A of the *Development Regulations 2008*. Even if the tree met the specified definitions set out in regulation 6A(1) or 6A(1) and (2), sub regulation (5)(a) would apply as the tree is situated within 10m of the swimming pools on both 36 and 39 Mills Tce, exempting the tree from being significant or regulated.

As such any pruning of roots does not constitute *tree damaging activity*. Any such pruning can be done as of right and any damage cause to the tree is damage caused by the applicant, to the applicant's property.

The proposed retaining wall will, as per the proposal plans, adopt a multi-level waterproof membrane, which includes "Gripset 11Y"/DM root resistant protective coating at a 2mm thickness. This, coupled with the "protector board" over the membrane surface will ensure the membrane is protected from any tree root penetration.

Appropriate level of engineering

The proposed development will be a clear improvement on the current situation as it relates to proper retention of land, stability and longevity. The proposal plans set out the design of the retaining wall and fence, including details of the associated engineering, footings and waterproof membranes.

Further, there are obligations on our client which do not fall within the ambit of the Development Plan, to ensure that the proposed development is appropriately engineered so as to maintain the stability of their land, and not cause a nuisance to adjoining owners. In this regard, I refer you to section 60 of the *Development Act 1993* and regulation 75 of the *Development Regulations*.

It is incumbent upon our client to ensure the proposed development is engineered properly. The rights of adjoining owners with respect to any work which is deemed to effect the stability of land are set out in the above provisions of the Act and Regulations and must be afforded to them. In assessing the proposed development, the Council is entitled to assume compliance with the law.¹⁶

Existing lattice fence

The existing lattice fence does not form part of the proposed development and thus is not relevant in the assessment of the proposed development. Should the proposed development be approved, the existing lattice will be removed, but only upon implementation of the proposed development.

Conclusion

The proposed development is deserving of approval. Our client requests an opportunity to appear at the CAP meeting when this application is considered to answer any questions from the members and respond to any Representation. Please advise of the date and time of the relevant meeting.

¹⁶ *Wong v Metcash Trading Australasia Pty Ltd* [2003] SASC 314.

Please contact me if you have any questions about this matter.

Yours faithfully



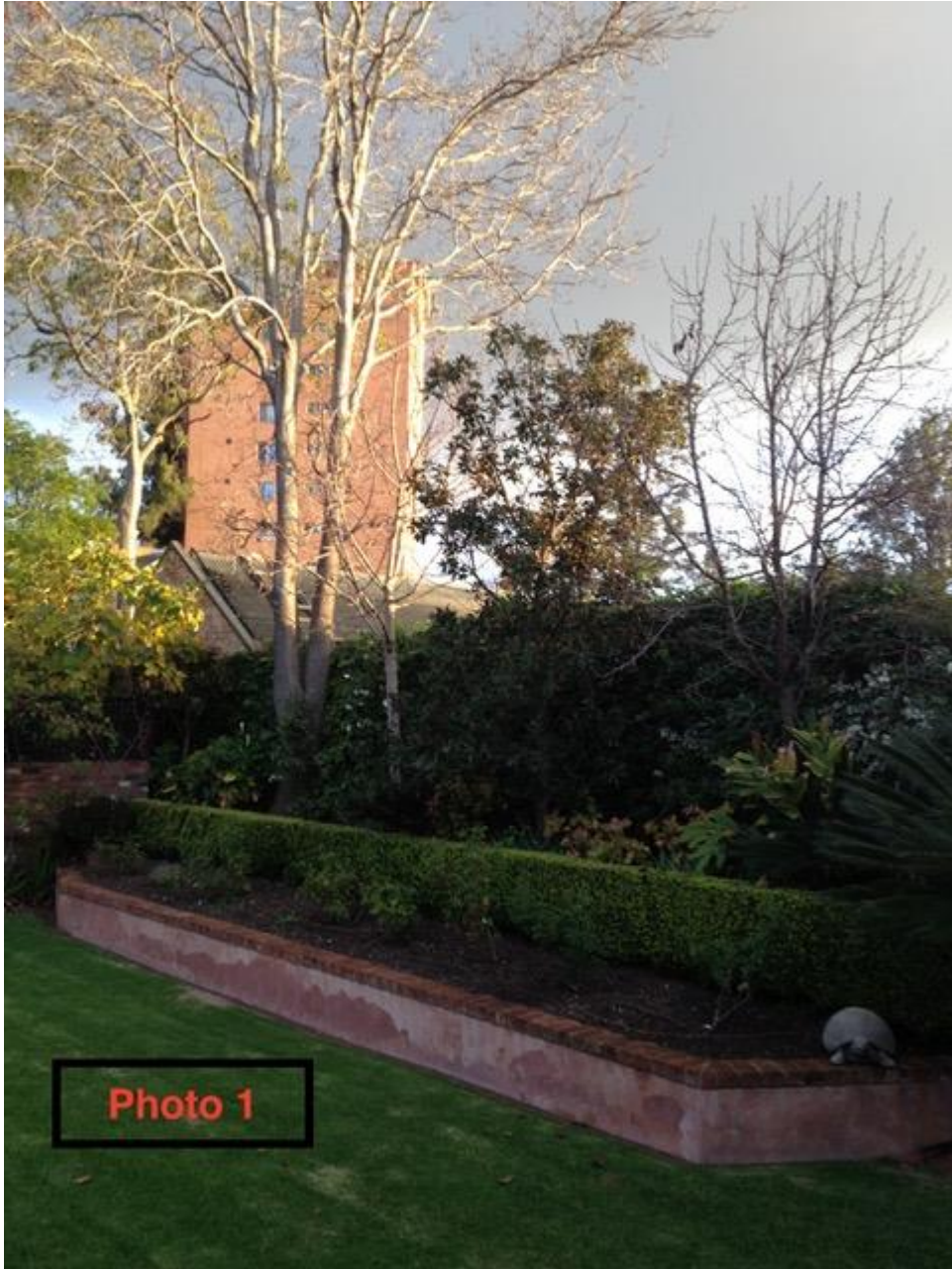
James Jordan
BOTTEN LEVINSON
Mob: 0424 784 464
Email: jrj@bllawyers.com.au

ANNEXURE A



BOTTEN LEVINSON

Lawyers



CITY OF ADELAIDE COUNCIL ASSESSMENT PANEL ON 30/9/2019

Item No	3.2
Address	382 Gilles Street, Adelaide SA 5000
Proposal	Vary previous authorisation to demolish rear of existing dwelling and construct two storey addition and retaining walls - VARIATION - Internal and external amendments including - 2.7m internal pitching height resulting in 200mm height increase, an additional window at ground level and obscured glazing instead of screening for upper level master bedroom window (DA/657/2018/A, SG) [CAP]
Applicant	Mr T Quagliata and Ms J A Sansom
Relevant Development Plan	7 June 2018
Lodgement Date	2 July 2019
Zone / Policy Area	Adelaide Historic (Conservation) Zone
Public Notification	Category 2
Application Type	Application Assessed on Merit
Delegations Policy	Unresolved Representations
Recommendation	Development Plan Consent Be GRANTED

ATTACHMENTS

Plans and Supporting Information

- Proposal Plans 1 – 3
- Certificate of Title 4 – 5

Comments from Public Notification	6
Applicant Response to Representations	7 – 8

PERSONS SPEAKING BEFORE THE PANEL

Nil

1. DESCRIPTION OF PROPOSAL

- 1.1 Planning consent is sought to vary the previous proposal by increasing the internal pitching height to 2.7 metres which will result in a 200mm height increase, an additional window at ground level and obscured glazing instead of screening for the upper level master bedroom window.

2. DEVELOPMENT DATA

Not relevant to this application.

3. BACKGROUND

- 3.1 The existing ground floor addition at the rear of this dwelling appears to have been constructed in the late 1970's.
- 3.2 Application (DA/80/2017) was refused by the Council Assessment Panel on 20 November 2017 for the following reasons:
1. *The addition does not meet the Desired Character Statement in the Adelaide Historic (Conservation) Zone in that the historic character will not be supported and enhanced because of the wall height and hence overall height of the addition. At 7.6 metres to the ridgeline, the addition is considered not to support the overall character because the addition will be highly visible when juxtaposed against the dwelling on the site and the neighbouring dwellings to the east and west. The pitched roof profile as an architectural solution is supported in the Desired Character as it reinforces traditional roof forms found in the locality.*
 2. *The addition does not fulfil Objective 2, 3, PDC 1, 4(b), 6(a) and 13 of the Adelaide Historic (Conservation) Zone in that the wall height of the addition and hence the overall ridge height is not complementary as it does not reflect the historic built form and its visual character because of the scale of the addition. Other additions in the locality are not readily visible and do not dominate the view of the place from the public realm, as this addition will do.*
- 3.3 The applicant appealed this decision in the Environment Resources and Development Court. Ultimately the Appellant decided to discontinue the Appeal.
- 3.4 A new application was lodged in 2018 (DA/657/2018). This proposed a similar design. However, the addition was proposed atop an area excavated to a depth of 600mm and the building was reduced in height by 300mm. This application was granted Development Plan Consent by Council Assessment Panel on 10 December 2018.
- 3.5 This application proposes to vary the above application.

4. SITE

- 4.1 The subject site is a small land parcel located on the northern side of Gilles Street, approximately 16 metres west of Royal Avenue. It has a frontage to Gilles Street of 8.38 metres and side boundary lengths of approximately 30.86 metres. The site has an area of approximately 241m².
- 4.2 A single fronted, narrow, Local Heritage listed dwelling with a concave verandah covering the façade and small garden area, enclosed by a picket fence is located on the site. A single storey addition has also been constructed to the rear of the site.
- 4.3 The dwelling is located directly adjacent the eastern boundary, is positioned close to Gilles Street and is setback from the rear northern boundary.

4.4 A 2.44 metre wide driveway is located on the western portion of the site. It is included as part of the subject site but is subject to a free and unrestricted right of way in favour of the neighbouring site at 380 Gilles Street.

4.5 There are no regulated or significant trees located on the site.

5. LOCALITY

5.1 The northern side of Gilles Street consists of a contiguous row of intact nineteenth century dwellings, all of which are Local Heritage Places. Most of these dwellings are single storey on relatively small allotments. This has resulted in each dwelling being located on one or both side boundaries and generally close to the street frontage.

5.2 The western third of the southern side of Gilles Street has a similar character to the northern side of the street, however it is less intact.

5.3 Beyond Vincent Street to St Johns Lane, the land is occupied by St Andrew's Hospital and is profoundly different in character land use. Contemporary multilevel buildings are located over a majority of the site.

5.4 The footpath between Royal Avenue in the east and Corryton Street in the west is largely uninterrupted by driveways. The majority of car access points are from the rear such as Ada Street or other side streets.

5.5 Mature street trees of a consistent height are located along this portion of Gilles Street.



KEY





	Subject Site		Local Heritage Place
AH(C)Z	Adelaide Historic (Conservation) Zone		Policy Area Boundary
I1	Institutional (St Andrew's) Zone		Locality
R	Representor		

Photo 1 – View of subject site from Gilles Street



Photo 2 – View from the end of the driveway



Photo 3 – The neighbouring dwelling to the west at 380 Gilles Street



Photo 4 – The side yard of the neighbouring dwelling to the east at 384-386 Gilles Street



Photo 5 – The side yard of the neighbouring dwelling to the east at 384-386 Gilles Street



Photo 6 – View of the subject site looking west from Royal Avenue



Photo 7 – View of the subject site looking east from Power Street



6. **PUBLIC NOTIFICATION**

- 6.1 The variation was assessed as a Category 2 form of development therefore public notification was undertaken.

Category of Notification	Category 2
Representations Received – 1	<ul style="list-style-type: none"> Mr John Gray and Mrs Jacqueline Gray – 30 Power Street, Adelaide

Summary of Representation	Applicant response
The roof height has been increased by 200mm to allow for a 2.7 metre pitching point. The ridge was 6.73 metres and now it is 6.93 metres. This does not help the overall massing and size of the building.	Development Plan Zone PDC 14 states buildings should not exceed 2 storeys or 8.5 metres. The proposed height is 1.57 metres below the maximum building height requirement. The proposed structure will also be sunken 600mm below ground level to reduce its visual impact on surrounding area.
<p>North elevation upper storey glass unit – obscured fixed glass to 1.8 metres would be preferable instead of 1.6 metres proposed with opening windows above.</p> <p>Lower section of upper storey glazing unit should be fixed glass to 1.8 metres (non-opening) to ensure no sight lines into neighbouring properties.</p> <p>North elevation glazing above obscured fixed glass to have solar control to prevent light reflecting into neighbouring properties.</p>	<p>Council Wide PDC 36 states: “Direct views from upper level habitable room windows to the habitable room windows or useable private open space* of an adjacent residential development restricted (assuming a viewing height of up to 1.6 metres above floor level) by: * (a) permanently fixed translucent glazing in the part of the window below 1.6 metres above floor level for non-habitable rooms such as bathrooms, laundries or storage areas; (b) window sill heights of 1.6 metres above the finished floor.”</p> <p>The northern window has a transom sill height of 1.6 metres and obscure glazing below that. It will be fixed below 1.6 metres with openable windows above that height.</p>
<p>We are pleased the existing stone walls will not be disturbed. It looks as though the retaining wall is only 500mm away at one point.</p> <p>Architectural advice suggests benefits of increasing to a minimum of 600mm (to match the cut depth) to ensure stability of the existing wall.</p>	<p>Agree that minimum planter width should be 600mm.</p> <p>The minimum width is 320mm at the north west corner, then it tapers to about 1 metre at the north east. Revised drawings to show 600mm at the north west corner.</p>

7. REQUIRED EXTERNAL REFERRALS

7.1 No external referrals required.

8. SPECIALIST ADVICE**8.1 Local Heritage**

The proposed amendments to the approved plans are not considered to compromise the heritage value of the local heritage place or adjacent local heritage places.

The wall and ridge heights of the addition are to be increased by 200mm. Given the siting of the addition to the rear of the local heritage place and the setbacks from the Gilles Street and Royal Avenue frontages, the minor height increase will not have a negative impact on the heritage values of the local heritage place or adjacent local heritage places.

The remainder of the proposed amendments which include minor alterations to openings and cladding the existing retaining walls, will not affect the heritage value of the local heritage places.

RELEVANT CITY OF ADELAIDE 2016-2020 STRATEGIC PLAN ACTIONS

Whilst an assessment against the Strategic Plan is not required, the Development Plan is informed by Council's Strategic Plan Objectives and Actions as below:

SMART	GREEN
<ul style="list-style-type: none"> • Develop and promote an international City brand that showcases the smart, liveable, green and cultural advantages of Adelaide 	<ul style="list-style-type: none"> • Improve energy performance and use of renewable energy in Council and privately-owned buildings, including consideration of solar heating, solar energy generation and battery storage • Work with private property owners and the State Government to embed better environmental performance into new and existing developments • Identify opportunities for building adaptation and re-use that supports heritage aspirations while reducing carbon emissions and waste • Work with all City stakeholders to increase public and private greening with street trees, gardens, community gardens, green walls and roofs, providing incentives where appropriate
LIVEABLE	CREATIVE
<ul style="list-style-type: none"> • Encourage growth in the full range of residential property development in a mixed-use environment in a manner that respects the human scale and different character of districts in the City • Promote and protect Adelaide's built character and heritage through our operations, incentives, policies and direct investment, while working with and advocating to Federal and State governments for an increase in City buildings protected under State or Local Heritage regulations 	<ul style="list-style-type: none"> • Increase public art and cultural expression in private development by using planning levers and requirements

9. DETAILED ASSESSMENT

9.1 Detailed Discussion

Proposed Height Increase

The height of the current proposal above existing ground level has been increased by 200mm compared to the previous approval. This is due to a changed pitching height which has occurred as part of the detailed design stage. This results in an overall height reduction of 700mm when compared to the original application (DA/80/2017) that was subject to an Appeal in the Environment Resources and Development Court. The changes are summarised in Table 9.1 below:

	DA/80/2017 Application Refused	DA/657/2018 Application Approved	Current Application	Difference Compared to Refused Application
Height to pitching point of roof above existing ground level	6 metres	5.2 metres	5.4 metres	600mm reduction
Height to ridge of roof above existing ground level	7.6 metres	6.7 metres	6.9 metres	700mm reduction

Note: Existing ground level refers to unexcavated ground level.

When viewed from Gilles Street, the addition will be visible behind the hipped roof form of the original dwelling. When viewed from Royal Avenue and Power Street, the height of the addition to the ridgeline will be visible. However, the extent of visibility will be reduced compared to DA/80/2017 as a result of excavation of the site by 600mm and an overall 700mm height reduction of the proposed addition above existing ground level.

Zone PDC 13 states where single storey development prevails, two (2) storey solutions may be appropriate if low profile solutions are adopted. A two (2) storey solution is proposed and the height of the addition, particularly when viewed from surrounding land will be minimised by proposing the dwelling on a portion that will be excavated to a depth of 600mm. The proposal also satisfies Zone PDC 14 which stipulates that buildings should not exceed 2 storeys or 8.5 metres in building height as it will be 2 storeys and have a height of 7.6 metres above finished ground level.

Visual Privacy

The variation proposes to remove the screen for the master bedroom window at the upper level northern facade and to replace it with obscure glazing to a height 1.6 metres above the upper floor level.

The representor requested the obscured glazing be raised to 1.8 metres, however the applicant has opted to maintain the 1.6 metre height which satisfies Council Wide PDC 36.

The south facing upper level en-suite window (facing Gilles Street) is proposed to be located slightly further east compared to the previous application and its height has been reduced. There are a number of windows located on the western façade of the

neighbouring dwelling to the east at 386 Gilles Street which are clearly visible from Gilles Street, when looking north into this neighbouring property. These windows are located approximately 10 metres from the proposed en-suite window.

There is the potential for overlooking to occur from the en-suite window to the neighbouring windows to the east. However, this is expected to be mitigated as follows:

- The neighbouring windows are already able to be clearly viewed from Gilles Street
- The acute angle between the en-suite window and the neighbouring windows will limit overlooking
- Landscaping in the yard between 386 Gilles Street and the subject site obscures some of the view and there is opportunity for further landscaping in this area if required
- The window is for an en-suite and consequently overlooking is likely to be minimal when compared to a living room or bedroom.

Other Changes

Other relatively minor changes are proposed as follows:

- A new window is proposed at ground level on the western façade
- A window on the western façade proposed as part of the original proposed application is proposed to change to a floor to ceiling height window
- Installation of a window in the roof of the extension
- The ground floor eastern wall of the proposed extension is proposed to be brickwork to match existing as opposed to the smooth cement render proposed as part of the original application
- Retaining walls proposed off the boundary to preserve existing boundary walls.

These changes are minor with no additional assessment required. However, it should be noted the applicant amended the proposal in response to the representation by setting the retaining wall 600mm from the northern boundary which is an improvement.

9.2 Conclusion

This application proposes to vary the previous application by increasing the internal pitching height to 2.7 metres which will result in a 200mm height increase, additional windows at ground level and obscured glazing instead of screening for the upper level master bedroom window at 382 Gilles Street, Adelaide.

The original application (DA/80/2017) was refused primarily based on the height of the addition and its visibility from surrounding land.

This proposal will increase the height by 200mm compared to the previous approval (DA/657/2018). This minor 200mm increase is acceptable as the site will still be excavated by 600mm and a reduction of the overall height is still proposed compared to the refused application.

Potential overlooking from the upper level bedroom will be prevented by 1.6 metre high obscure glazing which will accord with Council Wide PDC 36. Potential overlooking from the upper level en-suite window is likely to be minimal and is acceptable in this instance.

The proposal is not considered to be seriously at variance with the provisions of the Development Plan as it is a form of development that is desired in the Zone and Policy Area.

It has been determined that, on balance, the proposal warrants Development Plan Consent.

10. RECOMMENDATION

That the development, the subject of the application from Mr T Quagliata and Ms J A Sansom to vary previous authorisation to demolish rear of existing dwelling and construct two storey addition and retaining walls - VARIATION - Internal and external amendments including - 2.7m internal pitching height resulting in 200mm height increase, an additional window at ground level and obscured glazing instead of screening for upper level master bedroom window at 382 Gilles Street, Adelaide SA 5000 as shown on plans designated DA/657/2018/A:

1. Is not seriously at variance with the provisions of the Development Plan and
2. Be GRANTED Development Plan Consent, subject to the following conditions and advices:

Conditions

1. **The Development shall be undertaken in accordance with the plans, drawings, specifications and other documents submitted to the Council that are relevant to the consent as listed below:**

Plans prepared by Grieve Gillett Anderson as follows:

- **Ground and Floor Plan, DWG No. A2101 Rev 2, dated 6 September 2019**
- **Elevations, DWG No. A3101, dated 6 September 2019**

to the reasonable satisfaction of the Council except where varied by conditions below (if any).

Reason: To ensure that the Development is undertaken in accordance with the plans and details submitted.

2. **External materials, surface finishes and colours of the Development shall be consistent with the descriptions hereby granted consent and shall be to the reasonable satisfaction of the Council.**

Reason: To ensure a high standard of materials and finishes used in the finished presentation of the Development.

3. **The upper level bedroom window as depicted on Elevations, DWG No A3101, dated 6 September 2019, shall be windows that are permanently fixed. Such windows shall be translucent to a minimum height of 1,600mm above the finished upper floor level. Such windows shall be installed prior to the occupation or use of the Development to the reasonable satisfaction of the Council.**

Reason: To ensure that the Development does not unreasonably diminish the privacy of residents in adjoining properties.

4. **The applicant or the person having the benefit of this consent shall ensure that all storm water run off from the development herein approved is collected and then discharged to the storm water discharge system. All down pipes affixed to the Development which are required to discharge the storm water run off shall be installed within the property boundaries of the Land to the reasonable satisfaction of the Council.**

Reason: *To ensure that stormwater runoff does not have an adverse impact upon the public realm.*

Advices

1. Building Consent for Approval

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

2. Expiration Time of Approval

Pursuant to the provisions of Regulation 48 under the Development Act 1993, this consent / approval will lapse at the expiration of 12 months from the operative date of the consent / approval unless the relevant development has been lawfully commenced by substantial work on the site of the development within 12 months, in which case the approval will lapse within 3 years from the operative date of the approval subject to the proviso that if the development has been substantially or fully completed within those 3 years, the approval will not lapse.

3. Boundaries

It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.

4. Residential Parking Permits

No on-street residential parking permits will be issued for use by occupants of, or visitors to, the development herein approved (unless the subject site meets the relevant criteria).

Please contact Customer Centre on 8203 7203 for further information.

5. Fences Act 1975

The applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works require the removal, alteration or repair of an existing boundary fence a 'Notice of Intention' must be served to adjoining owners. Please contact the Legal Services Commission for further advice on 8463 3555.

6. City Works Permit

Any activity in the public realm, whether it be on the road or footpath, requires a City Works Permit. 48 hours' notice is required before commencement of any activity.

The City Works Guidelines detailing the requirements for various activities, a complete list of fees and charges and an application form can all be found on Council's website at www.cityofadelaide.com.au

When applying for a City Works Permit you will be required to supply the following information with the completed application form:

- A Traffic Management Plan (a map which details the location of the works, street, property line, hoarding/mesh, lighting, pedestrian signs, spotters, distances etc.);
- Description of equipment to be used;
- A copy of your Public Liability Insurance Certificate (minimum cover of \$20 Million required);
- Copies of consultation with any affected stakeholders including businesses or residents.

Please note: Upfront payment is required for all city works applications.

Applications can be lodged via the following:

Email: cityworks@cityofadelaide.com.au

Fax: 8203 7674

In Person: 25 Pirie Street, Adelaide

Item No. 3.2 – Attachments 1 – 8 (382 Gilles Street, Adelaide SA 5000)

Pages 65 to 72

ATTACHMENTS

Plans and Supporting Information

- Proposal Plans 1 – 3
- Certificate of Title 4 – 5

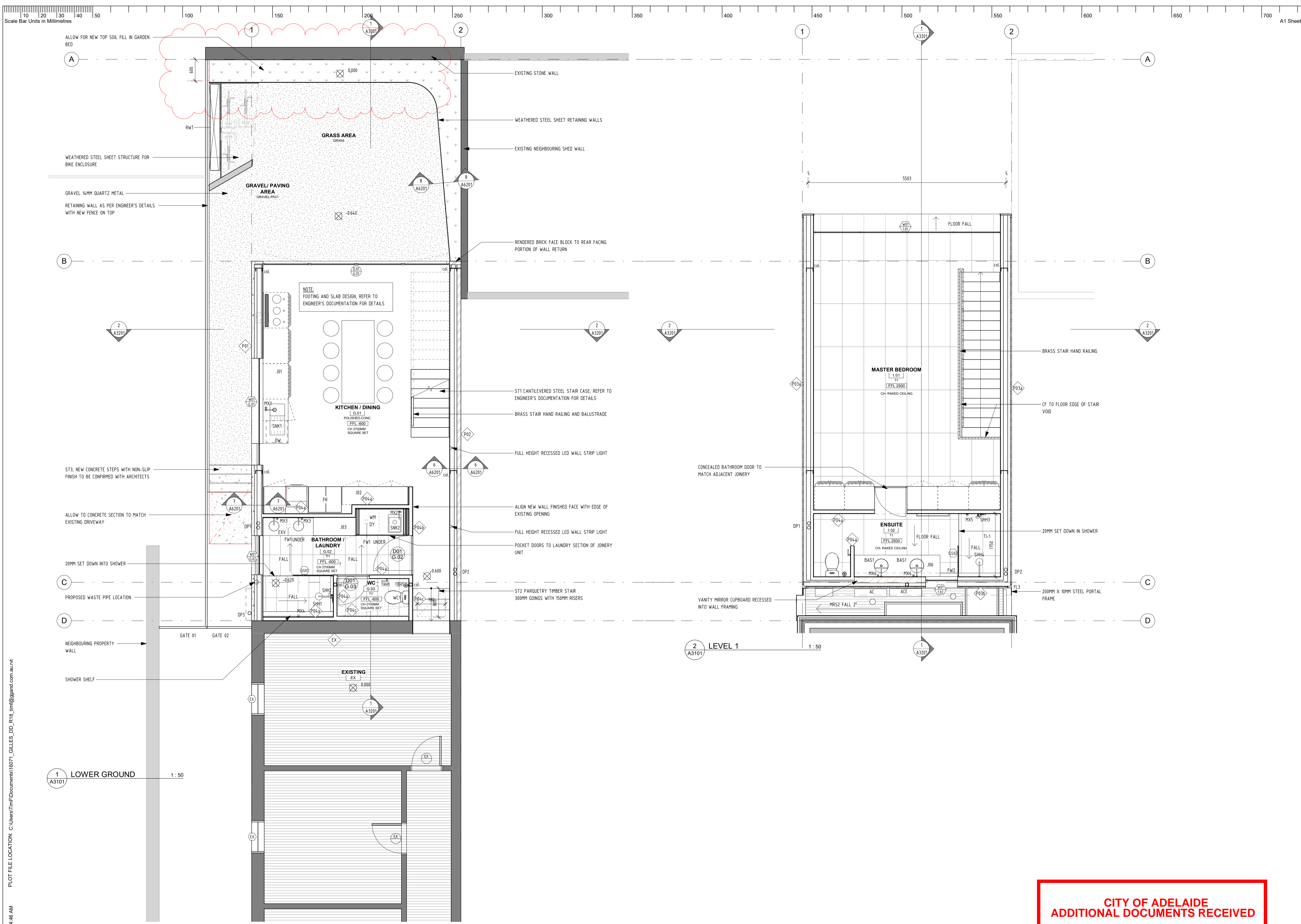
Comments from Public Notification 6

Applicant Response to Representations 7 – 8

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DA/657/2018 Amendments - 382 Gilles Street

- 200mm amendment to External Pitching Height to achieve intended 2.7m Internal Pitching Height.
- Obscure Glazing - in-lieu of screen.
- Roof Window introduced above upstairs bathroom.
- Brick to match existing on lower east elevation.
- New window introduced as splash back above kitchen bench.
- Lower Ground Bathroom Window enlarged for extra sun light.
- Weathered Sheet Retaining Walls off boundary to preserve existing boundary walls.



Legend

2	06/09/19	PLANNING AMENDMENTS		
1	01/07/19	PLANNING AMENDMENTS		

Rev.	Date	Description	Ver.	Appr.
2	06/09/19	PLANNING AMENDMENTS		
1	01/07/19	PLANNING AMENDMENTS		

Drawing Status

FOR INFORMATION

xxxxxxx xxxxxx

xxxxx xxxxx

x xxxxx

x xxx

GRIEVE GILLETT ANDERSEN

243 Pirie Street Adelaide South Australia 5000
+61 8232 3626
admin@ggand.com.au
ggand.com.au

Project

Ms Jane Sansom & Mr Tonio Quagliata
382 Gilles Street, Adelaide SA 5000

Drawing Title

GROUND FLOOR & LEVEL 1 PLAN

Scale (at A1) **As indicated**

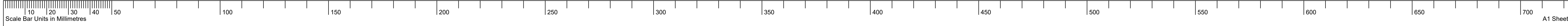
Do not scale drawings. Use figured dimensions only. This drawing is to be read in conjunction with all relevant contracts, specifications, reports and drawings. Check and verify levels and dimensions on site prior to commencement of any work, preparation of shop drawings or fabrication of components. Copyright of this drawing is vested in Grieve Gillett Pty. Ltd.

Job No.	Drawing No.	Issue
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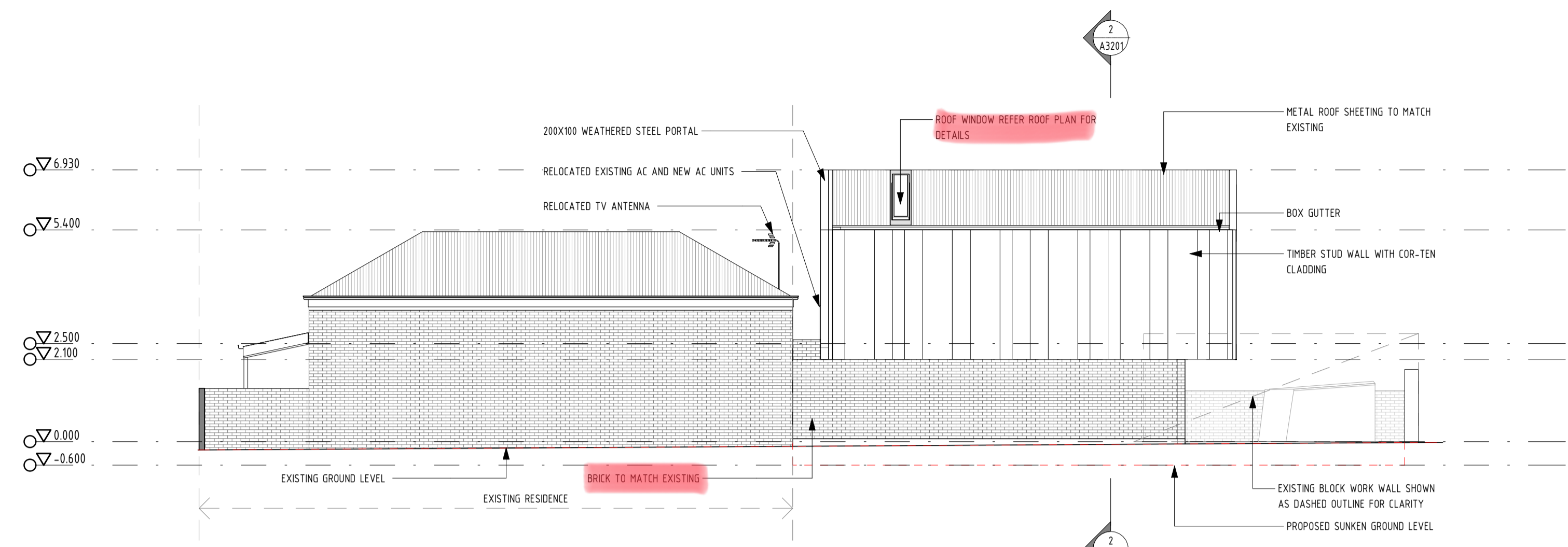
**CITY OF ADELAIDE
ADDITIONAL DOCUMENTS RECEIVED**

DA/657/2018/A
06/09/2019

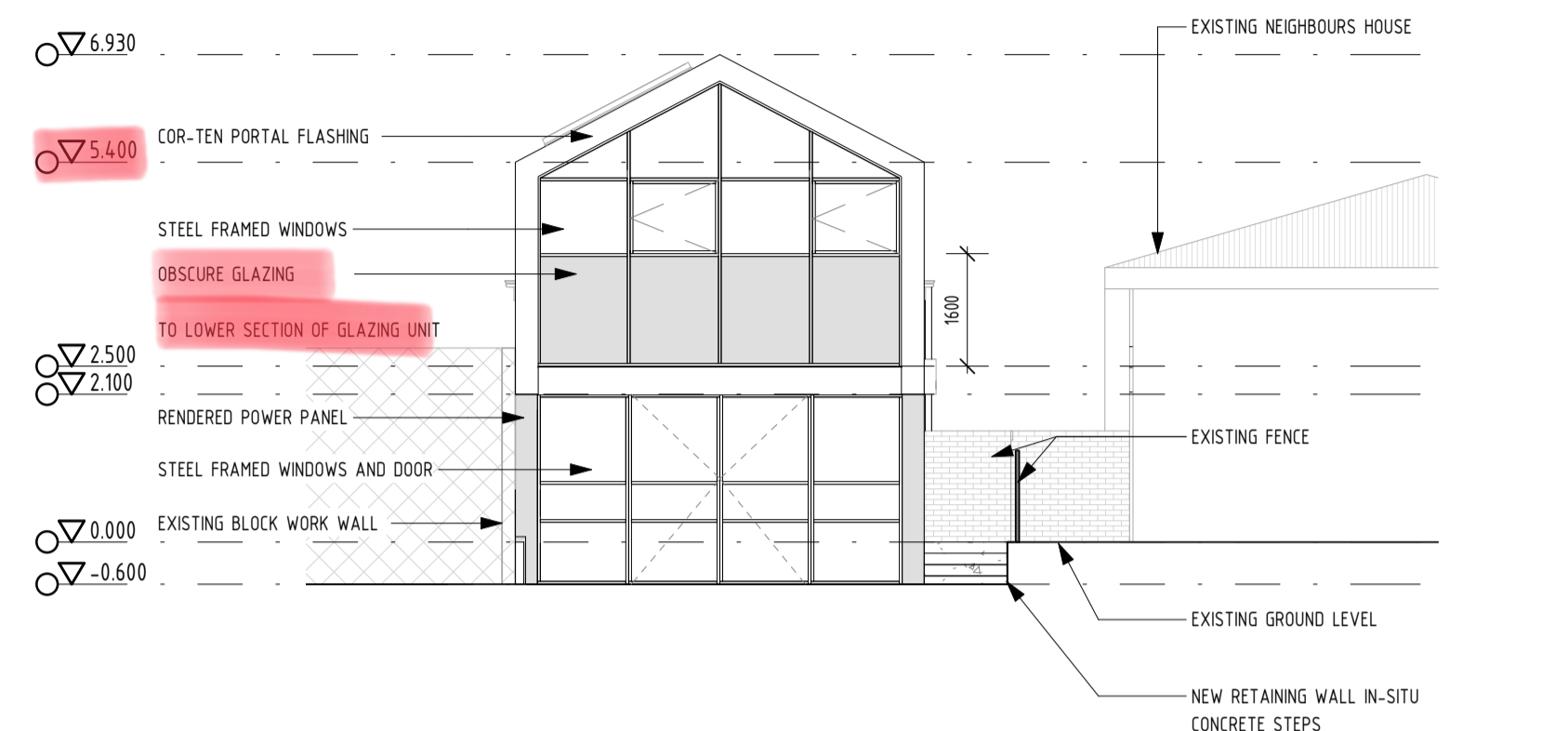
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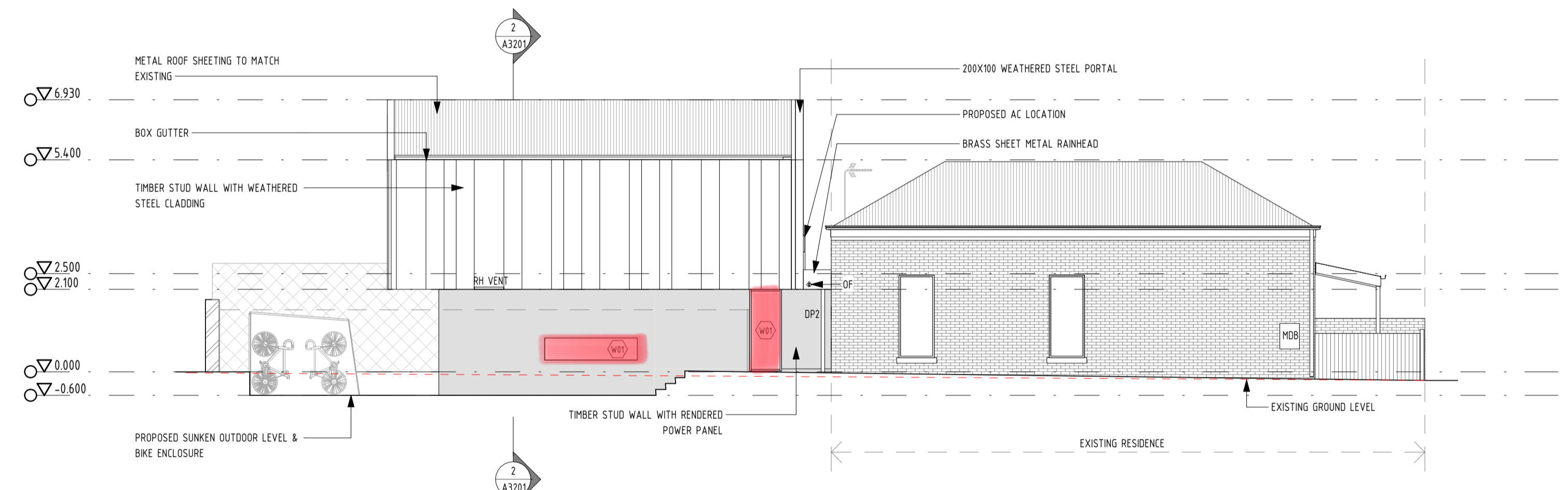
Legend



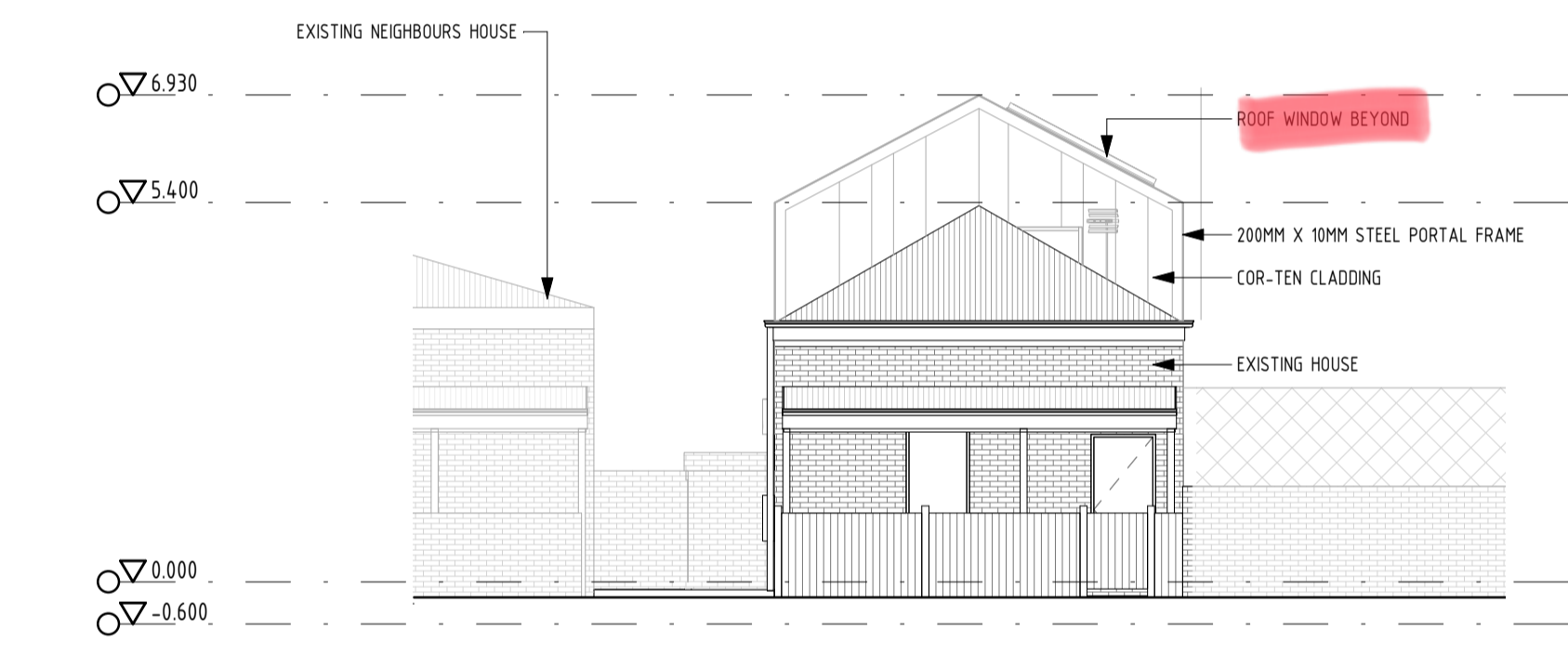
1 EAST ELEVATION 1:100



2 NORTH ELEVATION 1:100



4 WEST ELEVATION 1:100



3 SOUTH ELEVATION 1:100

1	01/07/19	PLANNING AMENDMENTS		
Rev.	Date	Description	Ver.	Appr.

Drawing Status
FOR INFORMATION

GRIEVE GILLET ANDERSEN

243 Pirie Street Adelaide
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Project
Ms Jane Sansom & Mr Tonio Quagliata
382 Gilles Street, Adelaide SA 5000

Drawing Title
ELEVATIONS

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Scale (at A1) **1:100**

Job No. 16071	Drawing No. A3101	Issue 1
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PLOT FILE DATE: 10/20/19 11:27:15 AM



Title Register Search

LANDS TITLES OFFICE, ADELAIDE

For a Certificate of Title issued pursuant to the Real Property Act 1886

TA 586
23.

REGISTER SEARCH OF CERTIFICATE OF TITLE * VOLUME 5905 FOLIO 672 *

COST : \$17.40 (GST exempt)	PARENT TITLE : CT 869 /26
REGION : EMAIL	AUTHORITY : CONVERTED TITLE
AGENT : LGA6 BOX NO : 131	DATE OF ISSUE : 03/11/2003
SEARCHED ON : 18/07/2008 AT : 11:54:16	EDITION : 2

REGISTERED PROPRIETORS IN FEE SIMPLE

ANGELINA QUAGLIATA OF 1 UNDIVIDED 3RD PART AND ANITA ANTONIETTA QUAGLIATA OF 1 UNDIVIDED 3RD PART AND TONINO QUAGLIATA OF 1 UNDIVIDED 3RD PART ALL OF 382 GILLES STREET ADELAIDE SA 5000

DESCRIPTION OF LAND

ALLOTMENT 539 FILED PLAN 182191
IN THE AREA NAMED ADELAIDE
HUNDRED OF ADELAIDE

EASEMENTS

SUBJECT TO A FREE AND UNRESTRICTED RIGHT OF WAY OVER THE LAND MARKED A

SCHEDULE OF ENDORSEMENTS

10851200 MORTGAGE TO ST.GEORGE BANK LTD. (SINGLE COPY ONLY)

NOTATIONS

DOCUMENTS AFFECTING THIS TITLE

NIL

REGISTRAR-GENERAL'S NOTES

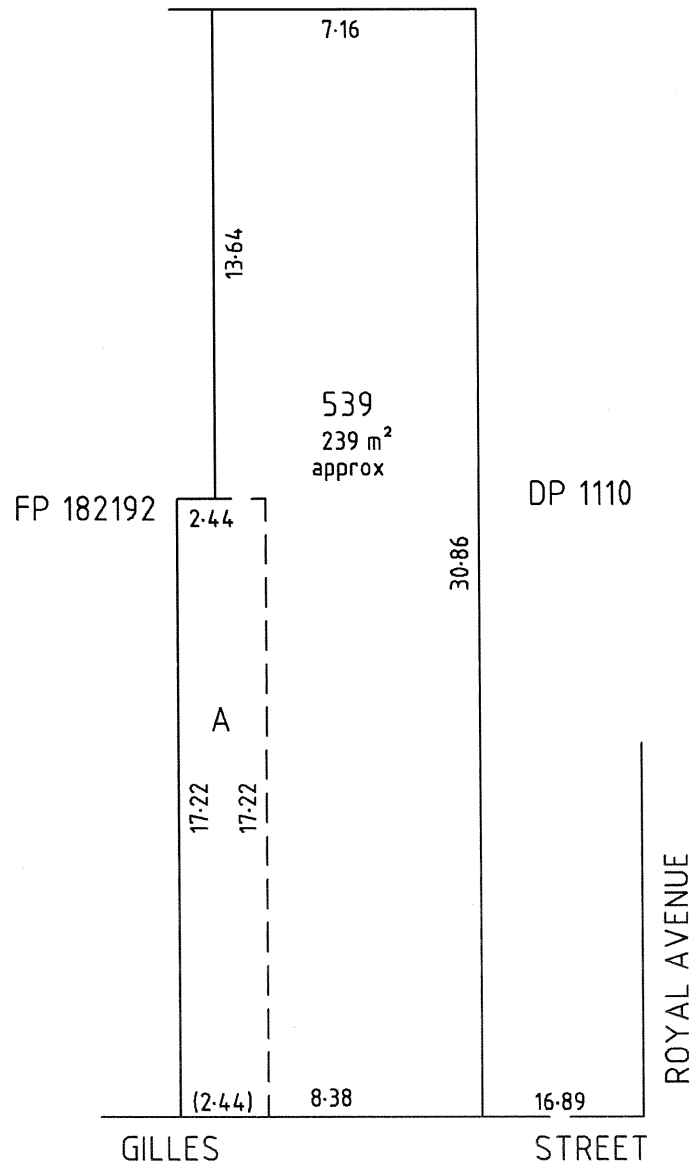
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END OF TEXT.



LANDS TITLES OFFICE ADELAIDE SOUTH AUSTRALIA
 DIAGRAM FOR CERTIFICATE OF TITLE VOLUME 5905 FOLIO 672
 SEARCH DATE : 18/07/2008 TIME: 11:54:16

THIS PLAN IS SCANNED FOR CERTIFICATE OF TITLE 869/26



NOTE SUBJECT TO ALL LAWFULLY EXISTING PLANS OF DIVISION

Response to Variation in Development Application

Number DA/657/2018/A

Location 382 Gilles Street, ADELAIDE SA 5000

Vary previous authorisation to demolish rear of existing dwelling and construct two storey addition and retaining walls - VARIATION - Internal and external amendments including - 2.7m internal pitching height resulting in 200mm height increase, additional windows at ground level and obscured glazing instead of screening for upper level master bedroom window

Close Date 29/08/2019 6:53:19 PM

DA/657/2018 Amendments - 382 Gilles Street	Response
200mm amendment to External Pitching Height to achieve intended 2.7m Internal Pitching Height	The roof height has been increased by 200mm to allow a 2700mm pitching point, ridge was 6730, now is 6930. This is not helping the overall massing and size of the building.
Obscure Glazing - 25% Transparency in-lieu of screen	North elevation upper storey glass unit: <ul style="list-style-type: none"> • Obscure fixed glass with obscure glazing (25%) to 1800 would be preferable; currently shown only to 1600 AFFL with opening windows above;. • Lower section of upper storey glazing unit should be fixed glass to 1800 (non-opening) to ensure no sight lines into neighbouring properties. • North elevation glazing above obscured fixed glass to have solar control to prevent light reflecting into neighbouring properties.
Roof Window introduced above upstairs bathroom	
Brick to match existing on lower east elevation	
New window introduced as splash back above kitchen bench	
Lower Ground Bathroom Window enlarged for extra sun light	
Weathered Sheet Retaining Walls off boundary to preserve existing boundary walls	<ul style="list-style-type: none"> • We are pleased that the existing stone walls will not be disturbed. It looks like the retaining wall is only 500mm away at one point. • Architectural advice suggests benefits of increasing to a minimum of 600mm (to match the cut depth) to help ensure stability of the existing wall.

John & Jacki Gray
30 Power Street
Adelaide SA 5000pa

Seb Grose

From: Tonino Quagliata <tonino@me.com>
Sent: Wednesday, 4 September 2019 7:01 PM
To: Sophia Mango; Seb Grose
Cc: Jane Sansom; Tim Fenton
Subject: Re: Representations received for DA/657/2018/A

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Sophia and Seb

Our response below...

Response to Variation in Development Application

Number DA/657/2018/A

Location 382 Gilles Street, ADELAIDE SA 5000

Description Vary previous authorisation to demolish rear of existing dwelling and construct two storey addition and retaining walls - VARIATION - Internal and external amendments including - 2.7m internal pitching height resulting in 200mm height increase, additional windows at ground level and obscured glazing instead of screening for upper level master bedroom window

Close Date 29/08/2019 6:53:19 PM

DA/657/2018 Amendments - 382 Gilles Street	Response
200mm amendment to External Pitching Height to achieve intended 2.7m Internal Pitching Height	The roof height has been increased by 200mm to allow a 2700mm pitching point, ridge was 6730, now is 6930. This is not helping the overall massing and size of the building. Under the development plan, ADELAIDE HISTORIC (CONSERVATION) ZONE -Principles of Development Control Design and Appearance 14 Buildings should not exceed 2 storeys or 8.5 metres in building height. The proposed height is 1.57M below the maximum allowable building height. The proposal has also sunken the entire addition structure 0.6m below the ground in an effort to reduce its visual impact on the surrounding area.
Obscure Glazing - 25% Transparency in-lieu of screen	North elevation upper storey glass unit: <ul style="list-style-type: none"> • Obscure fixed glass with obscure glazing (25%) to 1800 would be preferable; currently shown only to 1600 AFFL with opening windows above;. • Lower section of upper storey glazing unit should be fixed glass to 1800 (non-opening) to ensure no sight lines into neighbouring properties. • North elevation glazing above obscured fixed glass to have solar control to prevent light reflecting into neighbouring properties. Under Principle 36.1 of the development plan "Direct views from upper level habitable room windows to the habitable room windows or useable private open space*"

	<p>of an adjacent residential development restricted (assuming a viewing height of up to 1.6 metres above floor level) by: *</p> <p>(a) permanently fixed translucent glazing in the part of the window below 1.6 metres above floor level for non-habitable rooms such as bathrooms, laundries or storage areas; (b) window sill heights of 1.6 metres above the finished floor “</p> <p>The Northern window has a transom sill height of 1.6M and also has obscure glazing below that. It is fixed below 1.6M with openable windows above that height.</p>
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Kind Regards

Tonino Quagliata and Jane Sanson

CITY OF ADELAIDE COUNCIL ASSESSMENT PANEL ON 30/9/2019**Item No: 5.1**

From: Associate Director, Planning, Design & Development

Subject: List of Recent Lodgment's for Planning Consent (2017/02505) [CAP]

PURPOSE

To provide Panel Members with a list of development applications lodged for planning consent for the period 30 August 2019 to 19 September 2019.

A total of 50 development applications with a total value of \$4,727,563 have been lodged for planning consent for this period.

ATTACHMENTS

Lodged Applications for Planning Consent 1 - 5

RECOMMENDATION

That the report be received.

Item No. 5.1 – Attachments 1 - 5 (List of Recent Lodgements for Planning Consent)

Pages 75 to 79

DEVELOPMENT PLANNING - Council Assessment Panel Report

Lodged Applications for Planning Consent from 30/8/2019 to 19/9/2019

Item No. 5.1 - Attachment 1

Application Assessed on Merit

#	APPLICATION	ADDRESS	DESCRIPTION	LODGED	COST	NOTIFY CATEGORY
1	DA/1020/2018/A	144 Barton Terrace W NORTH ADELAIDE SA 5006	Vary previous authorisation demolition of existing dwelling and carport and construction of two storey detached dwelling with a cellar, double garage, roof terrace and reconstruction of existing front fence - VARIATION - internal and external changes including reduction of rear setbacks, removal of cellar, alterations to roof-top terrace and dining area and stairs/lift swap	16/09/2019	TBA	Category 2
2	DA/203/2018/A	89-95 King William Street ADELAIDE SA 5000	Vary previous authorisation refurbishment of existing ground floor lobby, new café, outdoor furniture to plaza and walkway with entry feature on King William street with signage and new glazed entry to the west of the building - VARIATION - Amendments to two ground floor tenancies, office tower entries, landscaping, entry portals to King William Street and Currie Street, lobby cafe and lighting	17/09/2019	TBA	Category 1
3	DA/631/2019	61-62 Lefevre Terrace NORTH ADELAIDE SA 5006	Repairs to roof, gable and chimney	30/08/2019	\$32,576	Category 1
4*	DA/632/2019	142 Barton Terrace W, NORTH ADELAIDE SA 5006	Install solar panels parallel to roof	30/08/2019	\$13,000	Category 1
5	DA/633/2019	287-300 North Terrace ADELAIDE SA 5000	Illuminated advertising panel to be fixed to relocated bus shelter	30/08/2019	\$1	Category 1
6*	DA/636/2019	Ground 66 Rundle Mall ADELAIDE SA 5000	Alterations to shopfront and signage	30/08/2019	\$60,000	Category 1
7	DA/637/2019	68 Barnard Street NORTH ADELAIDE SA 5006	New roof to the main part of the house	30/08/2019	\$25,500	Category 1
8	DA/638/2019	Ground 12 Pirie Street ADELAIDE SA 5000	Fit-out for a cafe and signage	30/08/2019	\$5,000	Category 1
9	DA/639/2019	362-366 King William Street ADELAIDE SA 5000	Installation of new signage to building facade	2/09/2019	\$6,500	Category 1

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Lodged Applications for Planning Consent from 30/8/2019 to 19/9/2019

Item No. 5.1 - Attachment 2

10	DA/640/2019	185-189 Pirie Street ADELAIDE SA 5000	Use vacant site temporarily for parking whilst development site is under construction (used for construction vehicles for 104-108 Currie Street, Adelaide)	2/09/2019	\$3,000	Category 1
11	DA/643/2019	74 Rundle Mall ADELAIDE SA 5000	New shopfront, alterations to canopy and signage	3/09/2019	\$120,000	Category 1
12	DA/644/2019	105 Hindley Street ADELAIDE SA 5000	Change of use to shop, internal works and signage	30/08/2019	\$80,000	Category 1
13	DA/645/2019	21 Barnard Street NORTH ADELAIDE SA 5006	Internal and external alterations, front facade conservation and installation of new front fence	3/09/2019	\$37,000	Category 1
14	DA/646/2019	Pelzer Park / Pityarilla (Park 19) Glen Osmond Road ADELAIDE SA 5000	Install two public art sculptures	3/09/2019	\$50,000	Category 1
15	DA/648/2019	FREEMASONS HALL 254-260 North Terrace ADELAIDE SA 5000	Conservation works to ventilation enclosure	4/09/2019	\$25,000	Category 1
16	DA/649/2019	185-189 Pirie Street ADELAIDE SA 5000	Install for lease signage	4/09/2019	\$2,949	Category 1
17	DA/650/2019	12-14 Hindley Street ADELAIDE SA 5000	Removal of ATM and replace with glazing	30/08/2019	\$15,000	Category 1
18	DA/651/2019	31-33 North Street ADELAIDE SA 5000	Hanging of a vinyl artwork on the front facade of building	4/09/2019	\$1,840	Category 1
19	DA/652/2019	57 North Terrace ADELAIDE SA 5000	Install disability access internally and externally	4/09/2019	\$38,000	Category 1
20*	DA/653/2019	Ground 226 Melbourne Street, NORTH ADELAIDE SA 5006	Change of use to office	4/09/2019	\$1	Category 1
21*	DA/654/2019	254-258 Angas Street ADELAIDE SA 5000	Upgrade external facade	5/09/2019	\$125,000	Category 1
22	DA/656/2019	UNIVERSITY OF ADELAIDE North Terrace ADELAIDE SA 5000	Early demolition works associated with proposed modifications to the Lady Symon Building	5/09/2019	\$50,000	Category 1

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Lodged Applications for Planning Consent from 30/8/2019 to 19/9/2019

Item No. 5.1 - Attachment 3

23	DA/657/2019	Ground Shop 8 45-49 Jerningham Street NORTH ADELAIDE SA 5006	Additional signage	5/09/2019	\$5,000	Category 1
24*	DA/658/2019	144 West Terrace ADELAIDE SA 5000	Change of use to shop/warehouse	5/09/2019	\$1	Category 1
25	DA/659/2019	17 Tynte Place NORTH ADELAIDE SA 5006	Install verandah	6/09/2019	\$4,675	Category 1
26	DA/662/2019	167 Brougham Place NORTH ADELAIDE SA 5006	Demolishing extension and chimney and restore eastern wall	8/09/2019	\$15,000	Category 1
27*	DA/664/2019	138-140 Rundle Mall ADELAIDE SA 5000	Install sign on hoarding	10/09/2019	\$1,000	Category 1
28	DA/665/2019	126-130 Gray Street ADELAIDE SA 5000	Change of use to shop and warehouse	10/09/2019	\$15,000	Category 1
29	DA/666/2019	STATE CENTRE CARPARK 172-190 Gawler Place ADELAIDE SA 5000	Illuminated sign for external western elevation carpark	10/09/2019	\$6,720	Category 1
30	DA/667/2019	28 Claxton Street ADELAIDE SA 5000	Replacement of existing shed	11/09/2019	\$10,000	Category 1
31	DA/668/2019	Jeffery Smart Building 231-243 Hindley Street ADELAIDE SA 5000	Remove part of concrete seat and install fixed furniture and semi-fixed umbrellas	11/09/2019	\$160,000	Category 1
32	DA/669/2019	52-56 Byron Place ADELAIDE SA 5000	Change of use from warehouse to car wash and detailing	11/09/2019	\$100,000	Category 1
33	DA/670/2019	ALLIANZ HOUSE 87-95 Pirie Street ADELAIDE SA 5000	Internal alterations and create new food and office tenancies and external window replacement	12/09/2019	\$1,000,000	Category 1
34*	DA/671/2019	SANTOS BUILDING 56-62 Flinders Street ADELAIDE SA 5000	Install illuminated Santos naming rights signage to existing cube feature on top of building	13/09/2019	\$250,000	Category 1

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Item No. 5.1 - Attachment 4

35	DA/673/2019	316-320 South Terrace ADELAIDE SA 5000	Undertake building remediation works	16/09/2019	\$35,000	Category 1
36	DA/674/2019	1-2 Brougham Place NORTH ADELAIDE SA 5006	Demolish existing building and construct residential flat building with two (2) apartments and basement carparking	16/09/2019	\$1,600,000	Category 2
37	DA/675/2019	120-128 Gouger Street ADELAIDE SA 5000	Restoration of west facade	16/09/2019	\$80,000	Category 1
38	DA/676/2019	104 Ward Street NORTH ADELAIDE SA 5006	Attach sign to facade	17/09/2019	TBA	Category 1
39	DA/677/2019	PANURGEM HOUSE 58-64 Hindmarsh Square ADELAIDE SA 5000	Install signage	12/09/2019	\$12,000	Category 1
40	DA/678/2019	ELDER HALL - K9 North Terrace ADELAIDE SA 5000	Undertake painting and sundry repair to the ground and lower ground levels	17/09/2019	\$50,000	Category 1
41	DA/679/2019	84 Mills Terrace NORTH ADELAIDE SA 5006	Restoration of chimneys	17/09/2019	\$17,000	Category 1
42	DA/680/2019	WEST TERRACE CEMETERY West Terrace ADELAIDE SA 5000	Conservation monument and fence	18/09/2019	\$22,000	Category 1
43	DA/682/2019	15A Cairns Street ADELAIDE SA 5000	Two storey rear addition with upper level terrace and rear garage and conservation works to front facade	19/09/2019	\$550,000	Category 2
44	DA/687/2019	Laneway adjacent to 54-60 Currie Street, ADELAIDE SA 5000	Temporary change of use in laneway to accommodate a one-off event	19/09/2019	TBA	TBA
45	DA/688/2019	22-24 Coromandel Place, ADELAIDE SA 5000	Change of use to art workshop and gallery	19/09/2019	TBA	TBA
46	DA/690/2019	UNIVERSITY OF ADELAIDE, North Terrace, ADELAIDE SA 5000	Relocation of the Mitchell Gates to their former location on Frome Road and removal of a further section of the Victoria Drive and Frome Road fences	19/09/2019	\$100,000	TBA
47	DA/691/2019	43 Grote Street ADELAIDE SA 5000	Blind/screening system to the eastern and northern face of the alfresco area	19/09/2019	\$3,800	Category 1

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Lodged Applications for Planning Consent from 30/8/2019 to 19/9/2019

Item No. 5.1 - Attachment 5

48	DA/820/2018/A	City Soul - Experience Cafe 13-15 Hutt Street ADELAIDE SA 5000	Vary previous authorisation to undertake alterations and change the use of existing licensed venue to student accommodation containing 10 bedrooms - VARIATION - Addition of air-conditioning units on roof	11/09/2019	TBA	Category 1
49	DA/93/2019/A	159-160 East Terrace ADELAIDE SA 5000	Vary previous authorisation change the use of existing building from consulting rooms to dwelling and construct a single storey rear extension and garage, inground swimming pool and use stable as self-contained ancillary accommodation - VARIATION - Revised outside floor layout (stable) and increased pool fence height	30/08/2019	TBA	Category 1
Land Division						
#	APPLICATION	ADDRESS	DESCRIPTION	LODGED	COST	NOTIFY CATEGORY
50	LD/28/2019	23-31 Angas Street ADELAIDE SA 5000	Carpark and Store swaps on Primary Community Division	11/09/2019	Not Applicable	Category 1

Please Note: Category 1 (No notification required)

Category 2 (Adjacent Owners and Occupiers notified only)

Category 3 (As for Category 2, plus other Owners and Occupiers directly affected to a significant degree)

*** Approved**