



# COUNCIL ASSESSMENT PANEL

# **Agenda and Reports**

for the meeting  
Monday, 12 December 2022  
at 5.30 pm  
in the Colonel Light Room, Adelaide Town Hall



# Council Assessment Panel

## Meeting Agenda

Monday, 12 December 2022, at 5.30 pm, Colonel Light Room, Adelaide Town Hall

### Panel Members

Presiding Member – Nathan Cunningham

Panel Members – Mark Adcock, Colleen Dunn and Emily Nankivell

Deputy Panel Member – Prof Mads Gaardboe (Attending for Panel Member vacancy)

### Opening and Acknowledgment of Country

At the opening of the Panel Meeting, the Presiding Member will state:

'The City of Adelaide Council Assessment Panel acknowledges that we are meeting on traditional Country of the Kaurna people of the Adelaide Plains and pays respect to Elders past and present. We recognise and respect their cultural heritage, beliefs and relationship with the land. We acknowledge that they are of continuing importance to the Kaurna people living today.

And we also extend that respect to other Aboriginal Language Groups and other First Nations who are present today.'

### Meeting Agenda

#### 1. Confirmation of Minutes

That the Minutes of the meeting of the City of Adelaide Council Assessment Panel held on 21 November 2022, be taken as read and be confirmed as an accurate record of proceedings.

#### 2. Declaration of Conflict of interest

#### 3. Applications assessed under PDI Act 2016 (SA) with Representations

3.1 Subject Site 31 McLaren Street, Adelaide [Pages 3 - 21]

#### 4. Applications assessed under PDI Act 2016 (SA) without Representations

Nil

#### 5. Appeal to CAP for Assessment Manager's Decision Review

Nil

#### 6. Other Business

6.1 Other Business - Nil

6.2 Other Business raised at Panel Meeting

6.3 Next Meeting – 30 January 2023

#### 7. Closure

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# Agenda Item 3.1

**Council Assessment Panel  
Monday, 12 December 2022**

<b>Subject Site</b>	31 McLaren Street, Adelaide
<b>Development Number</b>	22018116
<b>Nature of Development</b>	Construct two storey rear addition to existing single storey dwelling with associated internal and external alterations
<b>Representations</b>	Listed to be Heard - Yes
<b>Summary Recommendation</b>	Planning Consent Granted
<b>Status</b>	Public

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<b>DEVELOPMENT NO:</b>	22018116
<b>APPLICANT:</b>	Sans Arc Studio
<b>AGENDA ITEM NO:</b>	Item 3.1
<b>ADDRESS:</b>	31 McLaren Street, Adelaide
<b>NATURE OF DEVELOPMENT:</b>	Construct two storey rear addition to existing single storey dwelling with associated internal and external alterations
<b>ZONING INFORMATION:</b>	<b>Zones:</b> <ul style="list-style-type: none"> <li>• City Living</li> </ul> <b>Overlays:</b> <ul style="list-style-type: none"> <li>• Airport Building Heights (Regulated)</li> <li>• Affordable Housing</li> <li>• Building Near Airfields</li> <li>• Design in Urban Areas</li> <li>• Historic Area</li> <li>• Heritage Adjacency</li> <li>• Local Heritage Place</li> <li>• Hazards (Flooding – Evidence Required)</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Stormwater Management</li> <li>• Urban Tree Canopy</li> </ul> <b>Technical Numeric Variations (TNVs):</b> <ul style="list-style-type: none"> <li>• Maximum Building Height (Metres)</li> <li>• Minimum Site Area</li> <li>• Maximum Building Height (Levels)</li> </ul>
<b>LODGEMENT DATE:</b>	6 June 2022
<b>RELEVANT AUTHORITY:</b>	City of Adelaide Council Assessment Panel
<b>PLANNING &amp; DESIGN CODE VERSION:</b>	2022.9 - 26 May 2022
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	Yes
<b>RECOMMENDING OFFICER:</b>	Dylan Grieve Senior Planner, Development Assessment
<b>REFERRALS STATUTORY:</b>	Nil
<b>REFERRALS NON-STATUTORY:</b>	Heritage

**CONTENTS:**

<b>ATTACHMENT 1:</b> Application Documents	<b>ATTACHMENT 5:</b> Representations
<b>ATTACHMENT 2:</b> Subject Land & Locality Plan	<b>ATTACHMENT 6:</b> Response to Representations
<b>ATTACHMENT 3:</b> Zone Map	<b>APPENDIX 1:</b> Relevant P&D Code Policies
<b>ATTACHMENT 4:</b> Representation Map	

All attachments and appendices are provided via Link 1 [here](#)

**PERSONS SPEAKING BEFORE THE PANEL****Representors**

- Barbara Chapman – 38 McLaren Street, Adelaide
- Helena and Shaun Oakey – 33 McLaren Street, Adelaide

**Applicant**

- Matiya Marovich from Sans Arc Studio



## **1. DETAILED DESCRIPTION OF PROPOSAL**

- 1.1 This application proposes demolition of the rear portion of the existing single storey dwelling, internal alterations and construction of a two storey dwelling addition to the rear.
- 1.2 The ground/lower floor will incorporate bedrooms two and three, a bathroom, laundry, kitchen and living area and the first level will incorporate a master bedroom with robe and bathroom.
- 1.3 The existing pedestrian entry will be maintained via McLaren Steet with secondary pedestrian access via the right of way to the rear.

## **2. BACKGROUND**

- 2.1 The proposal has been amended compared with the publicly notified version.
- 2.2 As a result of comments received during the public notification period and matters raised by Council Administration, the applicant amended the proposal, specifically to address overlooking concerns.
- 2.3 The essential nature of the development remains per the original proposal and therefore the amended plans have not been re-notified.

## **3. SUBJECT LAND & LOCALITY**

### **Subject Land**

- 3.1 The subject site has an area of 152m<sup>2</sup>, with a primary frontage of 5.39 metres to McLaren Street and a 5.54 metre frontage to the rear right of way.
- 3.2 The land contains a single storey row dwelling, with two bedrooms, kitchen, bathroom, laundry and internal courtyard. This existing dwelling is a Local Heritage Place. There is no onsite vehicle access.

### **Locality**

- 3.3 McLaren Street is a narrow street containing a diverse mix of late 19<sup>th</sup> century and early 20<sup>th</sup> century single and two storey dwellings.



**Photo 3.1 - Subject site viewed from McLaren Street**



**Photo 3.2 - Looking north from rear garden of subject site**





**Photo 3.3 - Looking south to the rear garden of subject site**



**Photo 3.4 - Looking north from rear garden of 33 McLaren Street**





**Photo 3.5 - Looking north from rear right of way and the boundary between 31 and 33 McLaren Street**



**Photo 3.6 - Looking north from the rear right of way to McLaren Street**





**Photo 3.7 - Looking east from the rear right of way with subject site on the left**



**Photo 3.8 - Looking west from the rear right of way with subject site on the right**

**4. CONSENT TYPE REQUIRED**

Planning Consent

**5. CATEGORY OF DEVELOPMENT**

**PER ELEMENT:**

Dwelling Addition: Code Assessed - Performance Assessed

Carport: Code Assessed - Performance Assessed

**OVERALL APPLICATION CATEGORY:**

Code Assessed - Performance Assessed

**REASON:**

P&D Code; does not meet Deem to Satisfy criteria and therefore defaults to Performance Assessed.

**6. PUBLIC NOTIFICATION**

**REASON**

The proposal will incorporate a wall situated on a boundary (not being a boundary with a primary street or secondary street) with a height exceeding three metres measured from the top of footings.

**LIST OF REPRESENTATIONS**

<b>TABLE 6.1 – LIST OF REPRESENTATIONS</b>		
<b>No.</b>	<b>Representor Address</b>	<b>Request to be Heard</b>
1	Barbara Chapman – 38 McLaren Street, Adelaide	Yes – Opposes
2	Helena and Shaun Oakey – 33 McLaren Street, Adelaide	Yes – Opposes
3	John Mollenmans – 218 Halifax Street, Adelaide	No – in support with some concerns

<b>TABLE 6.2 SUMMARY OF REPRESENTATIONS</b>	
<b>Summary of Representations</b>	<b>Applicant Response</b>
Overlooking	<ul style="list-style-type: none"> <li>• Development amended in accordance with Planning and Design Code which requires permanently obscured glazing to a minimum of 1.5 metres above finished floor level for upper level windows.</li> </ul>
Visibility to street	<ul style="list-style-type: none"> <li>• Development at rear of the property and not visible from McLaren Street. This is shown on architectural drawing A8.50. An eye level of 1.65 metres above finished floor level is used for these images.</li> </ul>
Overshadowing	<ul style="list-style-type: none"> <li>• Addition designed in accordance with the Code and aligns with the required setbacks.</li> <li>• A window shade on the first level protrudes slightly beyond the setback, however the impact of this due to the sloping first level wall is negligible.</li> <li>• Sun diagrams provided and these satisfy the Code. Impact of existing dwelling on adjacent properties shown which demonstrates impact is minimal and effective in ensuring adequate access to light and sun for adjacent properties.</li> <li>• Overshadowing the court to 33 McLaren Street has been referred to. Addition to 31 McLaren Street sits to the south of this light court, meaning it will not be affected. The same occurs for the ability to place solar panels on the adjacent roof. Sufficient roof space available and the impact is limited to late afternoon.</li> </ul>
Contribution to neighbourhood	<ul style="list-style-type: none"> <li>• Addition respectful and considerate of its context.</li> </ul>

**7. AGENCY REFERRALS**

Nil

**8. INTERNAL REFERRALS**

**Heritage**

The proposal plans show the rear addition will not be visible from the north side of McLaren Street due to the substantial setback for the upper storey addition. Accordingly, it is considered there will be no impact upon the defined heritage value of the subject Local Heritage Place or adjacent Local Heritage Places.



## 9. PLANNING ASSESSMENT

This development application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

### 9.1 Summary of City Living Zone Assessment Provisions

Subject Code Ref	Assessment	Achieved
		Not Achieved
DO 1	<ul style="list-style-type: none"> <li>Rear upper storey addition associated with existing dwelling.</li> </ul>	✓
Land Use & Intensity PO/DPF 1.1	<ul style="list-style-type: none"> <li>Adds to diversity of housing types in the Zone and will be used as a 'dwelling'.</li> </ul>	✓
Built Form and Character PO/DPF 2.2	<ul style="list-style-type: none"> <li>Materials, wall height, roof height and length on boundaries will ensure it will not detract from the streetscape or neighbouring properties.</li> </ul>	✓

### 9.2 Summary of Applicable Overlays

The following applicable Overlays (for 'dwelling addition') are not considered relevant to the assessment of the application:

- Affordable Housing Overlay – addition to existing dwelling proposed
- Airport Building Heights (Regulated) and Building Near Airfields Overlay – height not a concern
- Building Near Airfields Overlay – site not near an airfield
- Hazards (Flooding – Evidence Required) Overlay – no flooding concern
- Prescribed Wells Area Overlay – no well on site
- Regulated and Significant Tree – no regulated and significant trees on site
- Urban Tree Canopy – no removal of landscaping, only additional

#### Heritage Adjacency Overlay

Subject Code Ref	Assessment	Achieved
		Not Achieved
Land Use & Intensity PO/DPF 1.1	<ul style="list-style-type: none"> <li>Dwelling addition will be screened by existing built form when viewed from McLaren Street.</li> </ul>	✓



### Historic Area Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
Land Use & Intensity PO/DPF 1.1	<ul style="list-style-type: none"> <li>Overall height, articulation and use of multiple materials will reduce massing appearance.</li> </ul>	✓
Land Use & Intensity PO/DPF 2.1	<ul style="list-style-type: none"> <li>Design does not directly reference predominant pitched roofs in the locality and traditional materials, however this is not detrimental.</li> </ul>	✓

### Local Heritage Place Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
Land Use & Intensity PO/DPF 1.1 – 2.2	<ul style="list-style-type: none"> <li>Low scale addition to the rear and will not be visible from the street.</li> </ul>	✓

## 9.3 Summary of General Development Policies

### Design in Urban Areas

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> <li>Appropriate material selection.</li> </ul>	✓
PO/DPF 10.1	<ul style="list-style-type: none"> <li>Upper level rear south facing windows will have fixed frosted glazed panels to 1.55m above FFL.</li> </ul>	✓
PO 20.3	<ul style="list-style-type: none"> <li>Visual mass of upper level not readily visible from wider public realm.</li> </ul>	✓
PO/DPF 21.1	<ul style="list-style-type: none"> <li>21m<sup>2</sup> of private open space provided, with minimum dimension exceeding 1.8 metres.</li> </ul>	✓
PO 21.2	<ul style="list-style-type: none"> <li>Private open space accessible from a living area.</li> </ul>	✓
PO 22.1	<ul style="list-style-type: none"> <li>Limited area of soft landscaping provided to light court.</li> </ul>	✓/✗
PO/DPF 24.1	<ul style="list-style-type: none"> <li>Opportunity for bin storage to the rear.</li> </ul>	✓

### Interface between Land Uses

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1, PO 3.1 & 3.2	<ul style="list-style-type: none"> <li>Refer to Section 9.4.</li> </ul>	✓

## 9.4 Detailed Discussion

### Built Form and Character

City Living Zone PO 2.2 seeks development which contributes to a 'low-rise' (up to two building levels) residential character. The proposal seeks to construct a two level addition with an overall height of 7.4 metres and therefore Zone PO/DPF 2.2 is satisfied.

In terms of visibility from McLaren Street, Zone PO 2.3 prescribes that new buildings and structures visible from the public realm be consistent with the valued streetscape characteristics and prevailing built form characteristics such as floor to ceiling heights.

The McLaren Street locality, is consistent in terms of built form, is defined by the presence of low scale buildings, namely, the single storey cottages built close to the street frontage. This proposal will not be readily visible and maintains the single storey presentation of the dwelling to McLaren Street as the addition will be setback 10 metres from the front boundary.

The rear laneway is a right of way and not a public road. Whilst the proposed dwelling addition will be apparent when viewed from this area and adjoining properties, the character of this lane is defined by boundary development comprising disused garaging and outbuildings that service the dwellings fronting McLaren Street and Halifax Street. Considering the existing site context, the proposed built form, when viewed from McLaren Street, is deemed appropriate and not unlike existing development in terms of siting, height and visibility.

### Building Setbacks & Boundary Walls

Zone PO 3.3 and 3.4 seeks buildings setback from rear and side boundaries to provide separation between dwellings that is consistent with the locality and to allow access to natural light and ventilation for neighbours.

DPF 3.3 states that one way to meet PO 3.3 is to ensure walls are setback from side boundaries not less than the nearest side setback of the primary building on the adjoining allotment. From the rear, DPF 3.4 prescribes walls should be setback three metres for the ground floor, five metres for the first floor and five metres plus an additional one metre setback for every one metre in height above a wall height of over seven metres.

Abutting sites have walls constructed to their respective side boundaries and this development will be consistent with established side setbacks in the immediate locality.

The rear setbacks for the walls at ground and upper levels will be four metres, therefore only partially meeting those prescribed by DPF 3.4 (a) and (b). However, PO 3.4 will be met as the rear right of way will provide sufficient separation to adjacent dwellings. Access to natural light in relation to the proposed setbacks is discussed under the overshadowing heading.

Zone PO 3.5 envisages boundary walls limited in length and height to minimise impacts on adjoining properties. DPF 3.5 states one way to achieve PO 3.5 is to ensure buildings do not have a wall on a side boundary exceeding three metres in height, 11.5 metres in length and 45% of the total boundary length. These should be setback at least three metres from any existing or proposed boundary walls.

Along the east and west boundaries, the existing wall of the dwelling is proposed to be extended an additional 6.5 metres south and will have an overall length of 22.4 metres and maximum height of 7.4 metres. This will not result in significant overshadowing impacts.

It is anticipated some visual impact to the eastern and western neighbors will occur given the 7.4 metre wall height. This is not considered unreasonable as a majority of this wall will be located abutting neighbouring boundary walls.

#### Ancillary Development

Zone PO 8.1 and 8.2 seeks ancillary structures be sited and designed to not detract from the streetscape or neighbouring properties. Outbuildings, such as a verandah, should not impede private open space and landscaping requirements, or result in over development of the site.

The verandah area is currently open and the intent is to cover this area with a louvered verandah structure. The proposal will improve the existing situation and provide a dedicated private open space area. The proposal will result in a high level of site coverage, however this is not unlike the existing pattern of development in the immediate locality which comprises dwellings with predominately greater than 80% site coverage.

#### Overshadowing

Interface between Land Uses PO 3.1 and 3.2 seek development that minimises overshadowing of habitable room windows and private open space areas to maintain direct winter sunlight access.

DPF 3.1 outlines one way to achieve PO 3.1 is to ensure habitable room windows of adjacent residential land uses receive at least three hours of direct sunlight between 9am and 3pm on 21 June. Private open space areas should also maintain two hours of direct sunlight between 9am and 3pm to either half of the existing ground level open space or 35m<sup>2</sup> of the existing ground level open space (with at least one of the dimensions measuring 2.5 metres) as per DPF 3.2.

The applicant has provided overshadowing diagrams demonstrating existing and proposed shadows cast at 9am, 12 midday and 3pm on the 21 June. Considering the north-south orientation of the site, the properties to the east and west, at 29 and 33 McLaren Street, are expected to be impacted by shadows cast by the proposal.



**Figure 9.4.1 – 9am Winter Solstice**

At 9am, there is no change to the extent of overshadowing for habitable room windows or the private open space area to the west at 29 McLaren Street, as shown in Figure 9.4.1, however portions of the roof will be overshadowed.



**Figure 9.4.2 – Midday Winter Solstice**

At midday, the development will not exacerbate loss of light to habitable room windows or private open of either 29 or 33 McLaren Street as shown in Figure 9.4.2.



**Figure 9.4.3 – 3pm Winter Solstice**

At 3pm, there will be a change to overshadowing of 33 McLaren Street. There is no change to the extent of overshadowing of habitable room windows or the private open space area to the west at 29 McLaren Street as shown in Figure 9.4.3. However, portions of the roof of the dwelling and outbuilding will be overshadowed.

The shadow diagrams demonstrate the adjacent properties to the east and west do not currently receive two hours of direct sunlight to half of the existing ground level private open space areas between 9am and 3pm on 21 June. This proposal will not substantially diminish the current situation nor result in a significant loss of amenity considering the current overshadowing.

In relation to PO 3.2, it is anticipated the habitable room windows to adjacent neighbours will maintain existing levels of sunlight at the height of winter given windows are located to the south. The light court at 33 McLaren Street will not be affected by the proposal as it is located north of the proposed works.

### Visual Privacy

PO 10.1 and 10.2 seek development that mitigates direct overlooking from upper-level windows into habitable rooms and private open space areas of adjoining residential uses. DPF 10.1 and 10.2 prescribe ways in which overlooking is to be mitigated, by either incorporating permanently obscured glazing to windows or having sill heights of at least 1.5 metres above the finished floor level.

The upper level rear south facing windows have minimum sill heights of 1.55 metres above the finished floor area. The east and west elevations do not contain windows and therefore direct overlooking is not expected to occur.

## **10. CONCLUSION**

The proposal seeks a 'low-rise' upper floor dwelling addition to the rear of an existing single storey dwelling.

Noting the proposal seeks to maximise the built form potential at the site, it is not expected to result in unreasonable amenity impacts to adjacent neighbours by way of its design, architectural form and height and scale, as outlined in the body of this report. Visual privacy will be maintained, and overshadowing will not unreasonably impact neighbours.

The proposal is not 'seriously at variance' with the relevant assessment provisions of the Planning and Design Code and exhibits sufficient merit to warrant the issuing of Planning Consent.

## **11. RECOMMENDATION**

It is recommended the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 22018116, by Sans Arc Studio is granted Planning Consent subject to the following conditions and advices:

### **CONDITIONS**

1. **The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).**
  - DWG No. A0.04, dated 17.10.2022, titled Demolition Plan
  - DWG No. A1.01, dated 17.10.2022, titled Site Plan
  - DWG No. A1.02, dated 17.10.2022, titled Floor Plans
  - DWG No. A1.04, dated 17.10.2022, titled Roof Plan
  - DWG No. A1.09, dated 17.10.2022, titled Landscape Plan
  - DWG No. A2.01, dated 17.10.2022, titled Elevations
  - DWG No. A8.02, dated 17.10.2022, titled Schedules
  - DWG No. A8.50, dated 17.10.2022, titled View from McLaren

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2. **The applicant or the person having the benefit of this consent shall ensure that all storm water runoff 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 Relevant Authority.**

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3. **Frosted glass to 1550mm above FFL as depicted on '3 Elevation - South' in DWG A2.01 Rev A, dated 17.10.2022, shall be installed prior to the occupation or use of the Development and thereafter shall be maintained to the reasonable satisfaction of the Relevant Authority.**

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### **ADVISORY NOTES**

#### **1. Expiration Time of Approval**

Pursuant to the provisions of Regulation 67 of the Planning, Development and Infrastructure (General) Regulations 2017, this consent / approval will lapse at the expiration of 2 years 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 2 years, 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.

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## **2. Appeal Rights**

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).

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## **3. Notifications**

Pursuant to Regulation 93 of the Planning, Development and Infrastructure Act, the Council must be given one business days' notice of the commencement and the completion of the building work on the site. To notify Council, contact City Planning via [d.planner@cityofadelaide.com.au](mailto:d.planner@cityofadelaide.com.au) or phone 8203 7185.

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## **4. 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.

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## **5. Fencing**

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.

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## **6. Demolition**

Demolition and construction at the site should be carried out so that it complies with the construction noise provisions of Part 6, Division 1 of the Environment Protection (Noise) Policy 2007. A copy of the Policy can be viewed at the following site: [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

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## **7. Other Requirements**

In addition to notification and other requirements under the Planning, Development and Infrastructure Act and Fences Act, it is recommended that the applicant / owner consult with adjoining owners and occupiers at the earliest possible opportunity after Development Approval, advising them of proposed development work so as to identify and discuss any issues needing resolution such as boundary fencing, retaining walls, trees/roots, drainage changes, temporary access, waste discharges, positioning of temporary toilets etc.

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