



COUNCIL ASSESSMENT PANEL

Agenda and Reports

for the meeting
Monday, 11 December 2023
at 5.30 pm
in the Colonel Light Room, Adelaide Town Hall



Council Assessment Panel

Meeting Agenda

Monday, 11 December 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 23 October 2023, be taken as read and be confirmed as an accurate record of proceedings.

View public 23 October 2023 Minutes [here](#).

2. Declaration of Conflict of interest

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

3.1 111 Mills Terrace, North Adelaide [Pages 4 - 26]

3.2 233 Gilles Street, Adelaide [Pages 27 - 46]

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

Nil

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

Nil

6. Other Business

6.1 Other Business - Nil

6.2 Other Business raised at Panel Meeting

6.3 Next Meeting – 29 January 2024

7. Closure

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Agenda Item 3.1

**Council Assessment Panel
Monday, 11 December 2023**

Subject Site	111 Mills Terrace, North Adelaide
Development Number	22033267
Nature of Development	Demolish existing dwelling and construct two storey detached dwelling, boundary retaining walls and fences.
Representations	Listed to be Heard - Yes
Summary Recommendation	Planning Consent Refused
Status	Public

DEVELOPMENT NO.:	22033267
APPLICANT:	Eastern Building Group
AGENDA ITEM NO:	3.1
ADDRESS:	111 Mills Terrace, North Adelaide SA 5006
NATURE OF DEVELOPMENT:	Demolish existing dwelling and construct two storey detached dwelling, boundary retaining walls and fences
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • City Living <p>Subzones:</p> <ul style="list-style-type: none"> • North Adelaide Low Intensity <p>Overlays:</p> <ul style="list-style-type: none"> • Aircraft Noise Exposure • Airport Building Heights (Regulated) • Building Near Airfields • Design • Historic Area (Adel1) • Heritage Adjacency • Hazards (Flooding - Evidence Required) • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Frontage • Minimum Site Area • Maximum Building Height (Levels) (Maximum 2 levels)
LODGEMENT DATE:	30 September 2022
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	Version 2022.18 - 29 September 2022
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	SB
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Heritage Architect

CONTENTS:

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

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

PERSONS SPEAKING BEFORE THE PANEL

Representor:

- Mark Kwiatkowski of Adelaide Planning and Development Solutions (APDS) on behalf of Stephen and Lara Biggins of 152 Buxton Street, North Adelaide
- Paul Reardon of 52 Barnard Street, North Adelaide
- Helen Davis of 240 Childers Street, North Adelaide

Applicant:

- Dino Verrochi of Eastern Building Group

1. DETAILED DESCRIPTION OF PROPOSAL

- 1.1 This application proposes demolition of the existing dwelling on the subject site and the construction of a detached dwelling.
- 1.2 The dwelling will comprise two building levels, with a maximum wall height of 6.8 metres and a maximum total height of 8.4 metres.
- 1.3 A front masonry pillar fence with slatted iron infill is proposed, along with retaining walls and Colorbond fences to the side and rear boundaries.

2. BACKGROUND

- 2.1 The application was lodged in September 2022. Initial concern was raised by Administration that the proposal did not provide a suitable contextual design response as sought by the Historic Area Overlay and encouraged the applicant to consider a redesign that reflected Code policies.
- 2.2 The applicant sought advice from both a planning consultant and heritage architect to inform a second iteration of the design. A supporting report from the applicant's heritage architect was supplied with the amended design.
- 2.3 Further concerns were raised by Administration, primarily relating to the design and appearance, bulk, and the garage dominance of the proposal. A third iteration of the proposal was provided and is now before Council's Assessment Panel (CAP) for determination.
- 2.4 No consultant or updated heritage architect advice has been supplied by the applicant for this third iteration.
- 2.5 The applicant sought to proceed to public notification, notwithstanding they were advised the recommendation to the CAP was unlikely to be supportive.

3. SUBJECT LAND & LOCALITY

Subject Land

- 3.1 The site is located on the eastern side of Mills Terrace, between the intersection with Buxton Street to the south and a 90 degree turn of Mills Terrace to the north.
- 3.2 The site is slightly irregular in shape and has a frontage to Mills Terrace of just under 16 metres and a total site area of approximately 727m².
- 3.3 Currently, a single-storey bungalow, circa 1930s is located on the site. This dwelling has a relatively large front setback and moderate rear and side setbacks.
- 3.4 The front and rear yards are landscaped.
- 3.5 A masonry fence with tubular gate extends along the front boundary of the site.

Locality

- 3.6 The locality is bound by Mills Terrace to the north, Hill Street to the east, Buxton Street to the south and the Adelaide Park Lands to the west.
- 3.7 The locality is residential in nature, comprising one and two-storey detached dwellings on typically large allotments. There are limited examples of more recent infill development.
- 3.8 Dwellings are of late 19th century and early 20th century construction and typically of Victorian or Edwardian design. One dwelling, 110 Mills Terrace to the south of the subject site, is a more recent 1999 construction and has an uncharacteristically wide double garage and parapet walls.

- 3.9 Dwellings typically have moderate to large front setbacks, with large rear yards. Front and rear yards are landscaped, with plantings contributing to a landscaped, open setting and a low-density character. Low to moderate height fences of varying styles extend along front boundaries which preserve views of dwellings from the streetscape.
- 3.10 St Laurence's Catholic Church and Priory on Buxton Street are notable buildings in the locality, while the Park Lands form a dense, natural edge to the locality and contribute to a landscaped, open setting.
- 3.11 The locality has a moderate to high level of residential amenity with a high proportion of listed heritage places.

Photo 3.1: View of subject site from Mills Terrace



Photo 3.2 – View of subject site from Mills Terrace



Photo 3.3 – View of adjacent dwellings to the north at 114 and 120 Mills Terrace



Photo 3.4 – Looking south along Mills Terrace



Photo 3.5 – Looking south along Mills Terrace (closer to subject site)



4. **CONSENT TYPE REQUIRED**

Planning Consent

5. **CATEGORY OF DEVELOPMENT**

PER ELEMENT

- Demolition: Code Assessed - Performance Assessed
- Detached dwelling: Code Assessed - Performance Assessed
- Fences: Code Assessed - Performance Assessed

OVERALL APPLICATION CATEGORY

- Code Assessed - Performance Assessed

REASON

- Demolition, detached dwelling and fence listed as performance assessed elements in City Living Zone, Table 3: Code Assessed - Performance Assessed.

6. **PUBLIC NOTIFICATION**

REASON

Demolition does not satisfy Zone Table 5(5) and is therefore not excluded from notification as the building to be demolished is in the Historic Area Overlay and is not an ancillary building.

The dwelling does not satisfy Zone Table 5(2) and is therefore not excluded from notification as the boundary wall exceeds 8 metres in length and 3 metres in height.

The side and rear fences do not satisfy Zone Table 5(2) and are therefore not excluded from notification as they exceed a length of 8 metres along boundaries.

TABLE 6.1 - LIST OF REPRESENTATIONS

No.	Representor Address	Request to be heard
1	Yasmin Stehr – 110 Mills Terrace, North Adelaide	No – Supports
2	Hagen Stehr – 110 Mills Terrace, North Adelaide	No – Supports
3	David Atkinson – 19 Mills Terrace, North Adelaide	No – Supports
4	Mark Kwiatkowski on behalf of Stephen and Lara Biggins – 152 Buxton Street, North Adelaide	Yes – Opposes
5	Paul Reardon – 52 Barnard Street, North Adelaide	Yes – Supports
6	Helen Davis – 240 Childers Street, North Adelaide	Yes – Support with some concerns

TABLE 6.2 - SUMMARY OF REPRESENTATIONS

<ul style="list-style-type: none">• Appearance of landscaping and fencing from streetscape undesirable• Demolition of existing dwelling inappropriate as it has not been demonstrated it does not conform with the Historic Area Statement• Site coverage exceeded
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- Side setbacks insufficient
- Roof material (tiles) not in keeping with predominant built form character of the locality
- Building height should be reduced
- Potential for overlooking
- Potential for overshadowing

Note: Refer to Attachments 5 and 6 for full representations and applicant's response.

7. **AGENCY REFERRALS**

Nil.

8. **INTERNAL REFERRALS**

Heritage Architect

- The subject site fronts the Park Lands. The immediate context is varied with Local Heritage Places fronting Mills Terrace and unsympathetic infill development at 110 Mills Terrace reducing legibility of the Historic Area context. The existing dwelling is clearly a bungalow style and visually appears in good condition representing the characteristics of the Heritage Area Overlay (Adel1) (HAO).
- The Historic Area Statement (HAS) speaks clearly to the bungalow style:

1920s to 1942 - Inter-war period.

Low and medium density cottages. Villas and terrace houses. Historically intact residential areas. Long established institutions...

Inter-War Housing consisting of bungalows incorporating a broad spreading roof and verandah with typical masonry columns supporting verandah elements and the expansive two storey version was often known as a Gentlemen's Bungalow; and Tudor Revival style displaying steeply pitched roofs with half-timber gable ends and variations of the verandah porch treatments...
- The proposal is a typical neo-Georgian homebuilder style retaining a large garage integrated into the façade. The existing dwelling is clearly demonstrative of the bungalow style as noted in the HAS and therefore its demolition is not supported per HAO PO 7.1.
- Despite the quality of the existing infill adjacent at 110 Mills Terrace and general lack of integrity noted in the heritage consultant's statement, the design response of the proposal is not considered sufficiently sympathetic to relevant HAO provisions.
- The design dominates the context of the adjacent Local Heritage Place in the streetscape through proposed bulk, scale and limited front setback.
- The proposal relies on an argument of poor localised integrity to support further inappropriate infill. It is substantially at variance with the Historic Area and relevant heritage provisions and is not supported from a heritage perspective in its current form.
- If demolition of the existing bungalow was to be approved against the above advice, the following matters require further consideration:
 - *PO 2.1 The form and scale of new buildings and structures that are visible from the public realm are consistent with the prevailing historic characteristics of the Historic Area.*

The two-tiered street facing dwelling is designed as an amalgam of standard design details that can be described as neo-Georgian, rather than being a design that responds to the HAS and heritage elements.

- *PO 2.3 Design and architectural detailing of street-facing buildings (including but not limited to roof pitch and form, openings, chimneys and verandahs) complement the prevailing characteristics in the historic area.*

The proposal is poorly articulated and appears to reference the neighbouring dwelling to the south rather than responding sympathetically to the historic character of the area.

- *PO 2.3 Design and architectural detailing of street-facing buildings (including but not limited to roof pitch and form, openings, chimneys and verandahs) complement the prevailing characteristics in the historic area.*

The proposal will be setback approximately half-way between the unsympathetic later neighbouring property to the south and the Local Heritage Place.

The HAO requires large allotments together with low and medium density residential. The building setback and subdivision pattern is established by Heritage Places. There are elegant and finely detailed mansions and large villas set on large allotments. The allotment area does not allow for reasonable setbacks to be achieved with the current design.

- *PO 2.5 Materials are either consistent with or complement those within the historic area.*

The proposed materials do not match or complement those of the Local Heritage Places and HAO. The materials are not of a traditional style or quality and are not sympathetic to the area.

- *PO 4.1 Ancillary development, including carports, outbuildings and garages, complements the historic character of the area and associated buildings. PO 4.2 Ancillary development, including carports, outbuildings and garages, is located behind the building line of the principal building(s) and does not dominate the building or its setting.*

The location of the expansive double garage is not considered to complement the historic character of the area.

- *PO 4.4 Fencing and gates closer to a street boundary (other than a laneway) than the elevation of the associated building are consistent with the traditional period, style and form of the associated building.*

The proposed fencing will consist of rendered piers and dwarf walls with 'black iron infill' railing and will range in height from 1.1 metres to 1.5 metres. This height is more in keeping with the traditional fencing height of the area, compared to the initial 1.8 metre proposal. However, the fence is not of a traditional style or design quality that is sympathetic to the area and is therefore deemed inappropriate.

- *PO 7.1 Buildings and structures, or features thereof, that demonstrate the historic characteristics as expressed in the Historic Area Statement are not demolished, unless:*

a) the front elevation of the building has been substantially altered and cannot be reasonably restored in a manner consistent with the building's original style or

b) the structural integrity or safe condition of the original building is beyond reasonable repair.

The existing bungalow demonstrates the historic characteristics of the area as expressed in the HAS. Whether or not the characteristics are demonstrated to an extraordinary extent is debated in the Heritage Impact Statement. The bungalow appears from a visual assessment to be in sound condition, clearly and unambiguously representative of the bungalow style of significance to the HAO and could be reasonably and economically restored to increase its representativeness.

- *PO 7.3 Buildings or elements of buildings that do not conform with the values described in the Historic Area Statement may be demolished.*

The bungalow style residence within the HAO conforms with the values described in the HAS and therefore should not be demolished.

- *Heritage Adjacency Overlay PO 1.1 Development adjacent to a State or Local Heritage Place does not dominate, encroach on or unduly impact on the setting of the Place.*

The dwelling is proposed substantially forward of the adjacent Local Heritage Place and is of a scale and unsympathetic standard of design which dominates and visually encroaches upon the setting of the Local Heritage Place.

9. **PLANNING ASSESSMENT**

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

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

Subject Code Reference	Assessment	Achieved ✓ Not Achieved x
Desired Outcome DO 1	<ul style="list-style-type: none"> • Not achieved. 	x
Built Form and Character PO 1.1	<ul style="list-style-type: none"> • Proposed dwelling does not increase residential density of the site as a replacement. 	✓
Site Coverage PO 2.1	<ul style="list-style-type: none"> • Building footprint inconsistent with open, landscaped character of the neighbourhood. Refer Section 9.5. 	x

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

Subject Code Reference	Assessment	Achieved ✓ Not Achieved x
Desired Outcome DO 1 & 2	<ul style="list-style-type: none"> • Achieved. 	✓

Land Use and Intensity PO 1.1	<ul style="list-style-type: none"> Residential development. 	✓
Built Form and Character PO 2.2	<ul style="list-style-type: none"> Development low-rise with two building levels proposed. 	✓
PO 2.3	<ul style="list-style-type: none"> Proposal not consistent with valued streetscape characteristics. Refer Section 9.5. 	x
PO 2.5	<ul style="list-style-type: none"> Proposal will provide a built-form edge to the Park Lands and addresses the street frontage. 	✓
Building Setbacks PO 3.1	<ul style="list-style-type: none"> Front setback does not complement existing streetscape character. Refer Section 9.5. 	x
PO 3.3	<ul style="list-style-type: none"> Side setback to upper-level impacts sunlight access to adjoining property to south, although this is not undue. Side setback not consistent with established streetscape character. 	✓/x
PO 3.4	<ul style="list-style-type: none"> Rear setback provides sufficient separation to neighbours, adequate private open space and space for landscaping. 	✓
PO 3.5	<ul style="list-style-type: none"> Side boundary wall impacts to the adjoining property to the south are not unreasonable. 	✓

9.3 Summary of Applicable Overlays

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

- Building Near Airfields – proposal not located near an airfield.
- Design – development less than \$10 million.
- Prescribed Wells Area – no wells in locality.
- Regulated and Significant Tree – no regulated trees on the subject or adjacent sites.

Aircraft Noise Exposure Overlay

Subject	Assessment	Achieved ✓ Not Achieved x
Code Reference		
Desired Outcome DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Land Use and Intensity PO 1.1	<ul style="list-style-type: none"> ANEF is below 30. 	✓

Summary of Airport Building Heights (Regulated) Overlay Provisions

Subject Code Reference	Assessment	Achieved ✓ Not Achieved x
Desired Outcome DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Built Form PO 1.1	<ul style="list-style-type: none"> Building height does not exceed regulated height of 100m AHD. 	✓

Hazards (Flooding – Evidence Required) Overlay

Subject Code Reference	Assessment	Achieved ✓ Not Achieved x
Desired Outcome DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Flood Resilience PO 1.1	<ul style="list-style-type: none"> Finished floor level sufficient to minimise risk of entry of potential floodwaters. 	✓

Heritage Adjacency Overlay

Subject Code Reference	Assessment	Achieved ✓ Not Achieved x
Desired Outcome DO 1	<ul style="list-style-type: none"> Not achieved. 	x
Built Form PO 1.1	<ul style="list-style-type: none"> Development unduly impacts on adjacent Local Heritage Place. Refer Section 9.5. 	x

Historic Area (Adel1) Overlay

Subject Code Reference	Assessment	Achieved ✓ Not Achieved x
Desired Outcome DO 1	<ul style="list-style-type: none"> Not achieved. 	x

All Development PO 1.1	<ul style="list-style-type: none"> Development not undertaken having consideration to the historic streetscape. Refer Section 9.5. 	x
Built Form PO 2.1	<ul style="list-style-type: none"> Form and scale of dwelling not consistent with prevailing historic characteristics. Refer Section 9.5. 	x
PO 2.2	<ul style="list-style-type: none"> Development consistent with prevailing building and wall heights. 	✓
PO 2.3	<ul style="list-style-type: none"> Design and architectural detailing do not complement prevailing characteristics. Refer Section 9.5. 	x
PO 2.4	<ul style="list-style-type: none"> Dwelling inconsistent with prevailing front and side setbacks. 	x
PO 2.5	<ul style="list-style-type: none"> Materials do not complement those within the historic area. 	x
Ancillary Development PO 4.4	<ul style="list-style-type: none"> Proposed front fence not consistent with traditional period, style and form of the dwelling. 	x
Context & Streetscape Amenity PO 6.2	<ul style="list-style-type: none"> Valued landscape pattern not maintained. 	x
Demolition PO 7.1	<ul style="list-style-type: none"> Building to be demolished demonstrates historic characteristics expressed in the HAO. Refer Section 9.5. 	x
PO 7.3	<ul style="list-style-type: none"> Building to be demolished demonstrates historic characteristics expressed in the HAO. Refer Section 9.5. 	x

Stormwater Management Overlay

Subject Code Reference	Assessment	Achieved ✓ Not Achieved x
Desired Outcome DO 1	<ul style="list-style-type: none"> Achieved. 	✓
PO 1.1	<ul style="list-style-type: none"> Rainwater tank proposed in accordance with DPF 1.1. 	✓

Urban Tree Canopy Overlay

Subject Code Reference	Assessment	Achieved ✓ Not Achieved x
Desired Outcome DO 1	<ul style="list-style-type: none"> Achieved. 	✓
PO 1.1	<ul style="list-style-type: none"> Two small trees proposed in accordance with DPF 1.1. 	✓

9.4 Summary of General Development Policies

The following General Development policies are relevant to the assessment:

Clearance from Overhead Powerlines

Subject Code Reference	Assessment	Achieved ✓ Not Achieved x
Desired Outcome DO 1	<ul style="list-style-type: none"> Achieved. 	✓
PO 1.1	<ul style="list-style-type: none"> Electricity declaration provided at lodgement. 	✓

Design in Urban Areas

Subject Code Reference	Assessment	Achieved ✓ Not Achieved x
Desired Outcome DO 1	<ul style="list-style-type: none"> Not achieved. 	✓
Earthworks and Sloping Land PO 8.1	<ul style="list-style-type: none"> Proposed earthworks limited. 	✓
PO 8.2	<ul style="list-style-type: none"> Driveway gradient safe and convenient. 	✓
PO 8.3	<ul style="list-style-type: none"> Driveway gradient will not impact topography of the land. 	✓
Fences and Walls PO 9.1	<ul style="list-style-type: none"> Proposed fences sufficient and will provide privacy and security without unreasonably impacting visual amenity and access to sunlight for adjacent dwellings. 	✓
Overlooking / Visual Privacy (low rise buildings) PO 10.1	<ul style="list-style-type: none"> Proposed sill heights of side and rear upper-level windows will mitigate direct overlooking into adjacent habitable rooms and private open space areas. 	✓
PO 10.2	<ul style="list-style-type: none"> Front balcony faces Mills Terrace/overlooks Park Lands. 	✓
Front Elevations & Passive Surveillance PO 17.1	<ul style="list-style-type: none"> Windows provided to front elevation to allow passive surveillance. 	✓
PO 17.2	<ul style="list-style-type: none"> Front entry door visible from streetscape. 	✓
Outlook and Amenity PO 18.1	<ul style="list-style-type: none"> Living rooms have an external outlook to provide for high amenity. 	✓

External Appearance PO 20.1	<ul style="list-style-type: none"> Garage unduly wide in context of the streetscape and detracts from the streetscape. Refer Section 9.5. 	x
PO 20.2	<ul style="list-style-type: none"> Dwelling does not make a positive contribution to the streetscape. Refer Section 9.5. 	x
PO 20.3	<ul style="list-style-type: none"> Visual mass of the building is considered suitable when viewed from the street and abutting sites. This does not derogate from the overall inappropriate bulk and scale of the dwelling in this heritage context. 	✓
Private Open Space PO 21.1	<ul style="list-style-type: none"> Sufficient area of private open space provided to meet the needs of occupants. 	✓
PO 21.2	<ul style="list-style-type: none"> Private open space conveniently accessible from living areas. 	✓
Landscaping PO 22.1	<ul style="list-style-type: none"> Soft landscaping will minimise heat absorption and reflection, contributing shade and shelter and providing for stormwater infiltration. Soft landscaping does not provide for biodiversity. In the context of the locality, the proposal does little to enhance the appearance of land and the streetscape. 	✓/x
Car Parking, Access and Manoeuvrability PO 23.1	<ul style="list-style-type: none"> Garage parking spaces are of a functional dimension. 	✓
PO 23.2	<ul style="list-style-type: none"> Driveway parking space of a functional dimension. 	✓
Waste Storage PO 24.1	<ul style="list-style-type: none"> Area for waste bins on-site not visible from the street. 	✓

Infrastructure and Renewable Energy Facilities

Subject Code Reference	Assessment	Achieved ✓ Not Achieved x
Desired Outcome DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Water Supply PO 11.2	<ul style="list-style-type: none"> Dwelling will be connected to mains water. 	✓
Wastewater services PO 12.1	<ul style="list-style-type: none"> Dwelling will be connected to mains sewer. 	✓

Interface between Land Uses

Subject Code Reference	Assessment	Achieved ✓ Not Achieved x
Desired Outcome DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Overshadowing PO 3.1	<ul style="list-style-type: none"> Direct winter sunlight access to adjacent residential uses not maintained. 	x
PO 3.2	<ul style="list-style-type: none"> Overshadowing of private open space of adjacent dwellings minimised to maintain winter sunlight. 	✓
PO 3.3	<ul style="list-style-type: none"> No adjacent solar panels impacted by the proposal. 	✓

Site Contamination

Subject Code Reference	Assessment	Achieved ✓ Not Achieved x
Desired Outcome DO	<ul style="list-style-type: none"> Achieved. 	✓
PO 1.1	<ul style="list-style-type: none"> No change of use proposed. 	✓

Transport, Access and Parking

Subject Code Reference	Assessment	Achieved ✓ Not Achieved x
Desired Outcome DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Vehicle Parking Rates PO 5.1	<ul style="list-style-type: none"> Sufficient on-site vehicle parking provided with two undercover spaces within garage and one space in driveway. 	✓

9.5 Detailed Discussion

Demolition

The application proposes demolition of the existing bungalow to enable the construction of a replacement two-storey dwelling. DO 1 and PO 1.1 of the HAO seeks buildings that reflect historic themes and characteristics, as recognised in the HAS, be conserved and any new development provide a contextually responsive design.

PO 7.1 of the HAO prescribes that buildings demonstrating the historic characteristics as expressed in the HAS are not demolished unless:

- the front elevation of the building has been substantially altered and cannot be reasonably restored in a manner consistent with the building's original style; or
- the structural integrity of the original building is beyond reasonable repair.

PO 7.3 of the Overlay provides that buildings that do not conform with the HAS may only be demolished. The HAS identifies 1920s to 1942 Inter-war Period as a historic era and theme of the Area. It specifically identifies bungalows with broad spreading roof forms and verandahs with masonry columns as an architectural style within the area. Mills Terrace is identified as comprising Inter-war housing and the existing dwelling is readily identifiable as such. It is considered the dwelling demonstrates the historic characteristics as expressed in the HAS and is worthy of retention.

PO 7.1 provides two guiding principles relating to the demolition of historic buildings as outlined above. It is evident the front elevation of the dwelling has not been 'substantially altered' nor the structural integrity of the dwelling.

While the locality appears to comprise limited examples of Inter-war dwellings, the test provided by PO 7.1 does not hinge on whether the HAS accurately portrays the character of the locality. The test purely seeks consideration of whether the proposed demolition is of a building which demonstrates the historic characteristics as expressed in the statement, whether accurately descriptive of the locality or not. Consequently, the proposed demolition of the existing dwelling is not considered to satisfy PO 7.1 of the HAO and accordingly PO 7.3 is also not satisfied.

Design and Appearance

When considering the design of the proposed dwelling in this locality, it is important to consider PO 2.1 of the HAO which desires the form of new buildings visible from the public realm be consistent with the prevailing historic characteristics of the Historic Area, as well as PO 2.3 which desires architectural detailing of street-facing buildings complement the prevailing characteristics of the Historic Area.

The HAS identifies Victorian, Edwardian and Inter-war housing as architectural styles characteristic of Mills Terrace. The proposal comprises a two level appearance to the street, with a slightly wider lower level and narrower upper level floor. A flat roof exists above the lower level while a hipped roof tops the upper level. A portico with balcony presents around the front door in the centre of the dwelling. The dwelling is asymmetrical given a relatively wide double garage integrated with the lower level. Advice from Council's Heritage Architect confirms the design of the proposed dwelling appears to be a broad interpretation of the Georgian Revival or 'Neo-Georgian' style given these architectural features, however, a poorly articulated one which references the surrounding context and architectural styles, particularly of the neighbouring dwelling to the south, rather than complementing this context.

The settlement pattern of this part of upper North Adelaide, west of Wellington Square, largely arose following the introduction of the horse-drawn tram down O'Connell Street in the late 19th century.

The elevated blocks fronting the Park Lands, including Mills Terrace, became more accessible as a result of the tram and therefore became prestigious allotments leading to a settlement pattern typified by large dwellings on large allotments, especially Victorian and Edwardian dwellings. Conversely, the Georgian Revival is an interpretation of the much older Georgian architectural style which emerged in the United Kingdom throughout the 18th century. Georgian Revival became a popular style in the Post-War period of the 1950s onwards and examples of this style can be found throughout some parts of North Adelaide, including in the vicinity of Stanley Street. Even if the proposed dwelling was an exemplary example of Georgian Revival, this style is not characteristic of the Hill Street Historic Area which developed much earlier and with a different settlement pattern.

The dwelling incorporates a double width garage integrated under the main roof. Double width garages and carports are uncommon in the locality and single-width garages and carports prevail. The garage detracts from the appearance of the dwelling and does not positively contribute to the streetscape which is at odds with Design in Urban Areas PO 20.1.

A front fence comprising rendered pillars and plinth with black iron infill is proposed. While largely low in height and visually permeable, the style and materials of the fence are not consistent with the traditional period of the historic area and do not complement the dwelling. HAO PO 4.4 is not satisfied.

The form of the proposed dwelling visible from the public realm will be inconsistent with the prevailing historic characteristics of the Historic Area and the architectural detailing will not complement prevailing historic characteristics. PO 2.1 and 2.3 of the HAO are not satisfied, in addition to City Living Zone PO 2.3.

PO 2.5 of the HAO provides further guidance that materials are either consistent with or complement those within the Historic Area. The proposal incorporates roof tiles in a mid-grey tone ('Basalt'), walls in a render finish with sandstone colour and aluminium windows. These materials are not reflected in the HAS and are not considered complementary to the historic characteristics of the area, therefore failing to satisfy PO 2.5 of the Overlay.

The response to representations at 38.1 and 38.3 references the report provided by the applicant's Heritage Architect. It appears to justify how the proposal demonstrates compliance with the HAS and incorporates a complementary design. The heritage report was produced in relation to the second iteration of the design. An updated heritage report has not been supplied and it is unclear whether the applicant's Heritage Architect shares the same opinions regarding the third iteration.

Bulk and Scale

PO 2.2 of the HAO desires development be consistent with prevailing building and wall heights in the Historic Area. Dwellings of one and two building levels prevail in the locality, with the only taller building being St Laurence's Catholic Church. The proposed dwelling is two building levels, with a maximum wall height of 6.8 metres and a maximum total height of 8.4 metres. The height of the proposal is considered consistent with the prevailing building and wall heights in the Historic Area, satisfying PO 2.2 of the Overlay.

PO 2.4 of the HAO desires development consistent with the prevailing front and side boundary setback pattern in the Historic Area. Front setbacks in the locality do not have a high level of consistency and vary between large front setbacks of heritage listed dwellings in the range of 7-10 metres, to reduced setbacks of only a few metres for non-heritage listed dwellings including the adjacent dwelling to the south at 110 Mills Terrace. Despite some dwellings in the locality having minimal front setbacks, this is outweighed by a higher number of dwellings with larger setbacks. The abutting dwelling at 110 Mills Terrace is especially jarring considering the larger setback of dwellings along this portion of Mills Terrace.

This is largely reflective of the HAS which provides the building setback pattern is established by heritage places. The prevailing front setback pattern is considered to be moderate to large and is accentuated by the Park Lands edge which further contributes to the open, landscaped character of the locality.

The proposed front setback of 6 metres is approximately halfway between the adjacent Local Heritage Place to the north at 114 Mills Terrace and the infill dwelling to the south at 110 Mills Terrace. Given the prevailing front setback pattern of larger setbacks established by heritage places in the locality, the proposed front setback is not considered to be consistent with the prevailing front setback pattern and is also at odds with City Living Zone PO 3.1.

Side setbacks in the locality are also variable. There are limited examples of development constructed to side boundaries. One example is the adjacent dwelling to the south at 110 Mills Terrace which has a rather wide and high double garage constructed to its southern side boundary as well as its western (front) boundary. The Proposed Indicative Streetscape in Attachment 1 demonstrates the somewhat jarring visual impact expected as a result of this boundary build.

Most other dwellings in the locality, especially the heritage listed places, do not comprise any boundary construction which contributes to the established open character. The proposed dwelling also comprises a wide double garage with parapet wall constructed to its southern boundary, not dissimilar to 110 Mills Terrace. This further erodes the open character along this portion on Mills Terrace and is not consistent with the prevailing side boundary setbacks in the Historic Area. Therefore, the proposed side setbacks do not satisfy PO 3.3(a) of the City Living Zone. While the side boundary setback to the northern boundary is maintained for the lower level, and even increased for the upper level, the visual impact caused by the boundary build on the southern side poses a greater visual impact. On balance, PO 2.4 of the Historic Area Overlay is not satisfied by the proposed front or side setbacks of the dwelling.

In addition to the visual impact to the streetscape and to the Historic Area created as by the proposed deficient front and side setbacks, it is also prudent to consider the flow on impacts caused to the established character of the locality and any impacts to adjacent heritage places.

The deficient setbacks may indicate the scale of the proposed dwelling is too large for the site. This is further evidenced by the site coverage which will total almost 60%. It has been previously observed the locality comprises an open, landscaped character. This is partially due to the prevailing pattern of front and side setbacks, as well as landscaped front and rear yards and the Park Lands edge of the locality. Dwellings in the locality typically have site coverage in the range of 50% or less given the relatively large pattern of allotments in the locality. The deficient setbacks and large scale of the proposed dwelling decreases the area available for landscaping. This further erodes the open, landscaped character of the locality and is at odds with PO 6.2 of the Historic Area Overlay and PO 2.1 of the North Adelaide Low Intensity Subzone.

In terms of the impact to the adjacent heritage place to the north at 114 Mills Terrace, the front setback of the proposed dwelling will be significantly closer to Mills Terrace compared with the setback of that dwelling which has a front setback of approximately 11 metres. Combined with the unsympathetic design of the proposed dwelling, the proposal unduly encroaches on and impacts the heritage setting of this Local Heritage Place. Heritage Adjacency Overlay PO 1.1 is therefore not considered satisfied.

Amenity

City Living Zone PO 3.5 desires boundary walls be limited in height and length to manage impacts on adjoining properties. The proposed side boundary wall to the garage comprises only a small portion of the length of the southern boundary of the site at approximately 19%. However, the same wall comprises approximately 57% of the length of the northern boundary of the abutting property to the south at 110 Mills Terrace, due to the short depth of that site.

The height of the wall is higher than a typical garage at 3.8 metres and this is expected to be undesirable to the adjoining property in terms of visual impacts with a sense of enclosure and overshadowing. It is noted most of the visual impact of this boundary wall will be obscured by the dwelling at 110 Mills Terrace, and the main area of private open space is located on the opposite side of this dwelling, therefore ensuring the impacts from this boundary via overshadowing and mass will not be unreasonable. It appears the northern side of the dwelling at 110 Mills Terrace is primarily used as a service yard rather than for recreational purpose.

In terms of potential overshadowing impacts to the adjoining dwellings to the south, it is unlikely these impacts to the lower level will be undue given the wall height of the boundary wall is not dissimilar to a single storey dwelling. There will also be no overshadowing impacts to the upper level of the adjoining dwelling.

As visual impacts caused by the proposed boundary wall are not considered unreasonable in the context of the adjoining dwelling and overshadowing impacts to the adjoining dwelling are not undue, on balance City Living Zone PO 3.5 is satisfied.

Further guidance on overshadowing is provided by Interface between Land Uses PO 3.1 and City Living Zone PO 3.3(b) which seek overshadowing of habitable room windows of adjacent residential uses be minimised to maintain access to direct winter sunlight and side setbacks provide access to natural light to neighbours. Shadow diagrams provided by the applicant appear to indicate that all lower level, north-facing windows of the adjacent dwelling to the south at 110 Mills Terrace will be entirely overshadowed between 9am and 3pm on 21 June (Winter solstice). The two rooms on the lower level facing north are a living room and a bedroom, both habitable rooms. Upper-level windows of the adjacent dwelling will likely receive sunlight access.

While overshadowing impacts will naturally be worse to any adjoining dwelling to the south, the proposed side setback does not demonstrate that overshadowing impacts to the adjoining dwelling are adequately minimised and that direct winter sunlight access to the adjoining dwelling is maintained. It is noted the shadow diagrams provided are for the second iteration of the design, and the applicant has not supplied updated diagrams to reflect the updated design despite appearing to reference shadow diagrams in the response to representation at 49. While it would be inappropriate to make an assessment based on previous plans, it is noted that since the provision of shadow diagrams, the rear portion of the dwelling has decreased in wall height from 7.1 metres to 6.8 metres (300mm decrease), however the front portion of the dwelling has increased in wall height from 6.2 metres to 6.8 metres (600mm increase). Interface between Land Uses PO 3.1 and City Living Zone PO 3.3(b) are not satisfied.

Seriously at Variance

The application is not considered to be seriously at variance with the provisions of the Planning and Design Code as the City Living Zone envisages dwellings as an appropriate use within the zone. The proposal also aligns with the Planning and Design Code by proposing a height that will maintain the predominantly low-rise character of the zone.

10. CONCLUSION

The application proposes the demolition of an existing dwelling which is deemed worthy of retention as it represents important historic characteristics expressed in the Historic Area Statement. Council's Heritage Architect has confirmed that reasons to support the demolition of this dwelling have not been adequately demonstrated.

In place of the existing dwelling will be a two-storey, 'Neo-Georgian'-style dwelling. The dwelling is considered unsympathetic in its design and will negatively impact on both the historic streetscape, adjacent Local Heritage Place, and adjacent properties due to the setbacks and overall mass of the proposal.

It is considered the proposal fails to have adequate regard to the Planning and Design Code, specifically in relation to demolition of the existing dwelling and the architectural design response of the replacement two storey dwelling.

Whilst the proposal is not considered to be 'seriously at variance' with the relevant assessment provisions of the Code, it does not exhibit 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*, 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 22033267, by Eastern Building Group is REFUSED Planning Consent for the following reasons:
 - Historic Area Overlay PO 1.1 not satisfied as the proposal does not incorporate adequate consideration of historic streetscapes and built form expressed in the Historic Area Statement
 - Historic Area Overlay PO 2.1, 2.3 and 2.5 are not satisfied as the form, scale and architectural detailing of the proposed dwelling, including the proposed materials, are not consistent with or complementary to the prevailing characteristics of the Historic Area
 - Historic Area Overlay PO 2.4 is not satisfied as the development is not consistent with the prevailing front and side boundary setback pattern
 - Historic Area Overlay PO 6.2 and North Adelaide Low Intensity Subzone PO 2.1 are not satisfied as the development does not maintain the valued landscape patterns that contribute to the Historic Area and the building footprint is not consistent with the open, landscaped character
 - Historic Area Overlay PO 7.1 and 7.3 are not satisfied as the proposal results in the demolition of a building which demonstrates the historic characteristics as expressed in the Historic Area Statement
 - Historic Area Overlay PO 4.4 is not satisfied as the front fence is not consistent with the traditional period
 - Design in Urban Areas PO 20.1 is not satisfied as the garage will be dominant and will not positively contribute to the streetscape or the appearance of the dwelling
 - Interface between Land Uses PO 3.1 and City Living Zone PO 3.3(b) are not satisfied as winter sunlight access to adjacent residential land uses will not be maintained.

Agenda Item 3.2

**Council Assessment Panel
Monday, 11 December 2023**

Subject Site	233 Gilles Street, Adelaide
Development Number	23026069
Nature of Development	Partial demolition of an existing dwelling (Local Heritage Place), the construction of alterations and additions to an existing dwelling and garage, a shade sail, a fence and a sliding gate, and the re-roofing of an existing dwelling
Representations	Listed to be Heard - Yes
Summary Recommendation	Planning Consent Granted
Status	Public

DEVELOPMENT NO.:	23026069
APPLICANT:	Val Mohyla Joshua Carrabs
AGENDA ITEM NO:	3.2
ADDRESS:	233 Gilles Street, Adelaide SA 5000
NATURE OF DEVELOPMENT:	Partial demolition of an existing dwelling (Local Heritage Place), the construction of alterations and additions to an existing dwelling and garage, a shade sail, a fence and a sliding gate, and the re-roofing of an existing dwelling
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) • Local Heritage Place (997) • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Site Area (Minimum site area for a detached dwelling is 120 sqm; semi-detached dwelling is 120 sqm; row dwelling is 120 sqm; group dwelling is 120 sqm; residential flat building is 120 sqm) • Maximum Building Height (Levels) (Maximum 2 levels)
LODGEMENT DATE:	7 September 2023
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) - Version 2023.13 - 31/08/2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	SB
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Heritage Architect

CONTENTS:

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

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

PERSONS SPEAKING BEFORE THE PANEL:

Representor:

- Adam and Sarah Forza of 10 Charlotte Street, Adelaide

Applicant:

- Val Mohyla and Joshua Carrabs

1. DETAILED DESCRIPTION OF PROPOSAL

- 1.1 This application proposes partial demolition of the rear of an existing Local Heritage Place used as a dwelling. The portion to be demolished is not part of the original dwelling and is not within the scope of the heritage listing.
- 1.2 Internal building works are proposed inside the heritage listed portion of the dwelling, as well as the existing dwelling addition above the garage.
- 1.3 The addition above the garage is proposed to be extended towards the western boundary of the site to Charlotte Street (the secondary street frontage), and the inside of the dwelling refurbished. The area is currently used as a home office and this is not proposed to change.
- 1.4 A retractable shade sail is proposed above the proposed outdoor entertaining area.
- 1.5 A compressed fibre cement (CFC) clad fence is proposed to be constructed along the western boundary of the site with a gate across the driveway.
- 1.6 The frontage of the dwelling and the front fence will be repainted, and the roof of the existing dwelling replaced.

2. SUBJECT LAND & LOCALITY

Subject Land

- 2.1 The site is located on the southern side of Gilles Street, east of the intersection of Charlotte Street.
- 2.2 The site is a regular shaped allotment with an area of 371m², a frontage to Gilles Street of 12.1 metres and a secondary frontage to Charlotte Street of 30.4 metres.
- 2.3 Existing improvements on the site include a single-storey detached dwelling (Local Heritage Place 997), along with a two-storey habitable outbuilding to the rear that provides garaging at ground and a living space (home office) to the upper floor.
- 2.4 Existing access to the garage is obtained via a crossover to Charlotte Street. A front fence of masonry pillars and tubular infills extends along the front boundary of the site, with a timber panel fence and steel sliding gate extending along the secondary street boundary.
- 2.5 The site slopes gently from north to south.
- 2.6 There are no easements registered on the land.

Locality

- 2.7 The locality is residential in nature, comprising a range of low-rise detached dwellings, group dwellings and residential flat buildings at medium density. There are few examples of medium-rise buildings in the locality.
- 2.8 Front, side and rear setbacks are typically short to moderate, with high site coverage and low soft landscaping coverage.
- 2.9 The Charlotte Street streetscape character is especially intimate given the narrowness of Charlotte Street and minimal front setbacks of dwellings.
- 2.10 Dwellings are in average to good condition and comprise a mix of original dwellings and more contemporary designs.

Photo 2.1 – View of subject site from Gilles Street



Photo 2.2 – View of subject site from Charlotte Street



Photo 2.3 – View of existing garage from Charlotte Street



Photo 2.4 – View from Charlotte Street looking north toward Gilles Street



3. CONSENT TYPE REQUIRED

Planning Consent

4. CATEGORY OF DEVELOPMENT

PER ELEMENT

- Shade sail: Code Assessed - Performance Assessed
- Building Alterations: Code Assessed - Performance Assessed
- Dwelling addition: Code Assessed - Performance Assessed
- Partial demolition of a building or structure: Code Assessed - Performance Assessed
- Fence: Code Assessed - Performance Assessed

OVERALL APPLICATION CATEGORY:

- Code Assessed - Performance Assessed

REASON

- Planning and Design Code

5. PUBLIC NOTIFICATION

REASON

Does not satisfy Zone Table 5(3) due to boundary wall length and height. Additionally, does not satisfy Zone Table 5(5) due to the partial demolition of a Local Heritage Place. It is noted the heritage listing includes the whole house.

TABLE 5.1 - LIST OF REPRESENTATIONS		
No.	Representor Address	Request to be heard
1	Greg Perkin – 7A Charlotte St, Adelaide	No - Supports
2	Caroline Henderson – 16/211 Gilles St, Adelaide	No - Opposes
3	Kay Morphett – 11 Charlotte St, Adelaide	No - Supports with some concerns
4	Adam and Sarah Forza – 10 Charlotte St, Adelaide	Yes – Opposes

TABLE 5.2 - SUMMARY OF REPRESENTATIONS
<ul style="list-style-type: none"> • Concern use is a second dwelling/short-term accommodation. • Excessive boundary development. • Future impacts to hypothetical dwelling additions or solar panels to adjacent dwellings. • Unsympathetic to Local Heritage Places and streetscape character. • Increase in domestic and traffic noise. • Existing stormwater outlet on Council land. • Reduction in privacy.

Note: Refer to Attachments 5 and 6 for full representations and applicant’s response.

6. AGENCY REFERRALS

Nil.

7. INTERNAL REFERRALS

Heritage Architect

- The development is supported as it will retain the heritage value of the dwelling.
- Impact to adjacent cottage (Local Heritage Place) is acceptable.

8. PLANNING ASSESSMENT

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

8.1 Summary of Medium-High Intensity Subzone Assessment Provisions

Subject Code Reference	Assessment	Achieved ✓ Not Achieved x
Desired Outcome DO 1 & 2	<ul style="list-style-type: none"> • Achieved 	✓
Built Form and Character PO 1.1	<ul style="list-style-type: none"> • Dwellings envisaged in the subzone. 	✓

8.2 Summary of City Living Zone Assessment Provisions

Subject Code Reference	Assessment	Achieved ✓ Not Achieved x
Desired Outcome DO 1	<ul style="list-style-type: none"> • Achieved. 	✓
Land Use and Intensity PO 1.1	<ul style="list-style-type: none"> • Dwellings envisaged in the zone. Addition not proposed to be used for any purpose other than a dwelling. 	✓
Built Form and Character PO 2.2 & 2.3	<ul style="list-style-type: none"> • Development not medium rise and is an addition only. • Addition consistent with streetscape character. 	✓
Building Setbacks PO 3.1	<ul style="list-style-type: none"> • Building setbacks complement existing streetscape character. 	✓

PO 3.2	<ul style="list-style-type: none"> Secondary street (western) setback reinforces the intimate streetscape character of Charlotte Street. 	✓
PO 3.3	<ul style="list-style-type: none"> Eastern side setback will not impact on streetscape character or access to light and ventilation for neighbours. 	✓
PO 3.4	<ul style="list-style-type: none"> Rear (southern) setback will not compromise access to natural light and ventilation for neighbours. 	✓
PO 3.5	<ul style="list-style-type: none"> Southern boundary wall will be limited in length and height to manage impacts on the adjoining property to the south. 	✓
Ancillary Buildings and Structures PO 8.1	<ul style="list-style-type: none"> Proposed shade sail will be sited behind the front elevation of the dwelling and will be a modest size to not detract from the streetscape or appearance of dwellings. 	✓
PO 8.2	<ul style="list-style-type: none"> Proposed shade sail will not impact on private open space or car parking. 	✓

8.3 Summary of Applicable Overlays

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

- Affordable Housing – proposal seeks alterations and additions to an existing dwelling.
- Building Near Airfields – development not located near and airfield.
- Design – development cost does not exceed \$10 million.
- Prescribed Wells Area – no ground water concerns.
- Regulated and Significant Tree – no regulated or significant trees affected.
- Stormwater Management – not a new dwelling.
- Urban Tree Canopy – not a new dwelling.

Airport Building Heights (Regulated) Overlay

Subject	Assessment	Achieved
Code Reference		✓ Not Achieved ✗
Desired Outcome DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Built Form PO 1.1	<ul style="list-style-type: none"> Building height does not exceed regulated height of 140m AHD. 	✓

Summary of Hazards (Flooding – Evidence Required) Overlay Provisions

Subject Code Reference	Assessment	Achieved ✓ Not Achieved ✗
Flood Resilience PO 1.1	<ul style="list-style-type: none"> Finished floor level sufficient to minimise risk of entry of potential floodwaters. 	✓

Heritage Adjacency Overlay

Subject Code Reference	Assessment	Achieved ✓ Not Achieved ✗
Desired Outcome DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Built Form PO 1.1	<ul style="list-style-type: none"> Development will not unduly dominate, encroach or impact on the heritage setting adjacent heritage places. Refer Section 8.5. 	✓

Local Heritage Place Overlay

Subject Code Reference	Assessment	Achieved ✓ Not Achieved ✗
Desired Outcome DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Built Form PO 1.1	<ul style="list-style-type: none"> Form of the addition maintains the heritage values of the place. 	✓
PO 1.2	<ul style="list-style-type: none"> Massing, scale and siting of the addition maintains the heritage values of the place. 	✓
PO 1.3	<ul style="list-style-type: none"> Design of the addition maintains the heritage values of the place. 	✓
PO 1.4	<ul style="list-style-type: none"> Addition consistent with boundary setbacks and setting. 	✓
PO 1.5	<ul style="list-style-type: none"> Materials and colours sufficiently complementary to the heritage place. 	✓
PO 1.6	<ul style="list-style-type: none"> Addition not placed between primary or secondary street boundary and the façade of the heritage place. 	✓
PO 1.7	<ul style="list-style-type: none"> Development of the heritage place retains features contributing to its heritage value. 	✓

Alterations and Additions PO 2.1	<ul style="list-style-type: none"> Proposed addition not sited obtrusively and will not dominate the heritage place. 	✓
PO 2.2	<ul style="list-style-type: none"> Local Heritage Place being adapted to support its retention and ongoing use as a dwelling. 	✓
Ancillary Development PO 3.1	<ul style="list-style-type: none"> Shade sail will not impact on heritage values of dwelling. 	✓
PO 3.2	<ul style="list-style-type: none"> Shade sail located behind building line of dwelling. 	✓
PO 3.4	<ul style="list-style-type: none"> Side fence will not unduly detract from appearance of the dwelling despite not being of a traditional design. 	✓
Demolition PO 6.1	<ul style="list-style-type: none"> Portion of Local Heritage Place to be demolished is not part of the original dwelling and therefore will not impact the heritage fabric. 	✓
PO 6.2	<ul style="list-style-type: none"> Portion of the dwelling to be demolished does not contribute to the heritage values of the place. 	✓

8.4 Summary of General Development Policies

The following General Development policies are relevant to the assessment:

Clearance from Overhead Powerlines

Subject	Assessment	Achieved ✓ Not Achieved x
Code Reference		
Desired Outcome DO 1	<ul style="list-style-type: none"> Achieved. 	✓
PO 1.1	<ul style="list-style-type: none"> Electricity declaration provided at lodgement. 	✓

Design in Urban Areas

Subject	Assessment	Achieved ✓ Not Achieved x
Code Reference		
Desired Outcome DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Fences and Walls PO 9.1	<ul style="list-style-type: none"> Proposed fence sufficient to provide privacy and security for adjacent dwellings without unreasonably impacting visual amenity and access to sunlight. 	✓

Overlooking / Visual Privacy (low rise buildings) PO 10.1	<ul style="list-style-type: none"> No east or south-facing upper-level windows. 	✓
PO 10.2	<ul style="list-style-type: none"> While balcony facing the secondary side street/Charlotte Street will be within 15 metres of the habitable rooms of an adjacent dwelling, undue overlooking is not anticipated. 	✓/x
Outlook and Amenity PO 18.1	<ul style="list-style-type: none"> Living rooms have an external outlook to provide for high amenity. 	✓
Ancillary Development PO 19.1	<ul style="list-style-type: none"> Proposed shade sail will be sited behind the front elevation of the dwelling and is a modest size to not detract from the streetscape. 	✓
PO 19.2	<ul style="list-style-type: none"> Proposed shade sail will not impact on private open space or car parking. 	✓
External Appearance PO 20.3	<ul style="list-style-type: none"> The visual mass of the addition is reduced when viewed from the streetscape and adjoining allotments. 	✓
Private Open Space PO 21.1 & 21.2	<ul style="list-style-type: none"> No change to existing private open space. 	N/A
Landscaping PO 22.1	<ul style="list-style-type: none"> No change to existing soft landscaping. 	N/A
Car Parking, Access and Manoeuvrability PO 23.1 – 23.6	<ul style="list-style-type: none"> Existing driveway crossover and garage to remain. 	N/A
Waste Storage PO 24.1	<ul style="list-style-type: none"> Sufficient area for waste bins on-site where not visible from the streetscape. 	✓

Interface between Land Uses

Subject Code Reference	Assessment	Achieved ✓ Not Achieved x
Desired Outcome DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Overshadowing PO 3.1	<ul style="list-style-type: none"> Direct winter sunlight access to adjacent residential uses maintained. 	✓

PO 3.2	<ul style="list-style-type: none"> Overshadowing of private open space of adjacent dwellings minimised to maintain winter sunlight access. 	✓
PO 3.3	<ul style="list-style-type: none"> Adjacent solar panels marginally impacted by proposal. 	✓

Transport, Access and Parking

Subject Code Reference	Assessment	Achieved ✓ Not Achieved ✗
Desired Outcome DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Sightlines PO 2.2	<ul style="list-style-type: none"> Side fence provides sufficient vehicle sightlines. 	✓
Vehicle Parking Rates PO 5.1	<ul style="list-style-type: none"> Sufficient on-site vehicle parking provided with two undercover garage spaces. 	✓
Corner Cut-Offs PO 10.1	<ul style="list-style-type: none"> Development located outside of any corner cut-off. 	✓

8.5 Detailed Discussion

Land Use

The proposal consists of alterations and additions to an existing two storey habitable outbuilding and detached dwelling. The applicant has confirmed the addition will not be used for the purposes of short-term accommodation such as 'AirBNB' (a concern raised by a representor). In some instances, dwellings or rooms used sporadically or on a short-term basis for tourist accommodation do not trigger a change of use. This is a question of fact and degree and an advisory note has been recommended advising the applicant to seek advice should the intention be to use the dwelling for any other purposes in the future. Consequently, City Living Zone PO 1.1 and Medium-High Intensity Subzone 1.1 are satisfied.

Demolition

The extent of the heritage listing is limited to the original dwelling. The portion of the dwelling to be demolished is a later addition and does not include any of the original external form of listed fabric. Works to the original portion of the dwelling will not impact on the external appearance of the listed heritage place. PO 6.1 and 6.2 of the Local Heritage Place Overlay are therefore satisfied.

Design and Appearance

The proposed addition will comprise a mix of materials in a combination of black and white tones, including a precast wall to the southern boundary, continuation of masonry wall to the southern and eastern boundaries and metal roofing. The existing dwelling is also proposed to be re-roofed to a corrugated Colorbond material in dark grey. While not traditional colours and materials, the addition will be located to the rear of the existing dwelling. This will retain the heritage value the

dwelling provides to Gilles Street. The re-roofing material is not traditional but will be sufficiently complementary given the corrugated profile. The architectural detailing including the chimney to the existing dwelling will be retained.

While there will be some visual impact to the Local Heritage Place, on balance, Council's Heritage Architect considers the works will not unduly compromise the heritage fabric and will adequately retain the heritage value and setting of the place. Local Heritage Place Overlay PO 1.1, 1.3, 1.5, 1.7 and 2.2 are therefore satisfied.

Similarly, while the proposed white CFC clad fence to the Charlotte Street boundary is not a traditional colour or material, it is simple in its design and colour, and Council's Heritage Architect considers it will not unduly detract from the appearance of the heritage place. The proposed height of 2 metres is sufficient to maintain privacy and security for occupants of the dwelling, as well as preserving views of the dwelling from the streetscape, without compromising the residential amenity of adjacent dwellings. Local Heritage Place Overlay PO 3.4 and Design in Urban Areas PO 9.1 are satisfied.

Bulk and Scale

The proposed two level height is consistent with the prevailing one to two level buildings established in the locality and therefore PO 2.2 of the zone is satisfied.

While there is no change to the rear setback, with the existing addition constructed to the rear boundary, the length of wall along the rear/southern boundary is proposed to increase by 2.6 metres. The height of the proposal will also be increased by 560mm with an overall wall height of 5.4 metres sought.

Although the length and height of wall to the rear boundary are proposed to be increased, the impact to the abutting southern property is considered negligible as this dwelling is also constructed to its northern boundary. Existing improvements on the adjacent site to the east also prevent views of the proposal including any additional visual impacts from the increase in height of the existing boundary wall. Access to natural light and ventilation for neighbours is not expected to be impacted.

While the rear setback will not provide opportunities for open space and landscaping, these opportunities currently do not exist and are provided to the front and side of the dwelling. Likewise, the wall height on the eastern boundary will not unduly impact on the abutting dwellings given the above and therefore zone PO 3.4 and 3.5 are satisfied.

The addition will be setback 1.7 metres from the secondary street which is behind both the existing dwelling and the adjacent dwelling to the south. Given the development pattern along Charlotte Street of dwellings with minimal front setbacks, the proposed secondary street setback of 1.7 metres is consistent with the established streetscape character and will not impact on access to natural light and ventilation for neighbours, satisfying zone PO 3.3.

The proposed setback from Charlotte Street, combined with the slope of the site from north to south, reduces the appearance of the addition from Gilles Street and ensures it will not be readily visible in the context of the heritage listed dwelling. As the addition does not protrude forward of the adjacent heritage listed dwellings to the south and its design and form will be restrained, it will not unduly dominate, encroach or impact on the heritage setting of adjacent places. Local Heritage Place Overlay PO 1.2, 1.4, 1.6 and 2.1 are satisfied as well as Heritage Adjacency PO 1.1.

Amenity

Shadow diagrams provided by the applicant demonstrate there will be no undue overshadowing of private open space areas and the habitable room windows of the adjacent dwelling. The shadow diagrams are unclear as to the extent of existing overshadowing to the dwellings to the west at 227

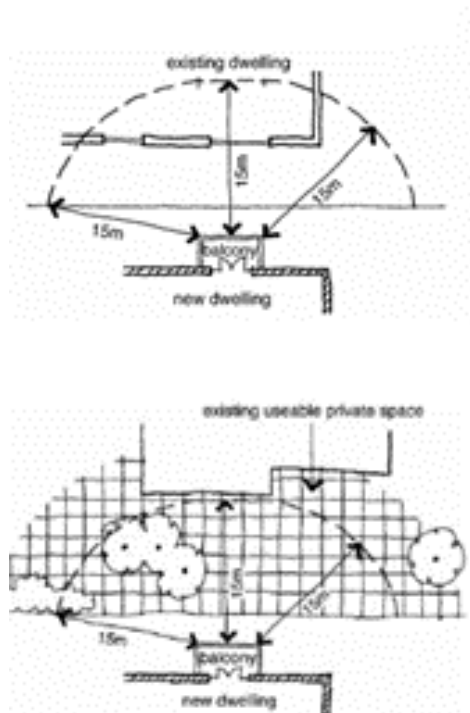
Gilles Street and 11 Charlotte Street, notwithstanding any overshadowing caused by the proposed addition would only be cast during the morning hours and end by midday at the height of winter.

To the south, the adjacent dwelling at 10 Charlotte Street is constructed to its northern boundary and there are no north facing windows. Furthermore, no overshadowing will occur to the private open space area of this dwelling to the south between 9am and 3pm on 21 June. It is noted structures in the rear yard of the adjacent dwelling to the east at 237 Gilles Street largely cover and shade the rear yard of that dwelling.

Hence, any additional overshadowing caused by the proposal would be negligible and only occur for a portion of the late afternoon, noting the existing wall is only being raised by 560mm. Accordingly, Interface between Land Uses PO 3.1 and 3.2 are satisfied.

Solar panels are located at the rear portion of the roof of 10 Charlotte Street. The shadow diagrams indicate these panels will be shaded in the late afternoon on 21 June, noting most of this shading is existing due to the existing two storey building on the subject site. The proposal therefore does not unduly increase shading of these panels satisfying Interface between Land Uses PO 3.3.

A balcony of 6.5 metres width and 1.35 metres depth is proposed to face the secondary side street above the garage with no screening proposed to the front of the balcony. Design In Urban Areas PO 10.2 prescribes development mitigate 'direct overlooking' from balconies to habitable rooms and private open space of adjoining residential uses in neighbourhood-type zones. Part 8 of the Planning and Design Code defines 'direct overlooking' as demonstrated in Figure 8.5.1.



In relation to direct overlooking from a deck, balcony or terrace, is limited to an area that falls within a horizontal distance of 15 metres measured from any point of the overlooking deck, balcony or terrace.

Figure 8.5.1 – Direct Overlooking as defined by the Planning and Design Code

The site plan indicates a portion of the front yard of the adjacent dwelling to the west at 11 Charlotte Street, as well as a portion of the rear of the adjacent dwelling at 227 Gilles Street, will be within 15 metres of the proposed balcony as shown in Figure 8.5.2.

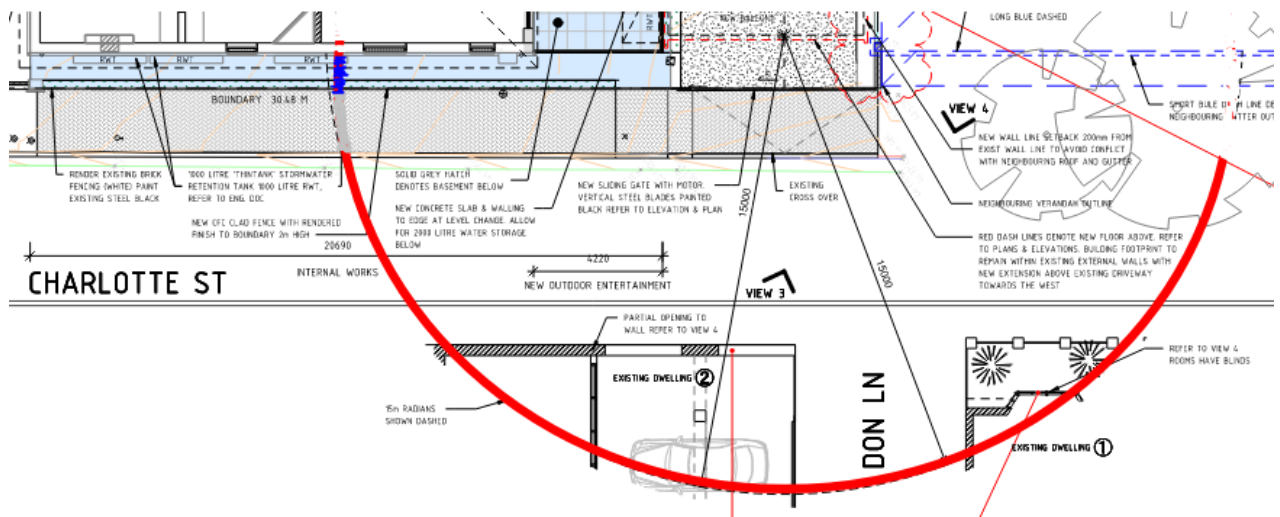


Figure 8.5.2 – Diagram indicating 15 metre radius from front of balcony

With regard to 227 Gilles Street, the area of the site within view appears to be for the purposes of vehicle parking, and contains a small domestic shed, indicating this area is not used for recreational purposes but instead as a service yard. In relation to 11 Charlotte Street, it is understood the front room on the lower level is a living room, while the front room on the upper level is a bedroom. The proposal therefore does not appear to mitigate 'direct overlooking' from the balcony into the habitable rooms of 11 Charlotte Street.

Notwithstanding the above, there are several mitigating factors which reduce the impact of overlooking on this adjacent site including:

- The depth of the balcony is narrow at 1.35 metres, and this suggests it has not been designed with the intent of being occupied for entertaining purposes or extended periods
- If direct overlooking is measured from the window of the office to the front of the addition, the front of 11 Charlotte Street falls outside of the 15 metre radius
- Direct views are currently possible from public areas into windows to the front of the property at 11 Charlotte Street
- The balcony will increase opportunities for passive surveillance of Charlotte Street, therefore acting as a potential crime deterrent.

These are factors which limit unreasonable overlooking from the proposal into the habitable rooms of the adjacent dwelling although they are not factors explicitly mentioned in Design in Urban Areas PO 10.2. This matter is finely balanced, however the proposed overlooking is considered acceptable for the reasons outlined above.

Other Matters

A representor has raised concern the proposal will result in increase domestic noise and traffic. The existing dwelling remains a 'low-scale' dwelling and there is no increase in the size of the existing garage/on-site car parking spaces. The intensity of the existing residential use remains the same and any domestic noise that may be generated by occupants is not a relevant planning consideration.

A concern has been raised by a representor regarding the existing stormwater outlet to Charlotte Street which comprises a checker plate running adjacent the front boundary of 10 Charlotte Street. It is alleged water from heavy rains results in water bubbling up from the checker plate in front of 10 Charlotte Street. It is unclear if this water enters the land at 10 Charlotte Street or simply remains on the Council footpath adjacent this property. Council records indicate no complaint has previously been made in relation to any drainage issues on this site and there is no requirement for the applicant to make changes to the existing stormwater connection across Council land, the same as there being no requirement to alter the existing crossover to Charlotte Street.

It is noted there is no increase in roof area given the site of the addition is already occupied by a roofed garage. There should therefore be no increase in stormwater run-off generated by the site. Additionally, a rainwater tank is proposed as part of this application which may result in a decrease in stormwater run-off from the site.

Seriously at Variance

The application is not considered to be seriously at variance with the provisions of the Planning and Design Code as the City Living Zone envisages dwelling additions as being appropriate in the zone. The proposal also aligns with the Planning and Design Code with respect to the design and scale of the built form as it will maintain the predominantly low-rise character of the zone.

9. CONCLUSION

The application proposes the partial demolition of the existing dwelling, with the extent of the demolition not impacting heritage fabric.

The proposed dwelling addition will be contemporary in appearance and will be sufficiently designed and sited to reduce impacts on the listed heritage building and adjacent heritage places. Furthermore, the proposed reroofing and fence are complementary to the heritage place and supported by Council's Heritage Architect.

The design and siting of the proposed addition will not result in any unreasonable visual bulk or overshadowing impacts. The addition of a balcony to the secondary side is not expected to cause undue overlooking into habitable rooms of adjacent sites.

On balance, 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.

10. 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*, 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 23026069, by Val Mohyla and Joshua Carrabs is GRANTED Planning Consent subject to the following conditions:

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 documentation by Mohyla Architects, drawing no. WD00 - WD07 & SK01, dated September 2023.**
-
2. **The applicant or the person having the benefit of this consent shall ensure that all storm water run off from the development herein approved is collected and then discharged to the storm water discharge system. All down pipes affixed to the Development which are required to discharge the storm water run off shall be installed within the property boundaries of the Land to the reasonable satisfaction of the Relevant Authority.**
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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. **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.

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. Boundary Work

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. Fences

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

6. Use of Dwelling

The dwelling addition has not been approved for use as tourist accommodation nor any form of ancillary accommodation such as a 'granny flat'. The use of the site for these purposes may be subject to a separate consent. It is recommended you seek advice from Council prior to using the site for any purpose other than a detached dwelling.

7. 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>.