



COUNCIL ASSESSMENT PANEL

Agenda and Reports

for the meeting
Monday, 28 August 2023
at 5.30 pm
in the Colonel Light Room, Adelaide Town Hall



Council Assessment Panel

Meeting Agenda

Monday, 28 August 2023, at 5.30 pm, Colonel Light Room, Adelaide Town Hall

Panel Members

Presiding Member – Nathan Cunningham

Panel Members – Mark Adcock, Colleen Dunn, Emily Nankivell and Councillor Keiran Snape

Deputy Panel Member – Prof Mads Gaardboe and Councillor Carmel Noon

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 24 July 2023, be taken as read and be confirmed as an accurate record of proceedings.

View public 24 July 2023 Minutes [here](#).

2. Declaration of Conflict of interest

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

Nil

3.1 Subject Site 87-90 Palmer Place, North Adelaide [Pages 4 - 23]

3.2 Subject Site 112-114 Gilles Street, Adelaide [Pages 24 - 50]

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 Subject Site Council Assessment Panel - Adoption of Meeting Procedures [Pages 51 - 71]

6.2 Subject Site Other Business raised at Panel Meeting [Pages]

6.3 Subject Site Next Meeting - 25 September 2023 [Pages]

7. Closure

Council is committed to openness and transparency in its decision making processes, however some documents contained within attachments to Development Assessment Panel agenda items are subject to copyright laws. This information is marked with a copyright notice. If these documents are reproduced in any way, including saving and printing, it is an infringement of copyright. By downloading this information, you acknowledge and agree that you will be bound by provisions of the *Copyright Act 1968 (Cth)* and will not reproduce these documents without the express written permission of the copyright owner.

Agenda Item 3.1

Council Assessment Panel

28 August 2023

Subject Site	87-90 Palmer Place, North Adelaide SA 5006
Development Number	23012731
Nature of Development	Alterations and addition to existing dwelling, including demolition of rear addition, construction of two storey addition with roof top deck, repainting, re-roofing and heritage conservation works to front verandah.
Representations	Listed to be Heard - Yes
Summary Recommendation	Planning Consent Granted
Status	Public

DEVELOPMENT NO.:	23012731
APPLICANT:	Jaqueline Murdoch
AGENDA ITEM NO:	3.1
ADDRESS:	87-90 Palmer Place, North Adelaide SA 5006
NATURE OF DEVELOPMENT:	Alterations and addition to existing dwelling, including demolition of rear addition, construction of two storey addition with roof top deck, repainting, re-roofing and heritage conservation works to front verandah
ZONING INFORMATION:	Zones: • City Living Subzones: • North Adelaide Low Intensity Overlays: • Aircraft Noise Exposure • Airport Building Heights (Regulated) • Building Near Airfields • Hazards (Flooding - Evidence Required) • Heritage Adjacency • Historic Area • Local Heritage Place Technical Numeric Variations (TNVs): • Maximum Building Height – 2 levels
LODGEMENT DATE:	8 May 2023
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	2023.6 – 27 April 2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Janaki Benson Team Leader, Development Assessment
REFERRALS NON-STATUTORY:	Heritage Architect Traffic and Engineering

CONTENTS:

ATTACHMENT 1:	Application Documents	ATTACHMENT 4:	Representation Map
ATTACHMENT 2:	Subject Land & Locality Map	ATTACHMENT 5:	Representations
ATTACHMENT 3:	Zoning Map	ATTACHMENT 6:	Response to Representations
		APPENDIX 1:	Relevant P&D Code Policies

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

PERSONS SPEAKING BEFORE THE PANEL

Representor

- John Mason of Planning Chambers on behalf of Paul and Sally Patterson – 156 Kermode Street, North Adelaide

Applicant

- Jaqueline Murdoch

1. DETAILED DESCRIPTION OF PROPOSAL

1.1 Alterations and additions are proposed to the existing dwelling at 87-90 Palmer Place, consisting of the following:

- Demolition of the existing two storey rear addition containing garage, laundry, kitchen, bedroom, bathroom and roof balcony
- Construction of a two storey addition comprising:
 - ground level – garage, laundry, new staircase, lift, entry and staircase
 - upper level – kitchen, living, dining, toilet, staircase within the roof line and balcony
 - roof level – roof deck with balustrading and staircase
- Alterations to the existing dwelling including new entrance from Palmer Place through existing window opening and a renovated ensuite, walk-in robe area adjacent the main bedroom.

2. BACKGROUND

- 2.1 The dwelling is a Local Heritage Place, constructed circa 1890-1920 in the Edwardian style.
- 2.2 The existing two storey rear addition was constructed in 2001-2002 and incorporates eaves that encroach over Palmer Lane.
- 2.3 Since public notification, the applicant has made amendments to the proposal including the lowering of the parapet wall to the east and the inclusion of an obscured glazed balustrade.
- 2.4 Minor amendments to materials have also occurred to satisfy Council's Heritage Architect requirements.

3. SUBJECT LAND & LOCALITY

Subject Land

- 3.1 The subject site is located on the corner of Palmer Place and Kermode Street. The site slopes down from the northwest to the southeast towards Kermode Street, which is its primary frontage.
- 3.2 The site is rectangular with a western boundary to Palmer Place of 27.66 metres, an eastern side boundary of 27.62 metres, a rear boundary to Palmer Lane of 9.09 metres and frontage to Kermode Street of 9.32 metres. The site has an area of approximately 254m².
- 3.3 The existing building occupies almost the entire site, with no private open space at ground level. A small front and side yard of 18m² in area fronts Kermode Street and Palmer Place and includes small ornamental vegetation.
- 3.4 The site abuts a two storey dwelling to the east at 156 Kermode Street which is a single storey heritage listed cottage with a two storey addition to the rear.

Locality

- 3.5 The locality is mostly residential in nature, containing a mix of single and two storey dwellings. Several commercial premises are located further to the east on Kermode Street.
- 3.6 Large stately homes are located on the northern and western sides of Palmer Place, whilst a denser pattern of land division and smaller dwellings characterise the eastern side, especially on Kermode Street.
- 3.7 Palmer Gardens dominates the locality, providing expansive views and a sense of openness for properties fronting the reserve.



Photo 3.1: View of subject site from Palmer Place



Photo 3.2: View of subject site from Kermode Street



Photo 3.3: View of subject site looking northeast



Photo 3.4: View of subject site from Palmer Gardens



Photo 3.5: View of adjacent dwelling to the north on Palmer Place



Photo 3.6: View of adjacent dwelling to north at 85 Palmer Place



Photo 3.7: View of existing upper addition



Photo 3.8: Current separation to the rear between 156 and 158 Kermode Street

4. CONSENT TYPE REQUIRED

Planning Consent

5. CATEGORY OF DEVELOPMENT

- **PER ELEMENT:**
Partial demolition of a building or structure – Code Assessed – Performance Assessed
Dwelling alteration and addition – Code Assessed – Performance Assessed
Internal building work – Code Assessed – Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed – Performance Assessed
- **REASON**
The dwelling is in an Historic Area Overlay and is a Local Heritage Place. Partial demolition of the existing building and construction of a dwelling addition are Code Assessed - Performance Assessed development.

6. PUBLIC NOTIFICATION

- **REASON**
The wall proposed on the east boundary will exceed 3 metres in height which does not satisfy City Living Zone, Table 5 - Class of Development Part 2. Consequently, public notification was undertaken. The following representation was received as part of the notification process:

TABLE 6.1 – LIST OF REPRESENTATIONS		
No.	Representor Address	Request to be heard
1	Paul and Sally Patterson, 156 Kermod Street, North Adelaide	Yes - Opposes

TABLE 6.2 SUMMARY OF REPRESENTATIONS
<ul style="list-style-type: none">• Height of proposed side wall on common boundary• Enclosure of existing shared light well• Impact on access to light, ventilation and outlook

Note: The full representation and applicant's response to the representation are included in Attachments 5 and 6.

7. AGENCY REFERRALS

None required.

8. INTERNAL REFERRALS

Local Heritage

Significant views to the Cathedral spires will be retained with no greater impact than the existing arrangement when viewed from Palmer Gardens.

The proposal is ambitious, however appropriate when considered in terms of the existing addition. The development is a more appropriate update that clearly separates historic and modern fabric, compared with the existing addition.

Traffic & Engineering

No issues from traffic perspective and stormwater drainage should comply with Australian Standard AS3500.

9. PLANNING ASSESSMENT

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

9.1 **Summary of North Adelaide Low Intensity Subzone Assessment Provisions**

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1 & DO2	<ul style="list-style-type: none"> Existing low rise dwelling maintained. Site is not large with an open landscaped setting, nor are others in immediate locality. 	✓
Built Form & Character PO 1.1	<ul style="list-style-type: none"> Open landscape setting character does not prevail in immediate locality. Low density character of the area is to the west and north around Palmer Place, rather than on the eastern side where this development is located. 	✓
Site Coverage PO 2.1	<ul style="list-style-type: none"> Exceeds 50% desired, however no additional site coverage proposed. New structure constructed to the property boundaries in a similar manner to the existing structure. 	✓

9.2 **Summary of City Living Zone Assessment Provisions**

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Existing low rise dwelling form maintained. 	✓
Land Intensity & Land Use PO 1.1	<ul style="list-style-type: none"> Existing dwelling desired use. 	✓
Built Form & Character PO 2.2, 2.3, 2.5	<ul style="list-style-type: none"> Maximum building height of two levels maintained (deck not a building level). 	✓

	<ul style="list-style-type: none"> • Addition proposes built form visible from the public realm but that is not discordant with existing built form. • Addition will not address the primary frontage. 	
Building Setbacks PO 3.1 - 3.5	<ul style="list-style-type: none"> • No change to primary street boundary. • Proposal will be constructed to the secondary street boundary, however current dwelling and addition located on this boundary. • At the upper level, the existing structure is setback (in part) from the boundary abutting 156 Kermode Street. • Recommended side setbacks not achieved, however existing addition only provides a setback for a small portion of the boundary. 	✓/✗
Car Parking & Access PO 5.1	<ul style="list-style-type: none"> • No change from existing arrangement. 	✓

9.3 Summary of Applicable Overlays

The following applicable Overlays are not considered relevant to an assessment of the application:

- Aircraft Noise Exposure Overlay – existing dwelling but also located in area with an ANEF value below 30
- Airport Building Heights (Regulated) – existing low-rise dwelling
- Building Near Airfields Overlay – building not located near airfield

Hazards (Flooding – Evidence Required) Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
Desired Outcome DO 1	<ul style="list-style-type: none"> • Not achieved. 	✗
Floor Resilience PO 1.1	<ul style="list-style-type: none"> • Finished floor level not at least 300mm above top of kerb. • Proposed heights acceptable as the entrance matches the floor level of the heritage place and the remainder, consisting of the carport and laundry cannot achieve the desired level given the absence of a setback to accommodate a ramp. 	✓/✗

Heritage Adjacency Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Built Form PO 1.1	<ul style="list-style-type: none"> Proposed addition setback sufficient distance from the Local Heritage Place at 156 Kermode Street so visibility will be limited to the roof deck when viewed from Kermode Street. 	✓

Historic Area Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> North Adelaide Cathedral Historic Area Statement (Adel9) relevant. Replacement addition not dissimilar to existing rear addition and development in the locality. More sympathetic than current addition. 	✓
All Development PO 1.1	<ul style="list-style-type: none"> Form not expressed in Historic Area Statement, however consistent with locality. 	✓/✗
Built Form PO 2.1 - 2.5	<ul style="list-style-type: none"> Proposal consistent with prevailing development in locality. Built form more sympathetic than previous addition. Materials as amended considered appropriate. 	✓/✗
Alterations & Additions PO 3.1, 3.2	<ul style="list-style-type: none"> Addition replacing existing rear addition, with inclusion of roof deck. No changes to the building elevation facing primary street. 	✓/✗
Context & Streetscape Amenity PO 6.1, 6.2	<ul style="list-style-type: none"> No change to the existing driveway access. 	✓

Local Heritage Place Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Built Form PO 1.1 - 1.7	<ul style="list-style-type: none"> Replacement addition does not diminish heritage value. Addition will be visible from Palmer Place and not dissimilar to the existing addition. Addition minimises visual presence when viewed from Kermode Street, which is the primary heritage viewpoint. Proposal is a modern design generally visually compatible with the heritage built form. 	✓
Alterations & Additions PO 2.1, 2.2	<ul style="list-style-type: none"> Proposed addition generally more sympathetic than previous addition. 	✓
Demolition PO 6.1, 6.2	<ul style="list-style-type: none"> Demolition will not impact elements of heritage value. 	✓

9.4 Summary of General Development Policies

Clearance from Overhead Powerlines

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
Desired Outcome DO 1	<ul style="list-style-type: none"> Achieved. 	✓
PO 1.1	<ul style="list-style-type: none"> Declaration provided on submission of application. 	✓

Design in Urban Areas

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
Desired Outcome DO 1	<ul style="list-style-type: none"> Proposal consistent with development in the locality. Materials durable and sustainable. 	✓

All Development		
Earthworks and Sloping Land PO 8.1 – PO 8.5	<ul style="list-style-type: none"> • Driveway not proposed with access via existing crossover to Palmer Place. 	✓
Overlooking/Visual Privacy (low rise buildings) PO 10.1, 10.2	<ul style="list-style-type: none"> • Application amended to include obscured glazing to upper level deck. 	✓
All Residential Development		
Front elevations and passive surveillance PO 17.1, PO 17.2	<ul style="list-style-type: none"> • Proposal removes existing front entry from Kermode Street and Palmer Place corner. • Entry will be gained via door to Palmer Place, adjacent the garage. • Adequate opportunity for surveillance of the public realm from the dwelling. 	✓
Outlook and Amenity PO 18.1	<ul style="list-style-type: none"> • Upper level living room has external outlook to Palmer Gardens. 	✓
External appearance PO 20.1 - 20.3	<ul style="list-style-type: none"> • Existing garaging replaced in same location with access from Palmer Place. • Insufficient space for alternative design. • Elevation from Palmer Place makes a positive contribution to the streetscape through provision of an extensive glazed upper level addition. • Presentation of the addition at ground level is inactive and non-contributory aesthetically, however remainder of existing dwelling contributes to the streetscape. • Uppermost level of the roof deck features glazing to reduce visual mass. 	✓/x
Private Open Space PO 21.1- PO 21.2	<ul style="list-style-type: none"> • Table 1 – POS seeks a dwelling with a site area exceeding 200m² to have 20% private open space. • Existing dwelling has a covered upper level balcony of 20m². This equates to 8% of the site area. • Proposed roof deck and small balcony at upper level will provide 47m² of POS (18.6% of the site area). 	✓/x
Landscaping PO 22.1	<ul style="list-style-type: none"> • No reduction in soft landscaping resulting from the development. 	✓
Car Parking, Access and Manoeuvrability PO 23.1 - 23.6	<ul style="list-style-type: none"> • Replacement garage will not exacerbate current garaging and manoeuvring. 	✓
Waste Storage PO 24.1	<ul style="list-style-type: none"> • Located within the garage. 	✓

9.5 Detailed Discussion

Heritage

The existing dwelling is one of a series of Local Heritage Places located on the northern side of Kermode Street.

PO 2.1 of the Local Heritage Place Overlay seeks alterations and additions that complement the building and are sited to be unobtrusive, not conceal or obstruct heritage elements and detailing, or dominate the Local Heritage Place.

The proposal is a sleeker, simpler update of the existing rear addition. Being sited on the corner of Palmer Place and Kermode Street, coupled with a large expanse of open Park Lands adjacent the site to the west, any addition will be visible and it is difficult for it to be unobtrusive. The proposal is set at the rear of the Local Heritage Place, so when viewed from the primary front elevation, visibility will be minimal. Council's Heritage Architect has confirmed the proposal is appropriate and clearly separates the historic fabric from the modern version.

PO 1.1 of the Heritage Adjacency Overlay seeks development adjacent listed places that does not dominate, encroach or unduly impact upon the setting of the place. The replacement addition has no greater impact upon the adjacent places than the previous addition. The addition is located at the rear of the adjacent Local Heritage Place where it will be largely imperceptible from the Kermode Street primary views of the adjacent heritage place.

The site is located in the Historic Area Overlay which provides specific guidance for certain areas through Historic Area Statements. The North Adelaide Cathedral Historic Area Statement (Adel9) is of relevance for this site. In terms of architectural styles, detailing and built form features, the Area Statement attributes the area with Victorian and Inter-war detached dwellings. It provides guidance on materials, fencing, landscaping, setting and public realm features noting the important view of St Peters Cathedral south from Kermode Street. Whilst the proposal is not specifically in accordance with the Historic Area Statement, it is an improvement on the previous addition and is considered to result in more appropriate heritage impact which is supported by Council's Heritage Architect.

Built Form

The site is located within the North Adelaide Low Intensity Subzone of the City Living Zone. In this Subzone, low-rise, low-density housing on large allotments in an open landscaped setting are envisaged. More broadly, the City Living Zone seeks low to medium rise residential development. Whilst housing on large allotments in an open landscaped setting is desired, this type of development does not prevail in the immediate locality.

The addition proposes built form visible from the public realm not discordant with existing built form. As the proposal will maintain the existing two building levels this is consistent with PO 2.2/DPF 2.2 of the Zone. The removal of the pitched roof, replaced with a roof deck, reduces any perceptible height difference as viewed from the adjacent Park Lands.

The proposal will exceed the 50% site coverage contrary to PO 2.1 of the Subzone, however it will replicate the existing addition and no additional site coverage is proposed.

The built form is considered appropriate given the context of the existing site and the locality. The improved relationship between the existing Local Heritage Place and the new addition is a positive outcome.

Setbacks

The City Living Zone provides guidance on appropriate setbacks to maintain important streetscapes as well as protect residential amenity. There is no change to the primary setback to Kermode Street.

PO 3.2 seeks setbacks from secondary street boundaries to maintain a pattern of separation between building walls and public thoroughfares and to reinforce the streetscape character. DPF 3.2 states building walls should be no closer than 900mm to the secondary boundary.

The replacement addition will be on the secondary boundary, however will be consistent with the current addition.

DPF 3.4 seeks buildings setback from the rear boundary to provide adequate light and ventilation for neighbouring properties. There will be no setback from the rear, however this elevation faces a private laneway providing vehicular access for the property at 85 Palmer Place and is acceptable.

PO 3.5 seeks side boundary built form limited in height and length to manage impacts on adjoining properties. The ground level of the existing addition is set on the boundary. The upper level is setback approximately 800mm for a portion of the boundary with 156 Kermode Street. This provides separation for a western window to a bedroom on the upper level of the neighbouring dwelling and some light penetration to a service walkway at ground level. The new addition will locate the wall along the entire length of the boundary at both ground and upper levels.

The setbacks are considered acceptable as there will still be adequate access to light and ventilation to the bedroom of the adjacent dwelling via a window on the northern elevation. The applicant has also amended the proposal to reduce the wall height and included a 1.6 metre high obscure glass screen setback 350mm off the boundary to reduce the impact and sense of enclosure for the neighbour.

Residential Amenity

Subject Site

The addition will provide an improved amenity outcome for the occupiers with the elevation of the kitchen/dining/living area to the upper level and a balcony, directly accessible from the living space in accordance with PO 21.1 'Design in Urban Areas', General Development Policies. A new roof deck will be accessed via external stairs off the dining area, offering views across the adjacent Park Lands which accords with PO 18.1 of 'Design in Urban Areas', General Development Policies.

The private open space will increase from 8% to 18.6%. Whilst the proposal falls short of the 20% of the site area recommendation in Table 1 – Private Open Space in 'Design in Urban Areas', General Development Policies, the increase is a positive aspect of the proposal and an improvement, particularly given the limited opportunity to provide space at ground level.

No additional landscaping is proposed and the site is constrained in this aspect. Given the increase in private open space and the quality it will achieve, this is acceptable.

Adjoining Site

PO 10.2 of 'Design in Urban Areas', General Development Policies seeks development mitigate direct overlooking from upper levels into adjoining residential properties. It provides techniques, including installation of obscured screening to a minimum height of 1.7 metres above the finished floor level when located within 15 metres from the nearest habitable window of a dwelling on adjacent land.

Originally, the proposal incorporated a solid wall on the eastern boundary, having an overall height of approximately 8.9 metres which would block views to adjoining properties. In response to concerns from the neighbour regarding loss of light and outlook, it was amended to 7.8 metres, with a 1.6 metre high obscure glass screen, setback 350mm from the boundary.

The screening returns to the northern façade of the roof deck to mitigate overlooking to the rear of the residence at 85 Palmer Place. Despite the screening not being 1.7 metres, the sightline to the neighbouring bedroom window to the east will be disrupted. This will occur as the neighbouring window is only 2 metres from the obscured balustrade and approximately 3 metres lower than the top of the balustrade.

In terms of overshadowing, PO 3.1 'Interface between Land Uses', General Development Policies seeks to minimise overshadowing of habitable room windows of adjacent residential premises. DPF 3.1 states north-facing windows of habitable rooms of adjacent residential land uses should receive at least 3 hours of direct sunlight between 9.00am and 3.00pm on 21 June.

The proposal will alter existing direct winter sunlight for the adjoining property at 156 Kermode Street. As previously mentioned, there is currently separation between the two buildings at the upper level with an 800mm setback along a portion of the boundary. With the introduction of a wall along the entire length of the boundary, this will reduce access to some direct light for the adjoining site. This is acceptable as the bedroom impacted has a window facing north and one facing west. The proposal does not impact on the north facing window as sought by DPF 3.1.

10. CONCLUSION

This application proposes alterations and additions to the existing Local Heritage Place including demolition of the existing rear two storey addition and construction of a new addition with the inclusion of a roof deck accessed via an external stair from the living area. The proposal achieves relevant provisions of the Planning and Design Code as follows:

- in terms of Historic Area Overlay requirements, the scale, form, siting and streetscape is considered appropriate in context of the locality and the current addition
- provides a more sympathetic addition to the existing Local Heritage Place thereby enhancing the heritage and cultural value of the place
- will not negatively impact upon the setting of the adjacent Local Heritage Place
- incorporates high quality materials and finishes that will be durable
- residential amenity will be high with good access to light and ventilation
- privacy of adjoining properties protected through screening
- vehicular access and parking whilst reconstructed, will maintain the status quo in terms of access and the number of car parks.

It is acknowledged the proposal does not achieve all relevant provisions, however it is considered to warrant support for the following reasons:

- whilst all setback requirements are not met, several will be the same as the existing addition
- where there has been a change in the setback to the eastern boundary, the impact upon the adjoining property at 156 Kermode Street is not considered fatal as sunlight to the northern habitable room window is not altered and impact to the western facing window of the same room is not unreasonable
- the proposal does not achieve the minimum level of private open space as desired, however it will improve the current provision, is well located and will be of high quality
- whilst landscaped open space provisions are not met, the proposal does not decrease the current provision.

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 that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016* (SA), 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 23012731, by Jaqueline Murdoch 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)**
 - **Plans drafted by Proske Architects, project no. 22-043 drawing nos. SK01.A, SK04.A, SK05.A, SK06.A and SK07 all dated 14.8.2023 and SK02, SK03 all dated 03.05.2023**

2. **The privacy screening as depicted on the plans granted consent described as Drawing No. SK04.a and SK05.A 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 at all times.**

3. **All stormwater run-off from the development including awnings shall be collected in a system of gutters, pits and pipelines and discharged by gravity to the kerb and gutter of a public road in accordance with the National Construction Code, AS3500.3 and Council's City Works Guide Works Impacting City of Adelaide Assets and Urban Elements Catalogue. All downpipes affixed to the Development which are required to discharge the storm water runoff shall be installed within the property boundaries of the Land and the development designed to prevent ingress of surface flows from adjacent public land.**

4. **External materials, surface finishes and colours of the Development shall be consistent with the description and sample hereby granted consent and shall be to the reasonable satisfaction of the Relevant Authority.**

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.

2. 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 or phone 8203 7185.

3. 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).

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.

5. 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.

6. City Works Permit

Any activity in the public realm, whether it be on the road or footpath, requires a City Works Permit. This includes activities that have received Development Approval. 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/business/permits-licences/city-works/

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.

Agenda Item 3.2

Council Assessment Panel

28 August 2023

Subject Site	112-114 Gilles Street, Adelaide SA 5000
Development Number	23009317
Nature of Development	Demolition of existing buildings and construction of three (3) four storey dwellings in a terrace arrangement.
Representations	Listed to be Heard - Yes
Summary Recommendation	Planning Consent Granted
Status	Public

DEVELOPMENT NO.:	23009317
APPLICANT:	Alexandra Stadtkus / Enzo Caroscio
AGENDA ITEM NO:	3.2
ADDRESS:	112-114 Gilles Street, Adelaide SA 5000
NATURE OF DEVELOPMENT:	Demolition of existing buildings and construction of three (3) four storey dwellings in a terrace arrangement
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • City Living <p>Subzones:</p> <ul style="list-style-type: none"> • Medium-High Intensity <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Affordable Housing • Building Near Airfields • Design • Heritage Adjacency • Hazards (Flooding - Evidence Required) • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height (14 Metres) • Minimum Building Height (2 Levels) • Maximum Building Height (4 Levels) • Minimum Site Area (Minimum site area – 100m²)
LODGEMENT DATE:	5 April 2023
RELEVANT AUTHORITY:	City of Adelaide Assessment Panel
PLANNING & DESIGN CODE VERSION:	2023.5 – 30 March 2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Phil Chrysostomou Senior Planner - Development Assessment
REFERRALS STATUTORY:	Environment Protection Authority
REFERRALS NON-STATUTORY:	Local Heritage Engineering/Traffic

CONTENTS:

ATTACHMENT 1:	Application Documents	ATTACHMENT 5:	Representations
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 6:	Response to Representations
ATTACHMENT 3:	Zoning Map	ATTACHMENT 7:	External Referral Responses
ATTACHMENT 4:	Representation Map	APPENDIX 1:	Relevant P&D Code Policies

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

PERSONS SPEAKING BEFORE THE PANEL

Representors

- Kim Webber of 33 Stephens Street, Adelaide
- Paul Halford on behalf of Sue Halford, of 31 Stephens Street, Adelaide

Applicant

- Marcus Rolfe of URPS on behalf of the applicant

1. DETAILED DESCRIPTION OF PROPOSAL

1.1 The proposal seeks demolition of existing buildings and construction of three, four storey dwellings in a terrace arrangement. It should be noted a 'terrace arrangement' is defined in the Planning and Design Code as:

'a group of 3 or more detached dwellings erected side by side and abutting each other but not joined by way of a party wall or party walls.'

1.2 Each dwelling is to comprise:

- ground floor - entry foyer to Gilles Street, home office, store, lift and stair access, garaging areas capable of accommodating two off-street vehicle spaces, accessible via rear common driveway.
- first level - three bedrooms with ensuites and walk in robe/store. Dwelling at 114 Gilles Street will have a varied internal layout to include a laundry, study nook and recessed balcony fronting Stephens Street.
- second level - open plan kitchen, living and dining areas, water closet and associated storage areas and terrace.
- third level - fourth bedroom with ensuite and walk in robe, laundry areas, storage and terrace. Dwelling at 114 Gilles Street will comprise a varied internal layout comprising an open plan rumpus room and bathroom in lieu of the additional bedroom, laundry and storage areas.

1.3 The proposed dwellings will have primary frontages addressing Gilles Street. Dwellings will share a common driveway accessed via an existing crossover in Stephens Street.

1.4 Widening of existing Stephens Street crossover together with the reinstatement of the existing vehicle crossover from Gilles Street is proposed.

1.5 The development proposes a wall height at the street boundaries of 11.75 metres and maximum building height of 14.05 metres measured from ground level.

1.6 A mix of materials, finishes and colours are proposed including masonry brickwork (comprising recessed detailing), painted fibre cement sheeting, aluminium framed glazing, steel balustrading and precast concrete.

2. BACKGROUND

2.1 The existing buildings at the site have existing land use rights as an office and warehouse.

2.2 The applicant sought preliminary advice in relation to the proposal in December 2022.

2.3 A request for information to the applicant sought clarification of proposed title arrangements, rooftop services and lift overruns, overlooking strategies, tree plantings in accordance with the Urban Tree Canopy Overlay and feedback regarding traffic, stormwater and heritage adjacency provisions.

2.4 The following items were clarified and amended in response to this request for further information:

- title arrangement to be Community Title Scheme
- 1.5 metre obscured glass balustrading to second floor terrace at 112a Gilles Street and overlooking sightlines provided
- traffic and Stormwater assessments provided
- documented lift overruns for each dwelling (proposed maximum height of 15 metres). This was subsequently amended to be contained in the roof space.
- raising of ground finished floor levels to satisfy Hazards (Flooding-Evidence Required) Overlay

- inclusion of the negative joint over stairs, in response to feedback from Council's Heritage Advisor
- confirmed three small trees would be planted in accordance with the Urban Tree Canopy Overlay.

2.5 Public notification was undertaken and five representations received. Of these, three are opposed to the development and two are in support with concerns.

2.6 Further amendments were made to the proposal in response to the representations as follows:

- north facing windows at level 1 to be obscured to height from 1.5 metres to 1.6 metres and from 1.5 metres for obscured glazing
- north facing terraces at level 2 to include 1.6 metre high obscured glass balustrading from 1 metre high vertical slat balustrading.

3. SUBJECT LAND & LOCALITY

Subject Land

- 3.1 The subject site comprises two allotments located on the northeast corner of the intersection of Gilles and Stephens Streets. The development site has an overall primary frontage of 25.32 metres to Gilles Street and secondary street frontage of 18.39 metres to Stephens Street. The total site area is approximately 465m².
- 3.2 The site is contained in Certificates of Title Volume 5542 Folio 582 and Volume 5501 Folio 454. Both titles have access to a Right of Way over a narrow portion of land (1.22 metres in width) directly north of the subject site. There are no other easements or encumbrances registered against the Certificate of Titles.
- 3.3 The site contains two single storey buildings used as an office and warehouse. The existing buildings are constructed to all allotment boundaries, each with a mirrored indent on northern boundaries.
- 3.4 112 Gilles Street is currently serviced by a crossover to Gilles Street and 114 Gilles Street by a crossover to Stephens Street.

Locality

- 3.5 The locality is mixed with in terms of building heights and design, allotment sizes, setbacks and land use.
- 3.6 Scale of development varies between low to medium rise, with the locality comprising a range of one, two, three and four storey buildings.
- 3.7 Both non-residential and residential uses are dispersed within the locality, with Gilles Street containing a higher proportion of non-residential uses such as offices, warehouses and shops/cafes/restaurants.
- 3.8 Gilles Street Primary School is located opposite the subject site to the south and Pulteney Grammar School is located further west along Gilles Street.
- 3.9 Allotments north of the subject site include a high proportion of Local Heritage Places that are largely residential in nature. A two storey Local Heritage Place at 110 Gilles Street abuts the subject site and Gilles Street Primary School contains a State Heritage Place.



Photo 3.1 – Subject site viewed from southern side of Gilles Street



Photo 3.2 – Existing development further west on Gilles Street and Gilles Street Primary School on southern side of Gilles Street



Photo 3.3 – Existing development further east on Gilles Street



Photo 3.4 – Stephens Street looking south with subject site to the right



Photo 3.5 – Adjacent dwellings at 122 Gilles Street, Adelaide



Photo 3.6 – Dwellings directly north of the subject site on Stephens Street

4. **CONSENT TYPE REQUIRED:**

Planning Consent

5. **CATEGORY OF DEVELOPMENT:**

PER ELEMENT:

Demolition: Exempt and New Housing – Dwelling: Code Assessed – Performance Assessed

OVERALL APPLICATION CATEGORY:

Code Assessed – Performance Assessed

REASON:

Dwellings not listed in Tables 1 to 4 of the City Living Zone, and therefore default to Performance Assessed, all other code assessed development.

6. **PUBLIC NOTIFICATION**

Pursuant to City Living Zone Table 5 (Procedural Matters) Clause 2, construction of a wall on a boundary exceeding 3 metres in height is proposed and required public notification.

TABLE 6.1 – LIST OF REPRESENTATIONS		
No.	Representor Address	Request to be Heard
1	Marcus Packard – 54 Dunbar Terrace, Glenelg East (owner of 122 Gilles Street, Adelaide)	No – Support with concerns
2	Christina Simms and Mark Reardon – 98 Gilles Street, Adelaide	No – Opposes
3	Brenda Barnett – 12 Swift Avenue, Dulwich	No – Support with concerns
4	Kim Webber – 33 Stephens Street, Adelaide	Yes – Opposes
5	Sue Halford – 31 Stephens Street, Adelaide	Yes – Opposes

TABLE 6.2 SUMMARY OF REPRESENTATIONS
<ul style="list-style-type: none">• Visual privacy/overlooking• Amenity impacts from building height• Impacts to Stephens Street historic streetscape• Noise and vibration• Parking supply• *Construction impacts• **Amenity loss from demolition

** Construction impacts not within the ambit of a planning assessment*

***Demolition not a notified element and therefore, impacts pertaining to demolition cannot be considered.*

Note: A full version of the representations and the applicant's response to representations are included in Attachments 5 and 6.

7. **AGENCY REFERRALS**

Environment Protection Authority

The application was referred to the Environment Protection Authority (EPA) as prescribed by *Practice Direction 14 – Site Contamination Assessment* as a change to a more sensitive use is proposed. The EPA notes the following in relation to the proposal:

- the Preliminary Site Investigations report states no potentially contaminating activities have been undertaken at the site, in accordance with Practice Direction 14.
- there have been no intrusive soil, soil vapour or groundwater investigations at the subject site.
- the consultant has recommended intrusive sampling should be undertaken at the site once soils are made accessible to appraise and quantify inferred environmental risks.
- the EPA holds a notification of site contamination that affects or threatens underground water for an adjacent site, at 95-97 Gilles Street, Adelaide. The notification was for the presence of metals, inorganics, oil and grease, and total recoverable hydrocarbons in groundwater.
- following receipt of the section 83A notification, a Site Contamination Audit Report was issued by an accredited site contamination auditor who concluded that, based on the primary school land use, site contamination of soils and groundwater did not exist at 95-97 Gilles Street.

The EPA notes pre-conditions for an audit do not exist, taking into account:

- site contamination has been determined to not exist
- realistic human health exposure pathways have not been identified based on the proposed land use
- remediation is not or does not remain necessary to mitigate exposure risk based on the proposed land use.

Based on the information submitted and the information held by the EPA, the EPA is satisfied the site could be made suitable for the proposed use subject to a statement of site suitability, using the form required by Practice Direction 14.

The EPA has directed the planning authority to include two conditions of consent and one advisory note (see conditions and advisory note in Section 11).

8. **INTERNAL REFERRALS**

Local Heritage

The application was referred to Heritage Advisors for feedback in relation to the Heritage Adjacency Overlay and the following was received:

- The proposal is generally compatible with the adjacent Local Heritage Place and other built form in the locality. Notwithstanding, it is considered the continuous roof dominates the setting of the adjacent Local Heritage Place.
- It is advised that incorporating a negative joint detail between each dwelling would provide sufficient relief to the adjacent Local Heritage Place. One potential way to limit impacts (without modifying the floor plan) could be to modify the roof with raking sections between residences.

Note: The applicant amended the roof design in accordance with this feedback.

In response to the amended design, the proposal was rereferred and the following response was provided:

- The dwellings proposed include four storey brick faced buildings with recessive sheet clad portions separating the brick frontages. To the west, the building interfaces with a two storey simple gabled Local Heritage Place with rendered facings. To the north is a reasonably low scale area with a mix of Local Heritage Places and more contemporary one and two storey dwellings.
- The northern side of Gilles Street is typically characterised by medium rise residential development, with the southern side being lower scale and includes Gilles Street Primary School which is listed as a State Heritage Place.

Heritage Adjacency Overlay - Assessment

Desired Outcome 1

- The adjacent Local Heritage Places are good examples of their typology and how they reflect patterns of development within the city generally. The legibility of these heritage values is not lessened through the proposal.

Performance Outcome 1.1

- The character of the area is generally taller development on Gilles Street with lower scale residential development to the north. The proposal continues this pattern albeit to the maximum storeys currently allowed within the zone and therefore is not considered to unduly impact the setting of the adjacent Local Heritage Places.
- For the Local Heritage Places to the north, dominating and encroaching impacts to the setting are minimal as there is sufficient clearance and setbacks between the Local Heritage Places and the new development which provides a necessary 'breathing space' to minimise heritage impacts.
- While its acknowledged there is apparent mass to the new proposal, there has been a use of multiple materials and red brick to break down the mass and assist with its integration into existing context. The materiality also provides a clear distinction of historic and contemporary fabric which visually separates the heritage places and the development.

The proposal is supported from a heritage perspective for the above reasons.

9. **PLANNING ASSESSMENT**

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

'Dwellings' are not a prescribed element of development in Tables 1 to 4 of the City Living Zone, the assessment pathway defaults to Performance Assessed – all other Code Assessed Development. The planning assessment has therefore closely mirrored applicable policies prescribed to similar Performance Assessed elements 'detached dwellings' and 'row dwellings.'

9.1 **Summary of Medium-High Intensity Subzone Assessment Provisions**

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1 & DO 2	<ul style="list-style-type: none"> • Medium rise and medium density residential development. • Redevelopment of non-residential site for residential use. 	✓
Land Use and Intensity PO 1.1	<ul style="list-style-type: none"> • Medium density, residential development in the form of dwellings in a terrace arrangement. 	✓
Interface Height PO 2.1	<ul style="list-style-type: none"> • Site not at the interface of a subzone boundary. 	n/a

9.2 **Summary of City Living Zone Assessment Provisions**

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> • Medium rise and medium density residential development within the Medium-High Intensity Subzone. 	✓
Land Use PO 1.1	<ul style="list-style-type: none"> • Achieved. 	✓
Built Form and Character PO 2.1-2.4	<ul style="list-style-type: none"> • Redevelopment of non-residential sites for medium density residential use. • Proposal includes varied building heights. • The maximum building height will only be exceeded by 50mm. • Proposal reflects valued streetscape characteristics and provides a contextual response. • Existing driveway on Stephens Street proposes minor widening to facilitate improved vehicle access. 	✓
Building Setbacks PO 3.1-3.5	<ul style="list-style-type: none"> • Refer Section 9.5. 	✓/✗

Site Dimensions & Land Division PO 4.1	<ul style="list-style-type: none"> Achieved. 	✓
Car Parking and Access PO 5.1	<ul style="list-style-type: none"> Parking areas and access obtained through common driveway from Stephens Street. Existing crossover on Gilles Street to be reinstated to kerb. 	✓

9.3 Summary of Applicable Overlays

The following Overlays are not relevant to the assessment of the proposal:

- Airport Building Heights (Regulated) Overlay – proposed building height of 58.6 metres AHD below regulated 120 metres AHD.
- Affordable Housing Overlay – affordable housing not proposed
- Building Near Airfields Overlay – site not proximate to airfield
- Design Overlay – value of development below \$10 million
- Prescribed Wells Area Overlay – no groundwater water concerns
- Regulated and Significant Tree Overlay – no regulated or significant trees impacted

The following Overlays are considered relevant to the assessment of the application:

Hazards (Flooding - Evidence Required) Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved x
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Flood Resilience PO/DPF 1.1	<ul style="list-style-type: none"> Ground floor internal finished floor levels at 280mm and 390mm above kerb levels on Gilles Street and Stephens Street respectively. Risk of potential floodwater appropriately mitigated. 	✓

Heritage Adjacency Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved x
DO 1	<ul style="list-style-type: none"> Refer Section 9.5. 	✓
Built Form PO 1.1	<ul style="list-style-type: none"> Refer Section 9.5. 	✓

Stormwater Management Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
PO 1.1	<ul style="list-style-type: none"> Each dwelling includes a 2000L rainwater tank contained in garages, achieving the corresponding DPF. 	✓

Urban Tree Canopy Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
PO 1.1	<ul style="list-style-type: none"> Three small trees are to be planted in accordance with corresponding DPF. 	✓

9.4 Summary of General Development Policies

The following General Development policies are relevant to the assessment:

Clearance from Overhead Powerlines

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
PO/DPF 1.1	<ul style="list-style-type: none"> Declaration provided by the applicant. 	✓

Design in Urban Areas

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
All Development		
Site Facilities / Waste Storage PO 11.1 PO 11.2	<ul style="list-style-type: none"> Residential development with conventional waste, recycling and green waste bins. Bins to be stored within the parking areas, however these may also be stored in the rear common driveway at times. 	✓

All Development – Medium and High Rise		
External Appearance PO 12.1-12.8	<ul style="list-style-type: none"> Contextually responsive to prevailing built form with respect to floor to ceiling heights and building setbacks. Building frontages include detailed brickwork and vertical profiled fibre cement sheeting introduced on Stephens Street frontage at upper levels. Brickwork modelled to reinforce prevailing datum heights. Third level has been setback from south, east and north elevations to provide visual relief. External materials of a high quality and will require limited maintenance. Building entries oriented to Gilles Street. 	✓
Landscaping PO 13.1-13	<ul style="list-style-type: none"> Proposal includes limited landscaped areas at the street frontage capable of supporting vegetation but not trees. Landscaped areas will have limited access to direct natural sunlight given the southern orientation. Soft landscaping areas to rear of the site will have access to natural sunlight and opportunity for mature tree planting/growth. 	<p>✗</p> <p>✓</p>
Environmental PO 14.1-14.2	<ul style="list-style-type: none"> Building facades modelled and include varied setbacks, minimising microclimatic impacts. Large expanses of glazing proposed, providing access to light and cross ventilation. North facing windows shielded by balcony overhangs and eaves. 	✓
Overlooking / Visual Privacy PO 16.1	<ul style="list-style-type: none"> Refer Section 9.5. 	✓
All Residential Development		
Front Elevations & Passive Surveillance PO 17.1-17.2	<ul style="list-style-type: none"> Appropriate solid to void ratios, including large expanses of glazing over public areas and clear, legible entries to Gilles Street frontage. 	✓
Outlook & Amenity PO 18.1	<ul style="list-style-type: none"> All living areas and habitable rooms incorporate windows with an outlook to public and/or private open space areas. 	✓
Residential Development – Medium and High Rise		
Private Open Space PO 27.1	<ul style="list-style-type: none"> Each dwelling includes sufficient private open space areas over and above the 24m² minimum designated in the corresponding DPF. <ul style="list-style-type: none"> 112a: Recessed balcony at first floor 18.9m² and roof terrace 40.5m² totalling 59.4m² 112: Recessed balcony at first floor 18.9m² and roof terrace 41.5m² totalling 60.4m² 114: Recessed balcony at first floor 18.9m² and roof terrace 56.4m² totalling 75.3m² 	✓

	<ul style="list-style-type: none"> 112 and 112a Gilles Street include street fronting roof terrace areas and 114 Gilles Street includes additional recessed balcony fronting Stephens Street which are not included in the above POS calculations. 	
Residential amenity in multi-level buildings PO 28.1-28.4	<ul style="list-style-type: none"> Balconies are generous in size and dimensions, providing usable and flexible indoor/outdoor areas. Dwellings comprise a range of formal and informal storage areas at all building levels. Areas exceed the minimums designated in the DPF. 	✓

Interface between Land Uses

Subject Code Ref	Assessment	Achieved ✓ Not Achieved x
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Overshadowing PO3.1-3.2	<ul style="list-style-type: none"> Overshadowing impacts on adjacent residential development minimal given orientation of the site. 	✓

Site Contamination

Subject Code Ref	Assessment	Achieved ✓ Not Achieved x
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
PO 1.1	<ul style="list-style-type: none"> A change to a more sensitive land use proposed with a Preliminary Site Investigation Report provided. Referral to EPA undertaken – refer Section 7. 	✓

Transport, Access and Parking

Subject Code Ref	Assessment	Achieved ✓ Not Achieved x
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Sightlines PO 2.1	<ul style="list-style-type: none"> Sufficient sightlines between vehicles and pedestrians achieved from the accessway. 	✓
Vehicle Access PO 3.1 PO 3.3-3.5 PO 3.8-3.9	<ul style="list-style-type: none"> Vehicle access for dwellings will occur via an existing crossover to be widened. Widening of crossover will not impact existing urban elements in the public realm or neighbouring properties. 	✓

	<ul style="list-style-type: none"> Proposed crossover widening to 6 metres exceeds the maximum of 3.5 metres for frontages under 20 metres prescribed in the corresponding DPF. Widening considered to achieve the PO in this instance as: <ul style="list-style-type: none"> frontage width is marginally short of the 20 metre maximum to which 6 metres is permissible crossover will service three sites existing crossover on Gilles Street to be made redundant. Swept path analysis detail adequate manoeuvring areas for vehicle access/egress and internal circulation. 	✓ / ✗
Vehicle Parking Rates PO 5.1	<ul style="list-style-type: none"> Each dwelling accommodates two covered off-street parking spaces in accordance with the DPF. 	✓

9.5 Detailed Discussion

Design and Appearance

The proposed built form and design demonstrates a high standard of architectural finish and contextual response.

The main building facades will predominantly be sited on the Gilles and Stephens Street frontages, reinforcing the prevailing street setbacks in the locality. Each dwelling will be constructed to respective side boundaries, incorporating a modest 2.5 metre x 1.5 metre setback. These setbacks provide separation between the dwellings, opportunities for informal landscaping and further relief to the adjacent Local Heritage Place to the west.

The proposed building and allotment configurations reflect allotment widths more consistent with the prevailing character, thus achieving City Living Zone (CLZ) PO4.1.

The building largely presents as three storeys, with the development on street boundaries having a parapet height of 11.75 metres. This portion of the building references the parapet height of the adjacent residential flat building at 118 Gilles Street, with Level 3 being setback from both the Gilles and Stephens Street frontages. The upper most level is setback from Gilles and Stephens Street frontages by 1.55 metres and 1.3 metres respectively.



Figure 9.5.1 – 3D render of proposed buildings

It is considered the dwellings demonstrate consistent architectural expression and materiality. The Gilles Street frontages include red brickwork modelled to include horizontal banding. This banding is detailed to include rotated brickwork with a mix of recesses and corbelling to add depth to the facades. This detail adds visual interest to the façades and reinforces relevant and prevailing datum height in accordance with CLZ PO 2 and Design in Urban Areas (DiUA) POs 12.1, 12.2, 12.6.

Street level facades will have a commercial presentation, incorporating large expanses of glazing with plans detailing these areas as home offices. Dwelling entries will be separated by a full height gate leading to a small porch and landscaped area. Building entries will be clear and legible whilst balancing privacy and security. Upper levels will include a high degree of window fenestration to Gilles Street, adding visual interest and opportunities for passive surveillance in accordance with DiUA PO17.1 and 17.2.

The Stephens Street frontage will be constructed to the boundary with a street wall height of 11.75 metres. This façade continues the brickwork at ground level reinforcing the human scale and intimate character of Stephens Street in accordance with DiUA PO12.2. This façade also incorporates vertical profiled fibre cement cladding and variation in setbacks and window/balcony fenestrations to 'break-up' the visual mass. This is a notable characteristic of the proposal when compared to adjacent development at 122 Gilles Street, which includes full street wall heights of painted rendered Hebel.

Building Height and Heritage Adjacency

Building Height

Building height has been a point of contention expressed by representors, both generally and with regards to heritage adjacency and the low rise character of Stephens Street.

City Living Zone DPF 2.1 designates a maximum building height of 4 storeys and 14 metres and minimum building height of two levels. A height of 4 storeys and maximum height of 14.05 metres is proposed, achieving the minimum height/yield desired and exceeding the maximum height by only 50mm.

The corresponding PO states:

Development contributes to a predominantly low-rise residential character, except when located in the Medium - High Intensity Subzone or East Terrace Subzone where it contributes to a predominantly medium rise residential character, consistent with the form expressed in the Maximum Building Height (Levels)... the Maximum Building Height (Metres)... and positively responds to the local context.

The proposal is considered to largely achieve the relevant criteria as:

- Medium rise residential development within medium-high intensity subzone proposed
- Subject site not predominantly a medium rise locality, however there is a trend of medium rise at the interface of the site
- Achieves the relevant TNVs for the site, with the exception of minor exceedance of 50mm
- The portions exceeding the height are limited to the upper most level which are recessive given the additional setback.
- Supporting built form and design provisions largely been achieved, thus making a positive contribution to the locality.

Heritage Adjacency

Representors have expressed concern regarding the building height with respect to impacts on the low scale and historic streetscape in Stephens Street. Council's Heritage Architect provided preliminary and ongoing advice during assessment, focussing on the adjacent Local Heritage Places on Gilles Street and Stephens Street.

Heritage feedback in Section 7 acknowledges the apparent mass of the proposal, however, is considered to provide appropriate relief to the adjacent Local Heritage Places by utilising a mix of materials that break down the overall mass and integrate with the established built form. The use of materials in conjunction with the nominated rear setback to 23 Stephens Street, provide sufficient space and will not dominate, encroach on or unduly impact on the setting of the place.

Built form impacts on 110 Gilles Street have been suitably resolved through the negative joint incorporated over the stairwells and setback of 1.5 metres which provides suitable relief. As such Heritage Adjacency Overlay DO1 and PO1.1 are satisfied.

Building Setbacks

The proposal demonstrates a unique circumstance where all allotment boundaries of the site are defined separately by the Code.

Primary street frontage

The dwellings will be oriented to Gilles Street which is the primary street frontage. CLZ PO 3.1 seeks continuity of existing frontages to compliment existing character. The proposal achieves a complimentary response to the prevailing street boundary setbacks. This is achieved by aligning the bulk of each dwelling on boundary which incorporate a 1.5 metre full height setback between each dwelling. The negative joint achieved by the setback corresponds to the adjacent two storey Local Heritage Place at 110 Gilles Street, which is setback approximately 1 metre. The proposed primary building setback is considered to achieve CLZ PO 3.1 as it will contextually respond to adjacent and prevailing built form in the locality.

Secondary street frontage

The secondary street frontage and narrower frontage is oriented east to Stephens Street. Stephens Street is a relatively narrow public road which comprises narrow footpaths and a single northbound only road. The street has an intimate character, informed by a mix of low and medium rise buildings all of which are constructed to the street boundary.

CLZ PO 3.2 seeks '*buildings set back from secondary street boundaries to maintain a pattern of separation between building walls and public thoroughfares and reinforce a streetscape character*'. The corresponding DPF designates a minimum setback of 900mm from secondary street buildings.

The proposed dwelling at 114 Gilles Street is the only dwelling to have a secondary street/frontage to Stephens Street. This wall is proposed on the boundary to a parapet wall height of 11.75 metres. Siting this wall to the secondary street boundary appropriately responds to the prevailing built form along Stephens Street and satisfies PO 3.2. Incorporating a 900mm setback would contradict the PO as it would disrupt the desired intimate streetscape.

Side Boundary

The building only includes one side boundary in this instance, which is the western boundary abutting 110 Gilles Street. CLZ PO 3.3 seeks separation between buildings consistent with the established streetscape of the locality without limiting access to light and ventilation to neighbours.

Figure 9.5.2 depicts proposed boundary walling which appears imposing on 110 Gilles Street in plan view. However, much of the wall will not be visible from outdoor areas and will only receive negligible shadowing during morning hours. The proposed side setback is considered to conform to established side boundaries in the locality. Whilst the extent of boundary wall extends beyond abutting wall, consequential amenity impacts via visual bulk and overshadowing on neighbours will be limited, thus satisfying CLZ PO 3.2 and PO 3.5.

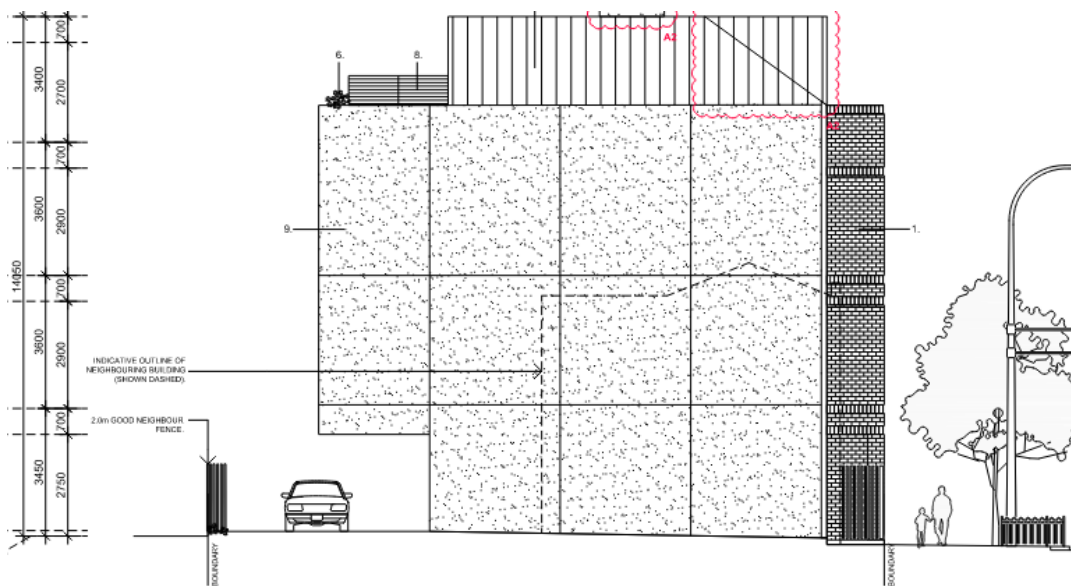


Figure 9.5.2 – Western elevation/side boundary

Rear Boundary

The site shares a rear boundary with 23 Stephens Street. The existing buildings on the subject site are single storey and built to the rear boundary, except for a minor indent. The PO/DPF 3.4 states:

DPF 3.4 Building walls are set back from the rear boundary at least:

- a) 3m for the ground floor level
- b) 5m for first floor building level
- c) 5m plus an additional 1m setback added for every 1m in height above a wall height of 7m.

The proposal departs (above ground level) from the DPF desired (noting the DPF is not a minimum standard but is one way to achieve the corresponding PO), proposing 6 metre setback at ground level, 3 metre at level one, varied setbacks of 3 and 6 metres at level 2 and varied setbacks for the uppermost level.

Notwithstanding the DPF is not satisfied, it is noted the corresponding PO seeks:

PO 3.4 Buildings are setback from rear boundaries to provide:

- a) access to natural light and ventilation for neighbours
- b) open space recreational opportunities

c) space for landscaping and vegetation.

The interpretation of this policy outcome is that suitability of rear setbacks should be determined by tangible amenity impacts in conjunction with facilitating sufficient private open space for recreation and landscaping.

Part a) considers impacts on access to light and ventilation on neighbours. Shadowing impacts caused by the proposal to the north will not occur considering the orientation and location of the development south of the neighbour to the north. Therefore, PO 3.4 is considered to be achieved.

Parts b) and c) are partially achieved as the rear portion will have an appropriate setback and degree of landscaping. It should be noted the allotment configuration and intended title arrangement does not support more traditional landscaped rear gardens.

There will be a visual impact, however it will be reasonable considering the scale and intensity envisaged in the subzone. The building will also demonstrate meaningful articulation through varied setbacks, external materials and window fenestrations that will 'break-up' the overall visual mass.



Figure 9.5.3 – 3D render of the subject site as viewed from Stephens Street

Visual Privacy / Overlooking

Concerns of overlooking have been raised by representors to the north and east of the development. The first involves concerns of views from the proposed roof terrace at 114 Gilles Street into the roof terrace at 122 Gilles Street. This property is located on the opposite side of Stephens Street. Potential for overlooking across the public realm is not addressed in the Code. It is considered further screening would exacerbate the overall building height and limit opportunities for passive surveillance, which is desired for street facing windows and balconies.

Other concerns have been expressed by occupants at 23 Stephens Street, which has private open space areas and habitable room windows at the ground and first floors adjacent the subject site. Obscured glazing is proposed to height of 1.6 metres for north facing windows at Level 1 and 1.6 metre high obscured balustrading for the Level 2 terraces. Fully obscured glazing is proposed for the powder room glazing.

The roof level terraces at Level 3 will have in-built planters with a minimum dimension of 900mm and height of 1 metre, thus limiting ability to look down into proximate private open space areas. Together these treatments will prevent 'direct overlooking' that could otherwise be achievable as demonstrated in Figure 9.5.4 below.

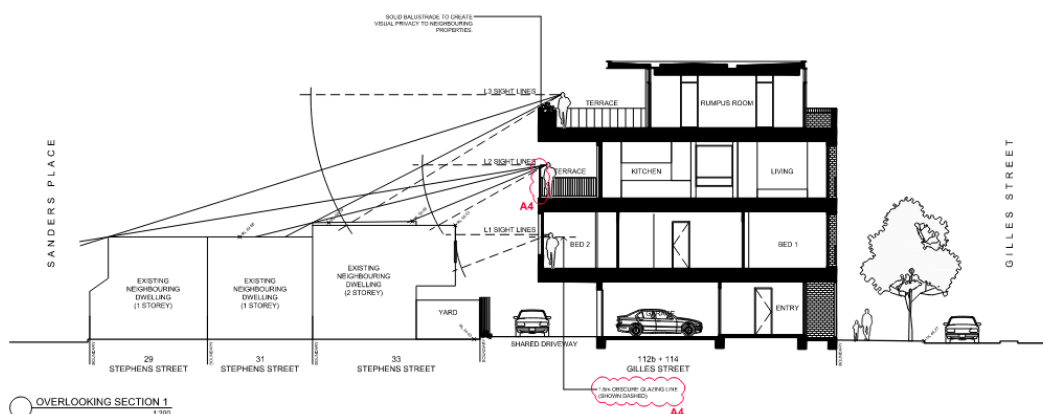


Figure 9.5.4 – Overlooking sections

10. CONCLUSION

The proposal involves demolition of existing buildings and the construction of three, four storey dwellings in a terrace arrangement at 112 and 114 Gilles Street, Adelaide.

The City Living Zone prioritises residential amenity. In the City Living Zone, emphasis is placed on expected reasonable amenity impacts where increased scale and intensity of development is envisaged. Whilst the proposal will be to the maximum building height and density outcomes sought, the design response is considered contextually responsive and of a high architectural standard. In summary, the proposal is considered acceptable for the following reasons:

- Medium rise and density residential development proposed, achieving MHISZ DO1, PO 1.1 and CLZ DO1, PO 1.1
- Redevelopment of existing non-residential use for residential purposes, achieving Subzone DO 2
- Building heights are appropriate in accordance with CLZ PO 2.2 and 2.3
- Setbacks appropriate in this context, where street and side boundary development are dominant in the locality. Boundary wall heights and setbacks do not unduly limit neighbours access to light and ventilation in accordance with CLZ PO 3.1-3.3 and 3.5
- Rear boundary setbacks are acceptable as visual and overshadowing impacts on neighbours are not unreasonable, achieving CLZ PO 3.4
- Built form demonstrates a compatible relationship with adjacent Local Heritage Places and will not unduly impact on their setting achieving Heritage Adjacency Overlay DO 1 and PO 1.1
- Access arrangements are appropriate, utilising a single access point from a minor road.

The proposal is not considered to be seriously at variance with the relevant provisions of the Planning and Design Code and exhibits sufficient merit to warrant the granting of Planning Consent.

11. RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016* (SA), 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 23009317, by Alexandra Stadtkus and Enzo Caroscio 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).**
 - **Plans and details prepared by Enzo Caroscio Architecture – Project No. 22009 – Drawing name/number:**
 - **Site Plan – Existing – A1.10 Rev A1, 29.03.2023**
 - **Site Plan – Demolition – A1.11 Rev A2, 14.06.2023**
 - **Site Plan – Subdivision – A1.12 Rev A2, 14.06.2023**
 - **Site Plan – Ground Floor – A1.20 Rev A2, 14.06.2023**
 - **Site Plan – Level 1 – Rev A3, 17.08.2023**
 - **Site Plan – Level 2 – Rev A4, 17.08.2023**
 - **Site Plan – Level 3 – Rev A2, 14.06.2023**
 - **Site Plan – Roof – A1.24, Rev A3**
 - **Floor Plans – Ground Floor 112a & 112b – A2.20 Rev A2, 14.06.2023**
 - **Floor Plans – Ground Floor 114 – A2.21 Rev A2, 14.06.2023**
 - **Floor Plans – Level 1 112a & 112b – A2.22 Rev A1, 29.03.2023**
 - **Floor Plans – Level 1 114 – A2.23 Rev A2, 14.06.2023**
 - **Floor Plans – Level 2 112a & 112b – A2.24 Rev A2, 14.06.2023**
 - **Floor Plans – Level 2 114 – A2.25 Rev A2, 14.06.2023**
 - **Floor Plans – Level 3 112a & 112b – A2.26 Rev A1, 29.03.2023**
 - **Floor Plans – Level 3 114 – A2.27 Rev A2, 14.06.2023**
 - **Floor Plans – Roof 112a & 112b – A2.28 Rev A3, 17.08.2023**
 - **Floor Plans – Roof 114 – A2.29 Rev A3, 17.08.2023**
 - **South Elevation – A3.00 Rev A3, 17.08.2023**
 - **East Elevation – A3.01 Rev A4, 17.08.2023**
 - **North Elevation – A3.02 Rev A4, 17.08.2023**
 - **West Elevation – A3.03, Rev A3, 17.08.2023**
 - **Streetscape Elevations – A3.04 Rev A4, 17.08.2023**
 - **Section – A3.10 Rev A4, 17.08.2023**
 - **Materials and Finishes – Page 42**

2. The privacy screening as depicted on the plans granted consent described as North Elevation (A3.02) 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 at all times.

3. Windows on the first floor on the northern shall be permanently obscured to a height of 1.6 metres above finished floor level and fixed or not capable of being opened more than 125mm.

4. Rainwater tank(s) must be installed in accordance with DTS/DPF 1.1 of the Stormwater Management Overlay in the Planning and Design Code (as at the date of lodgement of the application) within 12 months of occupation of the dwelling(s).

5. Tree(s) must be planted and/or retained in accordance with DTS/DPF 1.1 of the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). New trees must be planted within 12 months of occupation of the dwelling(s) and maintained.

6. All stormwater run-off from the development shall be collected in a system of gutters, pits and pipelines and discharged by gravity to the underground council drainage pipes within Gillies Street and/or Stephens Street in accordance with the National Construction Code, relevant Australian Standards including AS/NZS 3500.3:2021, and AS/NZS 3500.1:2021 for the on-site retention tank (including provision of safe tray) and water reuse system, and Council's City Works Guide Works Impacting City of Adelaide Assets and Urban Elements Catalogue. All downpipes affixed to the Development which are required to discharge the storm water runoff shall be installed within the property boundaries of the Land and the development designed to prevent ingress of surface flows from adjacent public land.

7. External materials, surface finishes and colours of the Development shall be consistent with the description and sample hereby granted consent and shall be to the reasonable satisfaction of the relevant authority.

8. The landscaping depicted on the plans shall be maintained in good health and condition at all times to the reasonable satisfaction of the Relevant Authority. Any dead or diseased plants or trees shall be replaced forthwith to the reasonable satisfaction of the Relevant Authority.

9. The finished floor level at the boundary of the site at all pedestrian and vehicular access locations shall match the existing back of footpath levels at the boundary. All transitions to internal levels must occur within site boundaries.
-

10. The design of the vehicular access and off-street parking facilities shall comply with Australian Standards AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking.
-

EPA CONDITIONS

11. A certificate of occupancy must not be granted in relation to a building on the relevant site until a statement of site suitability is issued by a site contamination consultant certifying the land is suitable for the proposed use.
-

12. If a certificate of occupancy is not required pursuant to regulation 103 of the Planning, Development and Infrastructure (General) Regulations 2017, a person must not occupy the building for the purpose authorised under the development approval until a statement of site suitability is issued by a site contamination consultant certifying the land is suitable for the proposed use.
-

ADVISORY NOTES

1. Expiration of Consent

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.

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).

3. Commencement and Completion

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 or phone 8203 7185.

4. 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.

5. Alterations to existing crossover

There is no objection to the proposed vehicle crossing place(s)/alterations to the existing vehicle crossing place(s), however the work will be undertaken by Council and the cost of the work will be charged to the applicant. Separate application for the crossing place(s) is required and the applicant can obtain a form at Driveway crossover application <https://customer.cityofadelaide.com.au/forms/vehicle-crossing-application/>. A quotation for the work will be provided by Council prior to the work being undertaken.

6. Redundant Assets

The vehicle crossing place(s) and drainage connections to the council drainage pipes in Gilles Street and Stephens Street made redundant will be undertaken in accordance with Council's requirements including City Works Guide Works Impacting City of Adelaide Assets and Urban Elements Catalogue. A quotation for the work will be provided by Council to the applicant prior to the work being undertaken.

7. Vehicle 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 visit <https://www.cityofadelaide.com.au/transport-parking/parking/residential-parking/> or contact the Customer Centre on 8203 7203 for further information.

8. City Works Permit

Any activity in the public realm, whether it be on the road or footpath, requires a City Works Permit. This includes activities that have received Development Approval.

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 <https://www.cityofadelaide.com.au/business/permits-licences/city-works/>

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.

Applications will require a minimum notice period of two to five business days, depending on the nature of work, and can be lodged online via <https://www.cityofadelaide.com.au/business/permits-licences/city-works>

9. EPA Advisory - Environmental Duty

The applicant/owner/operator are reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practicable measures to ensure that activities on the site and associated with the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm.

Council Assessment Panel - Adoption of Meeting Procedures

Council Assessment Panel
Monday, 28 August 2023

From:
Manager, City Development
(Assessment Manager)

PURPOSE

Amended Meeting Procedures are required to be considered by the Council Assessment Panel (CAP) and adopted to align with recent legislative changes and updates.

RECOMMENDATION

That the CAP adopt amended Meeting Procedures (marked as Attachment B).

ATTACHMENTS

Attachment A - Marked up version of Meeting Procedures highlighting proposed amendments

Attachment B - Amended Meeting Procedures

DISCUSSION

Legislative Change

Amendments were recently made to the *Planning, Development and Infrastructure (General) Regulations 2017* (SA) regarding Panel reviews of Assessment Manager decisions. These amendments were gazetted to commence on 26 May 2023.

Regulation 116(2) has been included as follows:

'An applicant to an assessment panel for a review of a prescribed matter must be given an opportunity to provide the assessment panel with the applicant's submissions in relation to the review (and, if the assessment panel determines to hold a hearing, must be given written notice of the date of the hearing and an opportunity to appear and make submissions at the hearing in person).'

In summary, where an applicant has sought an assessment panel review of an Assessment Manager decision, they must be given an opportunity to provide submissions on the review, and to appear and make submissions at the relevant Panel meeting.

Applications submitted under the Development Act 1993

In addition to this legislative change, it is noted the City of Adelaide no longer has development applications to be assessed under the *Development Act 1993* (SA). Therefore Section 4 of the current Meeting Procedures, which refers to such applications, is proposed to be removed.

Legal Advice and Decision

Council's Assessment Manager has sought legal advice regarding the latest changes. This advice included a review of the Meeting Procedures together with suggested amendments in accordance with the latest Local Government Association (LGA) Template Meeting Procedures.

The CAP Meeting Procedures have been revised in accordance with a latest change to the PDI Regulations, the LGA Template Meeting Procedures and to reflect the City of Adelaide no longer having development applications to be assessed under the *Development Act 1993* (SA).

The CAP is required to decide whether or not to adopt these amended Meeting Procedures.

NEXT STEPS

Should CAP resolve to adopt the amended Meeting Procedures, these will come into effect immediately and the previous version will be revoked.

- END OF REPORT -

Attachment A

Marked up version of Meeting Procedures
highlighting proposed amendments

Council Assessment Panel

Meeting Procedures

Adopted by CAP on ...



***Note – yellow highlights are amended/new details and red strike through are parts to be removed completely**

These Meeting Procedures are to be read in conjunction with the meeting procedures contained within the *Planning, Development and Infrastructure (General) Regulations 2017 (Regulations)* and Council's adopted CAP Terms of Reference.

1. CAP Meetings

Ordinary Meetings

- 1.1 Subject to clause 1.2, ordinary meetings of the Council Assessment Panel (CAP) will be held at such times and places as determined by the CAP.
- 1.2 The time and place of the first meeting of the CAP following its establishment will be determined by the Assessment Manager. The Assessment Manager must give notice of the first CAP meeting to the CAP and the public in accordance with clauses 1.4 and 1.6.
- 1.3 Notice of an ordinary meeting will be given to all CAP Members by the Assessment Manager not less than 3 clear days prior to the holding of the meeting in accordance with clause 1.4.
- 1.4 Notice of a meeting of the CAP must:
 - 1.4.1 be in writing;
 - 1.4.2 set out the date, time and place of the meeting;
 - 1.4.3 contain or be accompanied by the agenda and any documents and/or reports that are to be considered at the meeting (in so far as practicable); and
 - 1.4.4 be given to a CAP Member:
 - 1.4.4.1 via email to an email address authorised in writing by the CAP Member; or
 - 1.4.4.2 by other means authorised by the CAP Member as being an available means of giving notice;
 - 1.4.5 pursuant to clause 8, where attendance at the meeting is to occur by electronic means (in whole or in part), include details of how to connect to the meeting; and
 - 1.4.6 where the meeting is live streamed for viewing by members of the public pursuant to clause 8, include details of how to access and/or connect to the live stream.
- 1.5 A notice that is not given in accordance with clause 1.4 is taken to have been validly given if the Assessment Manager considers it impracticable to give the notice in accordance with that clause and takes action the Assessment Manager considers reasonably practicable in the circumstances to bring the notice to the attention of the CAP Member.
- 1.6 Subject to clause **Error! Reference source not found.**, the agenda, CAP report and associated attachments for all meetings of the CAP will be available for viewing by the public on the Council's website and at the Council's offices as soon as practicable after the time that notice of the meeting has been given to CAP Members.
- 1.7 If the CAP is receiving information and/or legal advice that in the opinion of the Assessment Manager relates to a matter under regulation 13(2)(a)(i) – (x) (inclusive) of the Regulations, then that information and/or legal advice will not be made publicly available pursuant to clause 1.6 until the CAP has considered the agenda item to which it relates. However, if in considering that agenda item, the CAP decides to retain the information and/or legal advice in confidence, then it will not be made publicly available

Adopted by CAP on ...

until such time, event, or circumstance as is stipulated by the CAP in its absolute discretion.

- 1.8 The Assessment Manager may, with leave or at the request of the Presiding Member, include in the agenda an item to be considered at the meeting to which the agenda relates after notice of the meeting has been given to CAP Members. In such instance, the Assessment Manager shall provide an updated agenda and any documents and/or reports relating to that item to be considered at the meeting to CAP Members as soon as practicable. The Assessment Manager will also make an updated agenda available to the public.
- 1.9 The Presiding Member may adjourn a CAP Meeting to a future date and time, unless the CAP resolves to continue the meeting.
- 1.10 A meeting may break for a period of time as determined by the Presiding Member.

Special Meetings

- 1.11 The Assessment Manager may by delivering a written request to the Presiding Member, or two or more CAP Members, require a special meeting of the CAP to be held. The written request must be accompanied by the agenda for the special meeting.
- 1.12 On receipt of a request pursuant to clause 1.11, the Assessment Manager must determine the date, time and place of the special meeting and give notice to all CAP Members at least 4 hours before the commencement of the special meeting.

2. Deputy Members

- 2.1 If a CAP Member is unable to attend a meeting or part of a meeting, he or she must use his or her best endeavours to notify the Assessment Manager at his or her earliest opportunity.
- 2.2 If notification pursuant to clause 2.1 is given, the Assessment Manager may request a Deputy Member (subject to relevant clauses in relation to Deputy Members within the CAP Terms of Reference) attend the meeting in place of a CAP Member for the meeting or part of the meeting.
- 2.3 Unless the context otherwise requires, a reference to a CAP Member in these Meeting Procedures includes a Deputy Member.

3. Commencement of Meetings

- 3.1 Subject to a quorum (minimum of three (3) CAP Members) being present, a meeting of the CAP will commence as soon as possible after the time specified in the notice of a meeting.
- 3.2 If the number of apologies received by the Assessment Manager indicates that a quorum will not be present at a meeting, the Assessment Manager may adjourn the meeting to a specified day and time.
- 3.3 If at the expiration of thirty minutes from the commencement time specified in the notice of the meeting a quorum is not present, the Presiding Member may adjourn the meeting to a specified date and time.
- 3.4 In the instance when the Presiding Member is absent from a meeting, the Assessment Manager, or such other person as nominated by the Assessment Manager, will preside at the meeting until such time as the meeting appoints an Acting Presiding Member.

4. ~~Representations under the Development Regulations 2008~~

- ~~4.1 The Assessment Manager and/or Presiding Member may in his or her discretion exclude:~~

- ~~4.1.1 a representation or response to representation(s) which is received out of time;~~
- ~~4.1.2 a representation in relation to Category 2 development from a person who was not entitled to be given notice of the application; or~~
- ~~4.1.3 a representation or response to representation(s) which is otherwise invalid.~~
- ~~4.2 The Presiding Member may in his or her discretion accept and allow to be considered by the CAP any new or additional material submitted by a representor or applicant. The CAP may defer consideration of the application to enable full and proper assessment of the further information.~~
- ~~4.3 Any material to be considered by the CAP pursuant to clause 4.2 must be provided to the applicant and/or representor(s) (as the case may be) and those parties be provided with an opportunity to respond, either in writing or verbally, at the discretion of the Presiding Member.~~
- ~~4.4 In relation to each application to be considered and determined by the CAP:
 - ~~4.4.1 a person who has lodged a representation in relation to a Category 2 or 3 application which has not been excluded pursuant to clause 4.1 and who has indicated that they wish to be heard on their representation is entitled to appear before the CAP and be heard in support of their representation, in person or by an agent;~~
 - ~~4.4.2 where one or more representors are heard by the CAP, the applicant is entitled to appear before the CAP to respond to any matters raised by a representor, in person or by an agent;~~
 - ~~4.4.3 where a Category 2 or 3 application before the CAP is recommended for refusal and no representations have been received in respect of the application, the CAP may in its absolute discretion, allow the applicant to address the CAP in support of the application;~~
 - ~~4.4.4 representors and applicants will be allowed five minutes each to address the CAP. The Presiding Member may allow a party additional time at his or her discretion;~~
 - ~~4.4.5 CAP Members may question and seek clarification from a representor or applicant who has addressed the CAP at the conclusion of their address; and~~
 - ~~4.4.6 following addresses from representors and the applicant, the Presiding Member will invite all CAP Members to speak on any matter relevant to the application.~~~~

4. Representations lodged under the ~~Planning, Development and Infrastructure (General) Regulations 2017~~

- 4.1 The Assessment Manager and/or Presiding Member may in his or her discretion exclude a representation or response to representation(s) which is received out of time;
- 4.2 The Presiding Member may in his or her discretion accept and allow to be considered by the CAP any new or additional material submitted by a representor or applicant. The CAP may defer consideration of the application to enable full and proper assessment of the further information.
- 4.3 Any material to be considered by the CAP pursuant to clause 4.2 must be provided to the applicant and/or representor(s) (as the case may be) and those parties be provided with an opportunity to respond, either in writing or verbally, at the discretion of the Presiding Member.
- 4.4 In relation to each application to be considered and determined by the CAP:

- 4.4.1 a person who has lodged a representation which has not been excluded pursuant to clause 4.1 and who has indicated that they wish to be heard on their representation is entitled to appear before the CAP and be heard in support of their representation, in person or by an agent;
- 4.4.2 where one or more representors are heard by the CAP, the applicant is entitled to appear before the CAP to respond to any matters raised by a representor, in person or by an agent;
- 4.4.3 representors and applicants will be allowed five minutes each to address the CAP. The Presiding Member may allow a party additional time at his or her discretion;
- 4.4.4 CAP Members may question and seek clarification from a representor or applicant who has addressed the CAP at the conclusion of their address; and
- 4.4.5 following addresses from representors and the applicant, the Presiding Member will invite all CAP Members to speak on any matter relevant to the application.

5. Review of an Assessment Manager Decision

Commencing a Review

- 5.1 An application for review must relate to a prescribed matter, as defined in section 201 of the Act (**Prescribed Matter**), for which an Assessment Manager was the relevant authority.
- 5.2 An application for review must be:
 - 5.2.1 made using the "Application to Assessment Panel for Assessment Manager's Decision Review" published on the SA Planning Portal (**Form**);
 - 5.2.2 lodged in a manner identified on the Form; and
 - 5.2.3 lodged within one (1) month of the applicant receiving notice of the Prescribed Matter unless the Presiding Member in his or her discretion grants an extension of time.
- 5.3 In determining whether to grant an extension of time, the Presiding Member may consider:
 - 5.3.1 the reason for the delay;
 - 5.3.2 the length of the delay;
 - 5.3.3 whether any rights or interests of other parties would be affected by allowing the review to be commenced out of time;
 - 5.3.4 the interests of justice;
 - 5.3.5 whether the applicant has, or is within time to, appeal the Prescribed Matter to the Environment, Resources and Development Court; and
 - 5.3.6 any other matters the Presiding Member considers relevant.

Materials for Review Process

- 5.4 The Assessment Manager shall present to the CAP all materials which were before the Assessment Manager (or delegate) at the time of the decision on the Prescribed Matter including:
 - 5.4.1 application documents, reports, submission, plans specifications or other documents submitted by the applicant; and
 - 5.4.2 internal and/or external referral responses and any checklist and/or report from Council staff or an external planning consultant written for the Assessment Manager.

- 5.5 The Assessment Manager (or delegate) must:
- 5.5.1 prepare a report to the CAP setting out details of the relevant development application, the Prescribed Matter the subject of the review, any additional written submissions (including additional information or materials) prepared by the applicant pursuant to paragraph 5.6.3, and the reasons for the Assessment Manager's (or delegate's) decision and response to such additional written submission of the applicant so provided; and
 - 5.5.2 not introduce new material (except to address any written submission of the applicant under paragraph 5.6.3.3 or referral response under paragraph 5.6.4) or review the decision previously made.

Review Process

- 5.6 The review hearing shall be undertaken in accordance with the following:
- 5.6.1 The Assessment Manager must advise the applicant in writing of the time and date of the CAP meeting at which the review application will be heard not less than five (5) business days before the CAP meeting.
 - 5.6.2 On review, the CAP will consider the decision afresh.
 - ~~5.6.3 Information, materials and submissions which were not before the Assessment Manager at the time of the decision on the prescribed matter will not be considered by the CAP.~~
 - ~~5.6.4 The CAP will not receive any submission or address from any party (including the applicant for review).~~
 - 5.6.3 An applicant for an application to the CAP for a review of a Prescribed Matter must be notified in writing by the Assessment Manager within five (5) business days of receipt of the application of the opportunity to:
 - 5.6.3.1 provide the CAP with their written submissions (which may include additional information and materials) in relation to the review; and
 - 5.6.3.2 appear and make submissions at the hearing in person, and the applicant must provide to the Assessment Manager:
 - 5.6.3.3 any such written submissions within ten (10) clear business days of the date of that notification (or such longer period as requested by the applicant and granted by the Presiding Member's discretion); and
 - 5.6.3.4 written confirmation of whether it will appear and make submissions at the hearing at least five (5) business days prior to the hearing.
 - 5.6.4 Within five (5) business days of the receipt of any written submissions under paragraph 5.6.3.3, the Presiding Member should determine in their discretion whether any referral agency who previously provided a response on the application should be given an opportunity to review and respond to the additional information and/or materials in a manner and timeframe determined by the Presiding Member. Any response received from such a referral agency should be provided to the applicant by the Assessment Manager within two (2) business days of receipt.
 - 5.6.5 The Presiding Member may defer the date for a hearing of the review application for a reasonable period, if it considers that the written submissions received under paragraph 5.6.3.3 are substantial, in order to enable reasonable time for any response on the written submissions of a referral agency under paragraph 5.6.4 and/or response by the Assessment Manager. Written notice advising of any such deferral by the Presiding Member must be provided to the applicant by the Assessment Manager as soon as

reasonably practicable and no less than 24 hours before the hearing at the CAP meeting.

- 5.6.6 The Presiding Member may however, ask or permit CAP Members to ask questions or seek clarification from the applicant and/or the Assessment Manager (or delegate), in his or her discretion.
- 5.6.7 The Assessment Manager must be present at the CAP meeting to respond to any questions or requests for clarification from the CAP.
- 5.6.8 Where the decision on the Prescribed Matter was made by a delegate of the Assessment Manager, the delegate may appear in place of the Assessment Manager.
- 5.6.9 The Presiding Member will invite all CAP Members to speak on any matter relevant to the review.
- 5.6.10 The CAP may resolve to defer its decision if it considers it requires additional time or information to make its decision.

Outcome of Review

- 5.7 The CAP may, on a review:
 - 5.7.1 affirm the Assessment Manager's decision;
 - 5.7.2 vary the Assessment Manager's decision; or
 - 5.7.3 set aside the Assessment Manager's decision and substitute its own decision.
- 5.8 An applicant should be advised in writing of the CAP's decision by the Assessment Manager within a reasonable time.

6. Decision Making

- 6.1 Subject to complying with these procedures, during debate and decision making, the CAP will act with a minimum of formality and without regard to formal procedures or protocols.
- 6.2 At all times, discussion will be managed by the Presiding Member in the Presiding Member's absolute discretion. The Presiding Member will ensure that each CAP Member has an opportunity for discussion, comments and questions about the matter for decision.
- 6.3 At the conclusion of discussion and debate on a matter, the Presiding Member will call for a motion to vote in relation to the recommendation as printed in the agenda report or for a motion on alternative terms to that recommendation (including, but not limited to, the addition, deletion or amendment of a condition or note proposed in that recommendation).
- 6.4 Each CAP Member present at a meeting of the CAP, (including a Deputy Member who has been requested to attend the meeting or part of the meeting in place of a CAP Member who is unable to attend the meeting) is entitled to one vote on any matter arising for decision. Additional experts/advisors appointed by the CAP to provide expert advice and assistance are not entitled to vote.
- 6.5 Matters arising for decision at a meeting of the CAP will be decided by a majority of the votes cast by CAP Members present at the meeting and entitled to vote. If the votes are equal, the Presiding Member is entitled to a second or casting vote.
- 6.6 In relation to each application it considers, the CAP must:
 - 6.6.1 determine whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant); and
 - 6.6.2 provide reasons for refusing Development Plan consent or planning consent (as relevant) (including reasons for any determination that the proposal is seriously at variance).

- 6.7 The Presiding Member may adjourn a meeting in the event of a disruption or disturbance by any person (including a CAP Member, applicant, representor or other member of the public) to a specified date and time.
- 6.8 The Presiding Member may ask a member of the public (including an applicant, representor or other member of the public) to leave or be disconnected from a meeting where he or she is, in the opinion of the Presiding Member:
 - 6.8.1 behaving in a disorderly manner; or
 - 6.8.2 causing an interruption or disruption to the meeting.

7. Minutes and Reporting

- 7.1 The CAP must ensure that accurate minutes are kept of all meetings.
- 7.2 The Assessment Manager, or a person nominated by the Assessment Manager, will take minutes of all meetings.
- 7.3 The minutes will record:
 - 7.3.1 the names of all CAP Members present;
 - 7.3.2 the names of all CAP Members from whom apologies have been received;
 - 7.3.3 the name and time that a CAP Member enters or leaves the meeting;
 - 7.3.4 the name of every person (and their representative) who makes or responds to a representation;
 - 7.3.5 the methods of attendance by all CAP Members present and by every person who makes or responds to a representation (and their representative);
 - 7.3.6 in relation to each application determined by the CAP:
 - 7.3.6.1 the determination of the CAP as to whether the proposal is seriously at variance with the Development Plan or Planning Rules (as relevant);
 - 7.3.6.2 the reasons for refusing Development Plan consent or planning consent (as relevant) (including reasons for any determination that the proposal is seriously at variance); and
 - 7.3.7 if an application is not determined by the CAP, the deferral of the application and the reasons for the deferral;
 - 7.3.8 a decision to exclude the public from attendance and retain the minutes of the item in confidence pursuant to the *Regulations*;
 - 7.3.9 in relation to each application for review of an Assessment Manager decision:
 - 7.3.9.1 the determination of the CAP as to whether the proposal is seriously at variance with the Planning Rules; and
 - 7.3.9.2 the reasons for the CAP's decision under section 203(4) of the PDI Act;
 - 7.3.10 any disclosure of a direct or indirect pecuniary interest in any aspect of a development or anybody associated with any aspect of a development made by a CAP Member in accordance with Section 83(1)(g) of the PDI Act, and the nature of the interest;
 - 7.3.11 any disclosure of a conflict of interest made by a CAP Member pursuant to the Code of Conduct adopted by the Minister under Clause 1(1)(c) of Schedule 3 of the PDI Act (Code of Conduct), and the nature of the interest; and
 - 7.3.12 if a meeting is adjourned by the Presiding Member, the reason for the adjournment and the date and time to which the meeting is adjourned.
- 7.4 All minutes must be confirmed by the CAP as being accurate, at the commencement of the following CAP meeting.

8. Electronic Meetings

- 8.1 Definitions:
- 8.1.1 **connect** means able to hear and/or see the meeting by electronic means, including via live stream;
 - 8.1.2 **disconnect** means to remove the connection so as to be unable to hear and see the meeting;
 - 8.1.3 **electronic** means includes using 1 or both (including a combination) of the following means of communication:
 - 8.1.3.1 audio visual;
 - 8.1.3.2 audio,and includes a telephone, computer or other device used for communication;
 - 8.1.4 **live stream** means the transmission of audio and/or video from a meeting at the time the meeting is occurring.
- 8.2 Pursuant to section 39 of the *Legislation Interpretation Act 2021*, at the discretion of the Assessment Manager and/or Presiding Member:
- 8.2.1 a CAP meeting may take place entirely by electronic means; and/or
 - 8.2.2 a CAP meeting may be livestreamed; and/or
 - 8.2.3 one or more CAP Members may attend a CAP meeting via electronic means; and/or
 - 8.2.4 a representor and/or applicant under clause 4 may attend a CAP meeting via electronic means; and/or
 - 8.2.5 an applicant for a review of a decision of an Assessment Manager under clause 5 may attend a CAP meeting via electronic means.
- 8.3 The discretion of the Assessment Manager and/or Presiding Member under clause 8.2 may be exercised to require attendance at the CAP meeting by electronic means regardless of whether a request for attendance by electronic means has been received or not by the Assessment Manager and/or Presiding Member.
- 8.4 A CAP Member who is attending a meeting by electronic means is taken to be present at the meeting provided that the Presiding Member can see and hear each CAP Member and a CAP Member:
- 8.4.1 can hear and, where possible, see all CAP Members who are present at the meeting;
 - 8.4.2 can hear and, where possible, see all representors (or their representatives) and applicants (or their representatives) who speak at the meeting;
 - 8.4.3 can be heard and, where possible, be seen by CAP Members present at the meeting; and
 - 8.4.4 can be heard and, where possible, be seen by the person recording the minutes of the meeting.
- 8.5 Where a meeting occurs solely via electronic means, it shall (to the extent that the public is not able to physically attend the meeting) be live streamed.
- 8.6 Where a meeting is being live streamed, the live stream shall be disconnected only during those parts of the meeting during which the public has been excluded from attendance pursuant to regulation 13(2) of the Regulations.
- 8.7 Where the public has been excluded from attendance pursuant to regulation 13(2) of the Regulations, the Assessment Manager or a person nominated by the Assessment Manager shall ensure that all parties except for CAP Members (and the Assessment Manager, Council Administration, the meeting minute taker and any other person

identified by the CAP (such as professional advisors to the CAP)) disconnect from or are disconnected from the meeting.

9. Additional Procedures and Support

- 9.1 Insofar as any procedure to be followed by the CAP is not prescribed by the PDI Act and Regulations, the CAP's Terms of Reference, the Code of Conduct or these Meeting Procedures - the CAP may by resolution determine the procedure for itself. Any such determination may be added to these Meeting Procedures.
- 9.2 The CAP may call for and consider such professional assistance from the Assessment Manager and, in consultation with the Assessment Manager, other professional advisors as it deems necessary and appropriate from time to time.
- 9.3 The CAP will permit and encourage active participation of Council staff in attendance at a meeting in providing advice to the CAP.
- 9.4 If a CAP Member requires additional information or clarification on a matter contained within an Agenda, an email shall be directed to the Assessment Manager as soon as practicable. The response will be provided to all CAP Members.
- 9.5 If a CAP Member has a conflict of interest on a matter contained with the Agenda, that CAP Member must advise the Assessment Manager in writing as soon as practicable after distribution of the Agenda.

Attachment B

Amended Meeting Procedures

Council Assessment Panel

Meeting Procedures

Adopted by CAP on ...



These Meeting Procedures are to be read in conjunction with the meeting procedures contained within the *Planning, Development and Infrastructure (General) Regulations 2017 (Regulations)* and Council's adopted CAP Terms of Reference.

1. CAP Meetings

Ordinary Meetings

- 1.1 Subject to clause 1.2, ordinary meetings of the Council Assessment Panel (CAP) will be held at such times and places as determined by the CAP.
- 1.2 The time and place of the first meeting of the CAP following its establishment will be determined by the Assessment Manager. The Assessment Manager must give notice of the first CAP meeting to the CAP and the public in accordance with clauses 1.4 and 1.6.
- 1.3 Notice of an ordinary meeting will be given to all CAP Members by the Assessment Manager not less than 3 clear days prior to the holding of the meeting in accordance with clause 1.4.
- 1.4 Notice of a meeting of the CAP must:
 - 1.4.1 be in writing;
 - 1.4.2 set out the date, time and place of the meeting;
 - 1.4.3 contain or be accompanied by the agenda and any documents and/or reports that are to be considered at the meeting (in so far as practicable); and
 - 1.4.4 be given to a CAP Member:
 - 1.4.4.1 via email to an email address authorised in writing by the CAP Member; or
 - 1.4.4.2 by other means authorised by the CAP Member as being an available means of giving notice;
 - 1.4.5 pursuant to clause 8, where attendance at the meeting is to occur by electronic means (in whole or in part), include details of how to connect to the meeting; and
 - 1.4.6 where the meeting is live streamed for viewing by members of the public pursuant to clause 8, include details of how to access and/or connect to the live stream.
- 1.5 A notice that is not given in accordance with clause 1.4 is taken to have been validly given if the Assessment Manager considers it impracticable to give the notice in accordance with that clause and takes action the Assessment Manager considers reasonably practicable in the circumstances to bring the notice to the attention of the CAP Member.
- 1.6 Subject to clause **Error! Reference source not found.**, the agenda, CAP report and associated attachments for all meetings of the CAP will be available for viewing by the public on the Council's website and at the Council's offices as soon as practicable after the time that notice of the meeting has been given to CAP Members.
- 1.7 If the CAP is receiving information and/or legal advice that in the opinion of the Assessment Manager relates to a matter under regulation 13(2)(a)(i) – (x) (inclusive) of the Regulations, then that information and/or legal advice will not be made publicly available pursuant to clause 1.6 until the CAP has considered the agenda item to which it relates. However, if in considering that agenda item, the CAP decides to retain the information and/or legal advice in confidence, then it will not be made publicly available until such time, event, or circumstance as is stipulated by the CAP in its absolute discretion.

- 1.8 The Assessment Manager may, with leave or at the request of the Presiding Member, include in the agenda an item to be considered at the meeting to which the agenda relates after notice of the meeting has been given to CAP Members. In such instance, the Assessment Manager shall provide an updated agenda and any documents and/or reports relating to that item to be considered at the meeting to CAP Members as soon as practicable. The Assessment Manager will also make an updated agenda available to the public.
- 1.9 The Presiding Member may adjourn a CAP Meeting to a future date and time, unless the CAP resolves to continue the meeting.
- 1.10 A meeting may break for a period of time as determined by the Presiding Member.

Special Meetings

- 1.11 The Assessment Manager may by delivering a written request to the Presiding Member, or two or more CAP Members, require a special meeting of the CAP to be held. The written request must be accompanied by the agenda for the special meeting.
- 1.12 On receipt of a request pursuant to clause 1.11, the Assessment Manager must determine the date, time and place of the special meeting and give notice to all CAP Members at least 4 hours before the commencement of the special meeting.

2. Deputy Members

- 2.1 If a CAP Member is unable to attend a meeting or part of a meeting, he or she must use his or her best endeavours to notify the Assessment Manager at his or her earliest opportunity.
- 2.2 If notification pursuant to clause 2.1 is given, the Assessment Manager may request a Deputy Member (subject to relevant clauses in relation to Deputy Members within the CAP Terms of Reference) attend the meeting in place of a CAP Member for the meeting or part of the meeting.
- 2.3 Unless the context otherwise requires, a reference to a CAP Member in these Meeting Procedures includes a Deputy Member.

3. Commencement of Meetings

- 3.1 Subject to a quorum (minimum of three (3) CAP Members) being present, a meeting of the CAP will commence as soon as possible after the time specified in the notice of a meeting.
- 3.2 If the number of apologies received by the Assessment Manager indicates that a quorum will not be present at a meeting, the Assessment Manager may adjourn the meeting to a specified day and time.
- 3.3 If at the expiration of thirty minutes from the commencement time specified in the notice of the meeting a quorum is not present, the Presiding Member may adjourn the meeting to a specified date and time.
- 3.4 In the instance when the Presiding Member is absent from a meeting, the Assessment Manager, or such other person as nominated by the Assessment Manager, will preside at the meeting until such time as the meeting appoints an Acting Presiding Member.

4. Representations

- 4.1 The Assessment Manager and/or Presiding Member may in his or her discretion exclude a representation or response to representation(s) which is received out of time;
- 4.2 The Presiding Member may in his or her discretion accept and allow to be considered by the CAP any new or additional material submitted by a representor or applicant. The

CAP may defer consideration of the application to enable full and proper assessment of the further information.

- 4.3 Any material to be considered by the CAP pursuant to clause 4.2 must be provided to the applicant and/or representor(s) (as the case may be) and those parties be provided with an opportunity to respond, either in writing or verbally, at the discretion of the Presiding Member.
- 4.4 In relation to each application to be considered and determined by the CAP:
- 4.4.1 a person who has lodged a representation which has not been excluded pursuant to clause 4.1 and who has indicated that they wish to be heard on their representation is entitled to appear before the CAP and be heard in support of their representation, in person or by an agent;
 - 4.4.2 where one or more representors are heard by the CAP, the applicant is entitled to appear before the CAP to respond to any matters raised by a representor, in person or by an agent;
 - 4.4.3 representors and applicants will be allowed five minutes each to address the CAP. The Presiding Member may allow a party additional time at his or her discretion;
 - 4.4.4 CAP Members may question and seek clarification from a representor or applicant who has addressed the CAP at the conclusion of their address; and
 - 4.4.5 following addresses from representors and the applicant, the Presiding Member will invite all CAP Members to speak on any matter relevant to the application.

5. Review of an Assessment Manager Decision

Commencing a Review

- 5.1 An application for review must relate to a prescribed matter, as defined in section 201 of the Act (**Prescribed Matter**), for which an Assessment Manager was the relevant authority.
- 5.2 An application for review must be:
- 5.2.1 made using the "Application to Assessment Panel for Assessment Manager's Decision Review" published on the SA Planning Portal (**Form**);
 - 5.2.2 lodged in a manner identified on the Form; and
 - 5.2.3 lodged within one (1) month of the applicant receiving notice of the Prescribed Matter unless the Presiding Member in his or her discretion grants an extension of time.
- 5.3 In determining whether to grant an extension of time, the Presiding Member may consider:
- 5.3.1 the reason for the delay;
 - 5.3.2 the length of the delay;
 - 5.3.3 whether any rights or interests of other parties would be affected by allowing the review to be commenced out of time;
 - 5.3.4 the interests of justice;
 - 5.3.5 whether the applicant has, or is within time to, appeal the Prescribed Matter to the Environment, Resources and Development Court; and
 - 5.3.6 any other matters the Presiding Member considers relevant.

Materials for Review Process

- 5.4 The Assessment Manager shall present to the CAP all materials which were before the Assessment Manager (or delegate) at the time of the decision on the Prescribed Matter including:
 - 5.4.1 application documents, reports, submission, plans specifications or other documents submitted by the applicant; and
 - 5.4.2 internal and/or external referral responses and any checklist and/or report from Council staff or an external planning consultant written for the Assessment Manager.
- 5.5 The Assessment Manager (or delegate) must:
 - 5.5.1 prepare a report to the CAP setting out details of the relevant development application, the Prescribed Matter the subject of the review, any additional written submissions (including additional information or materials) prepared by the applicant pursuant to paragraph 5.6.3, and the reasons for the Assessment Manager's (or delegate's) decision and response to such additional written submission of the applicant so provided; and
 - 5.5.2 not introduce new material (except to address any written submission of the applicant under paragraph 5.6.3.3 or referral response under paragraph 5.6.4) or review the decision previously made.

Review Process

- 5.6 The review hearing shall be undertaken in accordance with the following:
 - 5.6.1 The Assessment Manager must advise the applicant in writing of the time and date of the CAP meeting at which the review application will be heard not less than five (5) business days before the CAP meeting.
 - 5.6.2 On review, the CAP will consider the decision afresh.
 - 5.6.3 An applicant for an application to the CAP for a review of a Prescribed Matter must be notified in writing by the Assessment Manager within five (5) business days of receipt of the application of the opportunity to:
 - 5.6.3.1 provide the CAP with their written submissions (which may include additional information and materials) in relation to the review; and
 - 5.6.3.2 appear and make submissions at the hearing in person, and the applicant must provide to the Assessment Manager:
 - 5.6.3.3 any such written submissions within ten (10) clear business days of the date of that notification (or such longer period as requested by the applicant and granted by the Presiding Member's discretion); and
 - 5.6.3.4 written confirmation of whether it will appear and make submissions at the hearing at least five (5) business days prior to the hearing.
 - 5.6.4 Within five (5) business days of the receipt of any written submissions under paragraph 5.6.3.3, the Presiding Member should determine in their discretion whether any referral agency who previously provided a response on the application should be given an opportunity to review and respond to the additional information and/or materials in a manner and timeframe determined by the Presiding Member. Any response received from such a referral agency should be provided to the applicant by the Assessment Manager within two (2) business days of receipt.
 - 5.6.5 The Presiding Member may defer the date for a hearing of the review application for a reasonable period, if it considers that the written submissions

received under paragraph 5.6.3.3 are substantial, in order to enable reasonable time for any response on the written submissions of a referral agency under paragraph 5.6.4 and/or response by the Assessment Manager. Written notice advising of any such deferral by the Presiding Member must be provided to the applicant by the Assessment Manager as soon as reasonably practicable and no less than 24 hours before the hearing at the CAP meeting.

- 5.6.6 The Presiding Member may however, ask or permit CAP Members to ask questions or seek clarification from the applicant and/or the Assessment Manager (or delegate), in his or her discretion.
- 5.6.7 The Assessment Manager must be present at the CAP meeting to respond to any questions or requests for clarification from the CAP.
- 5.6.8 Where the decision on the Prescribed Matter was made by a delegate of the Assessment Manager, the delegate may appear in place of the Assessment Manager.
- 5.6.9 The Presiding Member will invite all CAP Members to speak on any matter relevant to the review.
- 5.6.10 The CAP may resolve to defer its decision if it considers it requires additional time or information to make its decision.

Outcome of Review

- 5.7 The CAP may, on a review:
 - 5.7.1 affirm the Assessment Manager's decision;
 - 5.7.2 vary the Assessment Manager's decision; or
 - 5.7.3 set aside the Assessment Manager's decision and substitute its own decision.
- 5.8 An applicant should be advised in writing of the CAP's decision by the Assessment Manager within a reasonable time.

6. Decision Making

- 6.1 Subject to complying with these procedures, during debate and decision making, the CAP will act with a minimum of formality and without regard to formal procedures or protocols.
- 6.2 At all times, discussion will be managed by the Presiding Member in the Presiding Member's absolute discretion. The Presiding Member will ensure that each CAP Member has an opportunity for discussion, comments and questions about the matter for decision.
- 6.3 At the conclusion of discussion and debate on a matter, the Presiding Member will call for a motion to vote in relation to the recommendation as printed in the agenda report or for a motion on alternative terms to that recommendation (including, but not limited to, the addition, deletion or amendment of a condition or note proposed in that recommendation).
- 6.4 Each CAP Member present at a meeting of the CAP, (including a Deputy Member who has been requested to attend the meeting or part of the meeting in place of a CAP Member who is unable to attend the meeting) is entitled to one vote on any matter arising for decision. Additional experts/advisors appointed by the CAP to provide expert advice and assistance are not entitled to vote.
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