

Notice of Council Assessment Panel Meeting



MEMBERSHIP

Mr M Adcock	Independent Member (Presiding Member)
Mr J Rutt	Independent Member
Mr A Mackenzie	Independent Member
Mrs B Merrigan	Independent Member
Mr D Wyld	Elected Member
Ms N Taylor	Deputy Independent Member

NOTICE is given pursuant to Sections 87 and 88 of the Local Government Act 1999 that the next **COUNCIL ASSESSMENT PANEL MEETING** will be held in the Council Chambers, 571 Montague Road, Modbury on **TUESDAY 21 DECEMBER 2021** commencing at **10:00AM**

A copy of the Agenda for the above meeting is supplied.

Council may restrict or limit access to members of the public physically attending the meeting to ensure compliance with current restrictions. Priority will be given to members of the public who wish to speak in the Public Forum and Deputation section of the agenda and have obtained prior approval from Council.

A handwritten signature in purple ink, appearing to read "John Moyle".

JOHN MOYLE
CHIEF EXECUTIVE OFFICER

Dated: 16 December 2021

CITY OF TEA TREE GULLY
COUNCIL ASSESSMENT PANEL MEETING
21 DECEMBER 2021

AGENDA

1. Attendance Record:

- 1.1 Present
- 1.2 Apologies
 - Mrs B Merrigan (Independent Member)

2. Minutes of Previous Meeting

That the Minutes of the Council Assessment Panel Meeting held on 16 November 2021 be confirmed as a true and accurate record of proceedings.

3. Business Arising from Previous Minutes - Nil

4. Reports and Recommendations

Applications under the Planning, Development and Infrastructure Act 2016

- 4.1 CAP.21021809.2021** - Three storey detached dwelling, retaining walls, swimming pool, spa with safety barriers at 5 Abbotsford Crescent Greenwith **5**

Recommended to Grant Planning Consent

Deputations:

Athol Murray(Representor)
Shane Kidd (Applicant)

Applications under the Development Act 1993

- 4.2 CAP.070/121297/2021** - Land Division (1 into 3) and Three Row Dwellings at 16 Quintal Avenue Modbury **65**

Recommended to Grant Planning Consent

5. Other Business

5.1 E.R.D. Court Matters Pending

5.1.1 CAP.070/120611/2020 – Removal of a Significant Tree (SA Blue Gum) at
12 Deering Crescent, Banksia Park

Outcome: Matter has been discontinued.

5.2 Policy Considerations

Planning Policy Considerations will be recorded in the minutes following discussion by members.

6. Information Reports -Nil

7. Date of Next Meeting

18 January 2022

REPORT NO: CAP.21021809.2021

RECORD NO: D21/93389

TO: COUNCIL ASSESSMENT PANEL MEETING - 21 DECEMBER 2021

FROM: Blake O'Neil
Planning Officer

SUBJECT: THREE STOREY DETACHED DWELLING, RETAINING WALLS, SWIMMING POOL, SPA WITH SAFETY BARRIERS AT 5 ABBOTSFORD CRESCENT GREENWITH

SUMMARY

DEVELOPMENT NO.	21021809
APPLICANT	Mr Shane Kidd
ADDRESS	5 Abbotsford Crescent GREENWITH
NATURE OF DEVELOPMENT	Construction of a three storey detached dwelling, retaining walls, swimming pool, spa with safety barriers.
ZONING INFORMATION	<p>Zones:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> General Neighbourhood Zone <p>Overlays:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Affordable Building Heights (Regulated) <input checked="" type="checkbox"/> Affordable Housing <input checked="" type="checkbox"/> Building near Airfields <input checked="" type="checkbox"/> Defence Aviation Area <input checked="" type="checkbox"/> Hazards (Flooding) <input checked="" type="checkbox"/> Hazards (Bushfire – Medium Risk) <input checked="" type="checkbox"/> Hazards (Flooding – Evidence Required) <input checked="" type="checkbox"/> Prescribed Wells Area <input checked="" type="checkbox"/> Regulated and Significant Tree <input checked="" type="checkbox"/> Stormwater Management <input checked="" type="checkbox"/> Urban Tree Canopy

LODGEMENT DATE	11 August 2021
RELEVANT AUTHORITY	Council Assessment Panel at City of Tea Tree Gully
PLANNING & DESIGN CODE VERSION	2021.10
CODE RULES APPLICABLE AT LODGEMENT	Code Rules Document for 5 Abbotsford Crescent Greenwith (This document is available on Council's website)
CATEGORY OF DEVELOPMENT	Code Assessed - Performance Assessed
NOTIFICATION	Yes – Notification Period 15 October 2021 to 4 November 2021
NUMBER OF PROPERTIES NOTIFIED	13
REPRESENTATIONS RECEIVED	1
REPRESENTATIONS TO BE HEARD	1
RECOMMENDING OFFICER:	Blake O'Neil
REFERRALS STATUTORY	Not Required
REFERRALS NON-STATUTORY:	<input checked="" type="checkbox"/> Arboriculture – Shane Cuy <input checked="" type="checkbox"/> Civil Stormwater – Wahid Yousafzai <input checked="" type="checkbox"/> Traffic – Hossein Mousavi
RECOMMENDATION	Grant Planning Consent

1. DETAILED DESCRIPTION OF PROPOSAL

The proposed application includes the construction of a three storey detached dwelling in a split level configuration, a swimming pool and spa pool both with safety fencing and ancillary retaining walls.

The proposed development will be located on a vacant allotment in the General Neighbourhood Zone which fronts Abbotsford Crescent and backs onto Kinross Court to the north. To the east there is an existing two storey detached dwelling and to the west the subject site is bound by the Cobbler Creek Recreation Park in the Recreation Zone. The land slopes up from the front left side corner (south/west) to the rear right side corner (north/east) with a rise of 14m over the 58m between the two points.

The dwelling has a total of 3 building levels as viewed from the street and reduces to two building levels at the rear to accommodate the upward slope of the land. The dwelling has a front setback of 8.8m, a eastern side setback of 4m and a western-side setback of 11.3m. The rear setback is 15.5m.

A garage on the lower ground level will allow for the undercover parking of 2 vehicles and a second garage attached to the side of the dwelling will allow for the undercover parking of two vehicles. The lower ground level has the main entry to the dwelling, a laundry and wine cellar.

The ground floor comprises a living/dining area, lounge/theatre, two bedrooms, bathroom and an office with an alfresco area to the rear at ground level.

Three bedrooms are located on the first floor with two bathrooms, a rumpus room, retreat and balconies to the front and rear. The spa is located on the rear balcony.

The application is supported by an arborist report for two significant trees are located on the site. The trees are located on the western side of the allotment and will be a minimum of 8.5m from the proposed dwelling. The report does not recommend removal of the trees and provides methods for protection therefore no tree damaging activity will be undertaken.

The spa is located to the rear of the first floor and under the main roof. The swimming pool is located behind the proposed dwelling and 8.6m from the rear boundary and 10m from the eastern side boundary.

The existing boundary fencing is to remain unchanged. The western side of the proposed driveway will have concrete sleeper retaining walls to provide an acceptable slope for vehicle access. Maximum retaining wall height of 1.8m. Batter and moss rock retaining walls will be located on the eastern side and rear of the dwelling.

2. SUBJECT LAND & LOCALITY

2.1 Site Description:

Location reference: 5 ABBOTSFORD CRESCENT GREENWITH SA 5125

Title Reference: 5722/462	Plan Parcel: D53730 A38	Council: CITY OF TEA TREE GULLY
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The subject site comprises a single allotment known as 5 Abbotsford Crescent, Greenwith SA. The site is regular in shape and has a total area of 1714.1m². Access to the allotment is from Abbotsford Crescent, the northern rear boundary fronts Kinross Court with a reserve on the boundary to restrict access. There are no easements over the land and no encumbrances to the title.

The land has colourbond fencing to the western side and rear boundaries, no fencing to the eastern boundary. The allotment is vacant with grasses over the majority of the land and two significant trees to the western side of the allotment.

The land slopes evenly at 28% from the front left corner to the rear right corner.

2.2 Locality

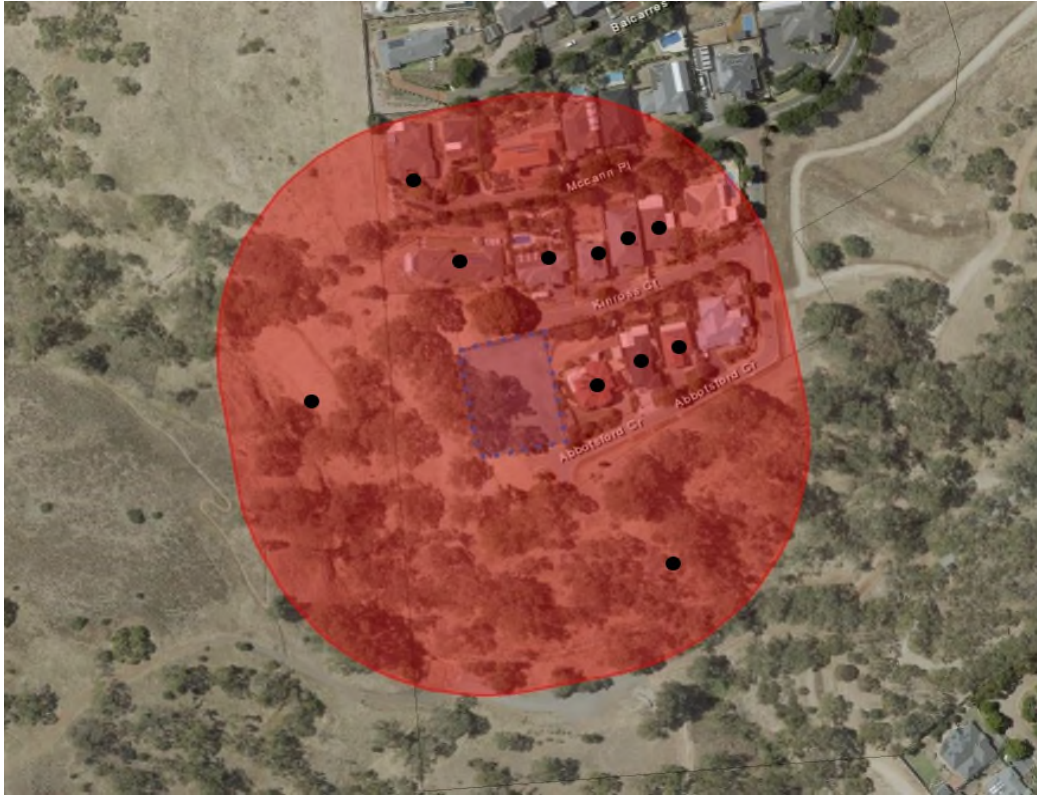


Figure 1: Locality Map and Subject Site in blue – Notified properties marked with black circle

The locality is bound by Cobbler Creek West Reserve to the south and immediately to the west, whilst there is residential development to the north and east. This area is in the General Neighbourhood Zone. Thirty metres from the western boundary of the subject land is Cobbler Creek Recreation Park in the Conservation Zone.

The Cobbler Creek West Reserve and Cobbler Creek Recreation Park are comprised of natural bushland and trees with creeks and walking trails throughout.

The residential development in this locality consists of large allotments of between 633m² and 1770m². The land all generally slopes down to the south with frontages on the southern boundary which has resulted in dwellings with two storey frontages and single storey at the rear to conform to the slope of the land. The upper levels of dwellings have large verandahs in the façade to capture views to the Reserve and Recreation Parks. Low density development prevails in the locality with significant setbacks to front and rear boundaries.

3. CATEGORY OF DEVELOPMENT

PER ELEMENT

Detached Dwelling – Performance Assessed

Retaining walls – Performance Assessed

Swimming pool, spa pool or associated safety features– Performance Assessed

OVERALL APPLICATION CATEGORY

Code Assessed - Performance Assessed

REASON

Planning and Design Code

4. PUBLIC NOTIFICATION

REASON

(Column B) Section 3 of Table 5 provides *development that 1. Does not satisfy General Neighbourhood Zone DTS/DPF 4.1* is to be publicly notified.

General Neighbourhood Zone DTS/DPF 4.1

Building height (excluding garages, carports and outbuildings) no greater than:

(a) 2 building levels and 9m

and

(b) wall height that is no greater than 7m except in the case of a gable end.

The proposed dwelling comprises 3 building levels and a wall height of 10m to the top of parapet wall thereby not complying with DTS/DPF 4.1 of the General Neighbourhood Zone and requiring public notification.

LIST OF NOTIFIED ADDRESSES.

FirstName	Address	City
Minister for Environment and Water	GPO Box 1047	ADELAIDE SA 5001
City of Tea Tree Gully	571 Montague Road	MODBURY SA 5092
Mr W Cui	25 McCann Place	GREENWITH SA 5125
Ms M A Steele	6 Kinross Court	GREENWITH SA 5125
Mrs A A Elsegood	5 Kinross Court	GREENWITH SA 5125
Mr G T Patel & Ms D P Makani	4 Kinross Court	GREENWITH SA 5125
Mr M J & Mrs M Couzner	3 Kinross Court	GREENWITH SA 5125
Mr R K & Mrs C L Baker	PO Box 913	SALISBURY SA 5108
Mr S & Mrs M J Gordon	3 Abbotsford Crescent	GREENWITH SA 5125
City of Tea Tree Gully	571 Montague Road	MODBURY SA 5092
City of Tea Tree Gully	571 Montague Road	MODBURY SA 5092
Mrs L J Kruiise	2 Abbotsford Crescent	GREENWITH SA 5125
Mr A G Murray & Miss M L Lamont	4 Abbotsford Crescent	GREENWITH SA 5125

LIST OF REPRESENTATIONS

Name	Address	Position	Wishes to be Heard
Athol MURRAY	4 Abbotsford Crescent GREENWITH SA 5125	Oppose	Yes

SUMMARY

14 owners or occupiers of adjacent land were directly notified and a sign detailing the proposal was placed on the subject site for the duration of the notification period.

One representation was received that does not support the development and wishes to be heard. A copy of the representation received can be found in Attachment 4.

The planning concerns raised by the representor can be summarised by the following points:

- Height and Building levels exceed DTS/DPF4.1
- Dwelling design is not complimentary to the locality.
- Overshadowing to 4 Abbotsford Crescent.
- Noise from air-conditioning and pool equipment.
- Glare from parapet roof.
- Driveway angle.
- Unregulated tree removal.

A comprehensive summary and response to the concerns raised by the representors has been provided by the applicant and can be found in Attachment 5.

The response includes elevations of the proposed dwelling and the representors dwelling which shows the roof heights are similar and the proposed dwelling will present as a two-storey dwelling to the neighbour.

5. AGENCY REFERRALS

No agency referrals were required

6. INTERNAL REFERRALS**6.1 Arboriculture**

Council's Team Leader of Arboriculture has reviewed the Arborist report provided by Treesense Consulting (refer to attachment 6) and provides the following recommendations:

- All recommendations and tree protection considerations as identified in the arborist report on pages 15-16 are to be adopted.
- Tree protection fencing to be installed prior to development and noted on plan.

6.2 Civil Stormwater

Council's Team Leader of Civil Assets has reviewed the application and provided the following comments in regard to flood risk from the creek in the Cobbler Creek Recreation Park:

- The proposed development is located a significant distance and level away from the creek and therefore the proposed development will not be impacted by any flooding from the creek.

6.3 Traffic

Council's Traffic Engineer has reviewed the application including the Civil Plans that provide driveway and access details and provides the following response:

- The proposed crossover location and driveway location are acceptable.

7. PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Section 9 of this report, and are available on Council's website as a supplementary document.

7.1 Quantitative Provisions

General Neighbourhood Zone – Quantitative Provisions.

DPF	Provision	Requirement	Provided	Complies
3.1	Site Coverage	60% Maximum	20%	Yes
4.1(a)	Height	2 Building Levels	3	No
4.1(b)	Height	Wall height maximum 7m	10m	No
5.1	Font setback	1m forward of neighbouring dwelling = 7.8m	8.8m	Yes
8.1	Side Setback	0.9m plus 1/3 of the height above 3m = 3.2m	4.0m	Yes
9.1	Rear Setback	4m ground floor, 6m any other building level	15.5m	Yes

7.2 Land Use

Proposal is for residential land use in the General Neighbourhood Zone. Zone PO1.1 speaks to *predominantly residential development* with the Zone DO1 providing *low-rise, low and medium density housing that supports a range of needs and lifestyles*. The residential land use proposed complies with the Zone DO 1 and PO 1.1.

7.3 Building Height

The proposed dwelling comprises three building levels being lower ground, ground and the first floor. The maximum building height is 10m to the top of the parapet wall facing Abbotsford Crescent. The portion of the dwelling which includes the ground floor and first floor living areas has a wall height of 7.3m. General Neighbourhood Zone PO4.1 provides buildings contribute to a low-rise suburban character and the DPF 4.1 stipulates complying dwellings with a maximum of 2 building levels and 9m building height. The code definition of Low-Rise is in relation to development, meaning up to and including 2 building levels.

The application exceeds the code with one building level and 1m of overall height. The subject land has the greatest fall of approximately 14m over the length of the allotment. Other allotments in the locality are between 6m and 7m of fall. The pattern of development in the locality includes dwelling with frontages of two building levels reducing to a single building level at the rear which results in less fill and retaining on the site. The proposed dwelling follows a similar pattern of development with the greater bulk of the dwelling frontage reducing to the rear, uniquely for the subject land it has the slope from corner to the diagonal corner. In addition, the roof line of the proposed dwelling will be lower than the adjoining dwelling.

7.4 Setbacks, Design & Appearance

The proposed dwelling occupies a floor area of 355m² providing a site coverage of 20%. This does not include the pool area of 88m². From the Quantative Provisions table above it can be seen that the setbacks comply with performance outcomes PO 3.1, PO 5.1, PO 8.1 and PO 9.1 General Neighbourhood Zone and are in keeping with the prevailing pattern of development.

The dwelling has a modern design with large front windows, balconies and articulation to create visual interest and reduce the bulk of the built form. The frontage includes an articulated blade wall to the west of the entrance way. The eastern side of the building frontage is set back 1.7m from the entry portion and in addition is of two building levels to conform to the slope of the land rising to the right side of the allotment.

The allotment has a significant tree 5.6m from the western boundary and a regulated tree 0.5m from the western side boundary. In response the dwelling has been located closer to the eastern side of the allotment. The dwelling location will result in no tree damaging activity on the site. The landscaping plan provides two Fuchsia Gums to be planted to either side of the dwelling to frame the building.

7.5 Traffic Impact, Access and Parking

The proposed dwelling has two garages including one under the main roof and a second garage to the left of the dwelling which will allow for four undercover carparking spaces. The garages have individual doors of 4.7m width. Further visitor parking is available in the driveway. The access arrangements have been reviewed and approved by Council Traffic Engineer.

7.6 Private Open Space

Design in Urban Areas PO 21.1 and PO 21.2 refer to the Private Open Space requirements of the Code. 60m² of Private Open Space is required to comply with the code where 170.77m² has been provided and is accessible from internal living areas. Of this space DPF 22.1 requires 25% to be soft landscaping which equates to 428m². A total area of 1035m² has been provided for soft landscaping which complies with the Code provisions. The landscaping plan provides two Fuchsia Gums to be planted which complies with Urban Tree Canopy PO 1.1.

7.7 Swimming Pool and Spa Pool.

The spa pool is located on the ground floor of the dwelling on balcony 4. The spa pool is located between two rooms and will only be visible from the rear of the dwelling. The built form will provide screening and noise attenuation.

The swimming pool is located two meters from the rear of the dwelling and 7m from the rear boundary. The pumping equipment will be located a minimum of 12m from the nearest sensitive receiver, it will be housed in an acoustically treated enclosure in keeping with PO 4.4 Interface Between Land Uses.

7.8 Environmental Factors

7.8.1 Stormwater Management Overlay

For an allotment of 1714m² DPF 1.1 of the Stormwater Management Overlay requires 4000l of stormwater retention that is connected to a minimum of 60% of the roof area. The plans provide a 4000l stormwater retention tank that is plumbed into the dwelling and an additional 5000l tank for firefighting.

7.8.2 Hazards (Flooding) Overlay

Cobbler Creek is located to the west of the subject land. For this reason the subject land is covered by the Hazards (Flooding) Overlay and has been internally referred to Councils Team Leader Civil Assets to review. The Team Leader has measured the finished floor levels of the dwelling at 20m above the edge of the creek at a distance of 80m and therefore has no concerns of flooding from the creek.

7.8.3 Waste Management

Domestic waste can be disposed of in standard bins for which there is storage spaces on the site that are screened from public view. The waste storage complies with PO 24.1 Design in Urban Areas.

7.8.4 Regulated or Significant Trees.

The applicant has provided an Arborist Report from Treesense Consulting regarding the trees located on the site.

Two Regulated Trees are on the subject land, a River Red Gum with a 3.9m circumference which is a Significant Tree and a River Red Gum with a 2.6m circumference which is a Regulated Tree. Both trees are located within 6m of the western boundary and a minimum of 10m from the proposed dwelling.

The arborist report recommends the pruning of both trees in accordance with A 4373 – 2007 and tree protection measures to be complied with in AS 4970 – 2009. The arborist report has been reviewed by Council's Support Officer Arboriculture who recommends the pruning and protection measures. No tree damaging activity will be conducted as part of this application.

7.8.5 Earthwork and Sloping Land.

The land has a significant slope down to the front south eastern corner. The dwelling conforms to the slope with minimal retaining required. A 1.8m retaining wall is located to the west of the driveway, to allow for an acceptable driveway profile and to meet PO 8.1, PO 8.2 and PO 8.3 of Design in Urban Areas. Moss rock retaining is used in two locations in conjunction with landscaping reduce the use of retaining walls. Batter will be used under the dwelling to minimise the earthworks required under the two storey portion of the dwelling.

7.8.6 Hazards (Bushfire - Medium Risk) Overlay

The proposed dwelling has been designed to comply with the requirements of BAL 12.5 and comply with PO 2.1 of the Overlay. Bushland is located in the Cobbler Creek West Reserve and Cobbler Creek Recreation Park to the south and west of the subject land and poses a 'medium risk' to the dwelling. The driveway is suitable for fire fighting vehicles and will comply with PO 5.2 of the Overlay. The dwelling is also located to the eastern side of the allotment to be away from the areas that pose the greatest risk in keeping with PO1.1 of the Overlay.

8. CONCLUSION

The proposal is for a three-storey detached dwelling in a split-level configuration, a swimming pool and spa pool both with safety fencing and ancillary retaining walls located in the General Neighbourhood Zone. Dwellings are an expressly envisaged land use in the Zone.

The regulated trees and the slope of the allotment presents design challenges which is evidenced by being the last parcel of vacant land in the locality. The proposed dwelling conforms to the slope in similar nature to other dwellings in the locality being two storey frontages reducing to single storey at the rear. The difference with this proposal is the slope is great than other land in the locality and therefore the design provides for a three-storey frontage reducing to 2 storeys at the rear. The proposed dwelling maintains the same overall height of the neighbouring dwelling and is testament to the design working with the land.

Notwithstanding the slope the dwelling does exceed the 2 building levels of DPF 4.1 in the General Neighbourhood Zone and PO 4.1 requires buildings to contribute to a low-rise character in addition the wall height does not comply with PO 4.1.

The proposed dwelling is in keeping with the remainder of the quantitative provisions in the Code and arguably meets the qualitative provisions. The dwelling protects two regulated trees on the site and provides further planting of native trees. Retaining and earthworks have been minimised with the split-level design. The dwelling maintains the setbacks of the neighbouring allotment and the remainder of the street and the articulation of the frontage reduces the visual impact of the dwelling.

Having regard to the relevant assessment criteria, the proposal on balance satisfies the Planning and Design Code sufficiently to recommend Planning Consent subject to conditions.

9. PLANNING & DESIGN CODE POLICIES

9.1 Dwelling

General Neighbourhood Zone

PO 1.1, PO 3.1, PO 4.1, PO 5.1, PO 7.1, PO 8.1, PO 9.1

Airport Building Heights (Regulated) Overlay

PO 1.1

Building Near Airfields Overlay

PO 1.3

Defence Aviation Area Overlay

PO 1.1

Hazards (Bushfire – Medium Risk) Overlay

PO 1.1, PO 2.1, PO 3.1, PO 3.2, PO 3.3, PO 5.2

Hazards (Flooding) Overlay

PO 3.1, PO 3.2, PO 5.1

Hazards (Flooding – Evidence Required) Overlay

PO 1.1

Stormwater Management Overlay

P 01.1

Urban Tree Canopy Overlay

PO 1.1

Clearance from Overhead Powerlines

PO 1.1

Design In Urban Areas

PO 8.1, PO 8.2, PO 8.3, PO 8.4, PO 8.5, PO 10.1, PO 10.2, PO 17.1, PO 17.2, PO 18.1, PO 20.1, PO 20.2, PO 20.3, PO 21.1, PO 21.2, PO 22.1, PO 23.1, PO 23.2, PO 23.3, PO 23.4, PO 23.5, PO 23.6, PO 24.1

Infrastructure and Renewable Energy Facilities

PO 11.2, PO 12.1, PO 12.2

Interface between Land Uses

PO 3.1, PO 3.2, PO 3.3

Site Contamination

PO 1.1

Transport, Access and Parking

PO 5.1

9.2 Retaining Wall

Hazards (Flooding) Overlay

PO 5.1, PO 5.1

Design in Urban Areas

PO 9.1, PO 9.2

9.3 Swimming Pool, Spa Pool

Interface Between Land Uses

PO 4.4

10. RECOMMENDATION

That pursuant to the authority delegated to the Council Assessment Panel by Council, the Council Assessment Panel:

- A. 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
- B. Development Application Number 21021809, by Mr S Kidd is granted Planning Consent subject to the following conditions and advisory notes:

CONDITIONS

Condition 1

The development must be undertaken, completed and maintained in accordance with the plan(s) and information detailed in the application herein approved, except where varied by any condition(s) listed below.

Condition 2

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.

Condition 3

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).

Condition 4

All driveways, parking and manoeuvring areas must be formed, sealed with concrete, bitumen or paving, and be properly drained. They must be maintained in good condition thereafter.

Reason: To ensure useable and safe carparking.

Condition 5

Free and unrestricted access must be available to the driveway and this area must be available for parking at all times.

Reason: To ensure appropriate off street carparking is provide at all times.

Condition 6

Except where varied by the approved plans or other conditions listed below, the new or modified crossing place shall meet the minimum standard of design and construction as detailed on City of Tea Tree Gully drawings (as applicable):

- ☒ 1/15/SD – ‘Concrete Vehicle Crossing Place’;
- ☒ 2/15/SD – ‘Block Paved Vehicular Crossing Place’;
- ☒ 40/15/SD – ‘Property Access Grades;’ and/or;
- ☒ 45/15/SD – ‘Commercial Concrete Vehicular Crossing Place.’

Reason: To maintain consistency of the streetscape and protect the infrastructure within the road verge.

Condition 7

The eastern side upper level windows of dwelling must have:

- ☒ Minimum window sill heights of 1.5 metres above the upper finished floor level; or
- ☒ Fixed and obscured glass to a height of 1.5 metres (minimum) above upper floor level; or
- ☒ Obscured glass to a height of 1.5 metres (minimum) above the upper floor level, which are hinged at the top of the window panel and include a wind out mechanism to no greater than 200mm.

The obscured glass must be fitted prior to occupation of the dwelling and maintained at all times thereafter.

Reason: To minimise overlooking of adjoining properties.

Condition 8

The planting and landscaping identified on the landscaping plan submitted with the application must be completed in the first planting season concurrent with or following commencement of the use of the dwelling. Such planting and landscaping must not be removed nor the branches of any tree lopped and any plants which become diseased or die must be replaced by suitable species.

Reason: To maintain the amenity of the site and locality.

Condition 9

The swimming pool must not be filled with water and used for domestic purposes until substantial completion of a dwelling on the land.

Reason: To maintain public and private safety and ensure that the swimming pool is only used ancillary to a dwelling.

Note: The term ‘substantial completion’ refers to the lock-up stage of the dwelling.

Condition 10

All recommendations and tree protections considerations on pages 15-16 as identified in the Treesense Consulting arborist report be adopted and tree protection fencing to be installed prior to development.

Condition 11

Where stormwater is to be discharged to the street gutter, the stormwater system installation shall meet the minimum requirements of City of Tea Tree Gully drawing:

☒ 62/15/SD – ‘Stormwater Pipe Connection to Council Kerb and Gutter’.

Reason: To maintain consistency of the streetscape and protect the infrastructure within the road verge.

ADVISORY NOTES

GENERAL NOTES

1. No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
2. Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
3. A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - b. if an appeal is commenced—
 - i. until the appeal is dismissed, struck out or withdrawn; or
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).

PLANNING CONSENT NOTES

Advisory Note 1

This consent does not obviate the need to obtain any other necessary approvals from any/all parties with an interest in the land.

Advisory Note 2

The cost of rectifying any damage or conflict with any existing services or infrastructure arising out of this development will be borne by the applicant.

Advisory Note 3

The applicant/owner is advised that any driveway crossover works on the Council verge as shown on the stamped plans, have been approved as part of this application. For further information on the specifications and conditions relating to crossovers and stormwater connections, please contact Council's Civil Operations Department on 8397 7444.

Any further works undertaken on Council owned land (including but not limited to stormwater connections, access over Council reserves to construct the development, verge landscaping, and underground electrical and other service connections), requires a separate authorisation from Council.

Further information and/or specific details can be obtained by contacting Council's Civil Operations department on **8397 7444** or accessing the web form at **https://www.teatreegully.sa.gov.au/Council_documents_Landing/Council_documents/Permits/Section_221_Application**.

Advisory Note 4

Public services may be present in the road and it is the property owner's responsibility to ensure these services are not damaged as a result of the work. If services require alterations, it is the property owner's responsibility to consult with the particular service agency before performing any works. (Contact "Dial Before you Dig" on telephone **1100** or their website **www.dialbeforeyoudig.com.au**).

At all times during the construction, removal or repair of a crossing place or stormwater pipe, sufficient barricades and signs, visible at night (where work duration exceeds daylight hours), are to be installed and maintained to give adequate warning to the public.

The applicant shall be responsible for all costs associated with:

- ☒ The construction, removal or repair of crossing places or stormwater pipes. This may include the repairs and modifications to an abutting footpath as a result of the construction or alteration of the crossing place or stormwater pipe.
- ☒ The pruning, removal and replacement of any tree as approved in accordance with Council's Tree Management Policy and the Council's Fees and Charges Register.

Advisory Note 5

You are advised that it is an offence to undertake *tree damaging activity* in relation to a regulated or significant tree without the prior consent of Council.

Tree damaging activity means:

- ☒ The killing or destruction of a tree; or
- ☒ The removal of a tree; or
- ☒ The severing of branches, limbs, stems or trunk of a tree; or
- ☒ The ringbarking, topping or lopping of a tree; or
- ☒ Any other substantial damage to a tree, (including severing or damaging any roots),

and includes any other act or activity that causes any of the foregoing to occur, but does not include maintenance pruning that is not likely to affect adversely the general health and appearance of a tree.

Advisory Note 6

The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Advisory Note 7

This application involves development located on the boundary or within close proximity to the boundary of the allotment. To ensure that the proposed development is constructed within the allotment, it is recommended that a site survey be undertaken to confirm the location of the relevant boundaries.

You are advised that under the ***Fences Act 1975*** you are legally required to give notice for the removal of a fence on the common boundary. Please refer to the ***Fences Act 1975*** for the correct procedural requirements. Further information can be obtained from the Legal Services Commission at **www.lsc.sa.gov.au**.

Attachments

- 1. Aerial Photo 22
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Report Authorisers

- Blake O'Neil
Planning Officer 8397 7331

- Carol Neil
Director Community & Cultural Development 8397 7341

- Nathan Grainger
Manager City Development 8397 7200

REPORT NO: CAP.070/121297/2021

RECORD NO: D21/100260

TO: COUNCIL ASSESSMENT PANEL MEETING - 21 DECEMBER 2021

FROM: Timothy Bourner
Senior Planning Officer

SUBJECT: LAND DIVISION (1 INTO 3) AND THREE ROW DWELLINGS AT 16 QUINTAL AVENUE MODBURY

SUMMARY

Applicant: Stunning Homes Pty Ltd c/- Pyper Leaker Surveying Services Pty Ltd

Nature of Development: Land Division (1 into 3) and Three Row Dwellings including Retaining Walls and Fencing and Landscaping

Address: 16 Quintal Avenue Modbury

Application No: 070/121297/2021

Lodgement Date: 18 March 2021

Development Plan: Consolidated 12 November 2020

Zone and Policy Area: Residential – no policy area

Relevant Development Plan Provisions:

Objectives

Crime Prevention 1
 Design and Appearance 1
 Energy Efficiency 1
 Land division: 1, 2, 3, 5
 Landscaping, Fences and Walls 1
 Natural Resources 1, 5, 6, 7
 Orderly and sustainable Development 1, 2, 3, 4, 6
 Residential Development 1, 2, 3, 5, 6
 Transportation and Access 2, 4
 Waste 2
 Residential Zone 1, 2, 3

Principles of Development Control

Crime Prevention 1, 2
 Design and Appearance 1, 2, 3, 14, 15, 17, 22, 23
 Energy Efficiency 1, 2, 3, 4
 Land division: 1, 2, 4, 7, 8, 9, 17

Landscaping, Fences and Walls 1, 2, 3, 4
 Natural Resources 1, 4, 5, 7, 8, 10, 14, 28
 Orderly and Sustainable Development 1, 4, 6, 7, 8
 Residential Development 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 19, 24
 Transportation and Access 5, 8, 10, 11, 22, 23, 29, 31, 32, 33, 41, 45,
 47, 48
 Waste 5
 Residential Zone 1, 2, 3, 6, 8, 9, 11, 15

Public Notification: Category 3

Representations:

Number of Properties Notified: 7
 Number of Representations Received: 2
 Names and Addresses of Representors: Stephanie Philips
 8 Ruth Court Modbury
 Wes Usher
 5 Ruth Court Modbury
 Number of Representors wishing to be heard: Nil

Schedule 8 Referral: Not Required

Was a request for additional information made? Yes

Issues: Nature of Development, Street Tree, Fencing, Detention Requirements

Recommendation: Consent

1. PROPOSAL

This application seeks consent for a Torrens Title land division to create three allotments from one existing allotment, including party wall easements, and three single storey row dwellings, retaining walls and fencing.

Each allotment will include party wall rights between each allotment to accommodate the common walls of the proposed row dwellings. The three proposed allotments are 212m², 207m² and 214m² in area, and have 8.38m, 7.22m and 9.42m frontages respectively.

The row dwellings have been designed to include:

- Three bedrooms and an open plan kitchen, living dining area
- An under main roof verandah to the rear (Dwelling 1 and 2)
- Pergola to the rear (Dwelling 3)

- ☒ A single garage, and one visitor parking space in the driveway
- ☒ Pre-coloured steel sheet roofing ('Colorbond')
- ☒ Brick construction
- ☒ Rendered façade and rendered porch pillar combinations across each dwelling.

The dwellings have varied setbacks, with dwelling 1 and 3 being setback 4.5m and dwelling 2 being setback 4.4m from the front boundary. Likewise, the rear setbacks also vary with dwelling 1 and 2 setback 3m, and dwelling 3 at 4.7m. Dwelling 1 is setback 600mm from the side boundary, and dwellings 2 built boundary to boundary with 0m side setbacks and dwelling 3 having a 900mm side setback to the secondary street.

Each dwelling is served by individual crossovers, with dwelling 1 and 2 requiring new crossovers and dwelling 3 utilising an existing crossover.

2. PROCEDURAL MATTERS

The application was lodged under the *Development Act 1993* (the 'Development Act'). Since receiving the application, the Development Act has been repealed and replaced by the *Planning, Development and Infrastructure Act 2016* (the 'PDI Act'), which came into effect 19 March 2021.

Pursuant to Schedule 8 Part 1 2(1) of the PDI Act, the operation of the Development Act prevails for an application lodged during its operation. The Development Act, the *Development Regulations 2008* (the 'Development Regulations') and the Development Plan therefore still apply to the processing and assessment of this application.

The proposed development is listed as non-complying development in accordance with the following section of the Residential Zone Procedural Matters:

- Development located less than 30 metres from the top of bank or creek crossing points of:*
- (a) Cobbler Creek*
 - (b) Dry Creek*
 - (c) Little Para River*
 - (d) River Torrens.*

The subject site is located less than 30 metres from the top of the bank of Dry Creek and is therefore a non-complying form of development.

As required by 17(1) of the *Development Regulations 2008* (the 'Regulations'), a statement in support of the application was supplied by the applicant, see Attachment 9.

Council staff resolved to proceed with the assessment of the application pursuant to Regulation 17(4), and the applicant of this by email on 13 August 2021.

A Statement of Effect was subsequently submitted by the applicant on 30 September 2021 addressing the relevant criteria under Regulation 17(5), see Attachment 10.

The proposal is deemed as non-complying due to its proximity to a watercourse, however the proposed use is envisaged in the Residential Zone and therefore considered appropriate. Subsequently, the application is not considered to be seriously at variance with the Development Plan.

3. PUBLIC NOTIFICATION

Pursuant to Section 38 of the *Development Act 1993* (the 'Act'), the Regulations or a Development Plan may assign a form of development to Category 1 or to Category 2 for the purposes of public notification.

Schedule 9, Part 1, Clause 3 of the Regulations suggests certain developments can be assigned to Category 1 despite their non-complying nature. However, as the proposal is within 30m of the top of the bank of Dry Creek, the development is not considered to satisfy this clause. Furthermore, the development is not assigned to Category 2 within Schedule 9 Part 2 of the Development Regulations.

The application therefore defaults to Category 3 pursuant to Section 38(2)(c) of the Act.

The application underwent Category 3 notification where 8 adjacent land owners and occupiers, and properties potentially affected by the development, were directly notified in writing. A public notice was also placed in The Advertiser.

Two representations were received during the notification period as follows:

- Stephanie Philips 8 Ruth Court Modbury
- Wes Usher 5 Ruth Court Modbury

One representor stated they do not wish to be heard with the other not specifying. A copy of the representations can be found in Attachment 11.

The notified properties and location of representors are shown on the map in Figure 1 below:

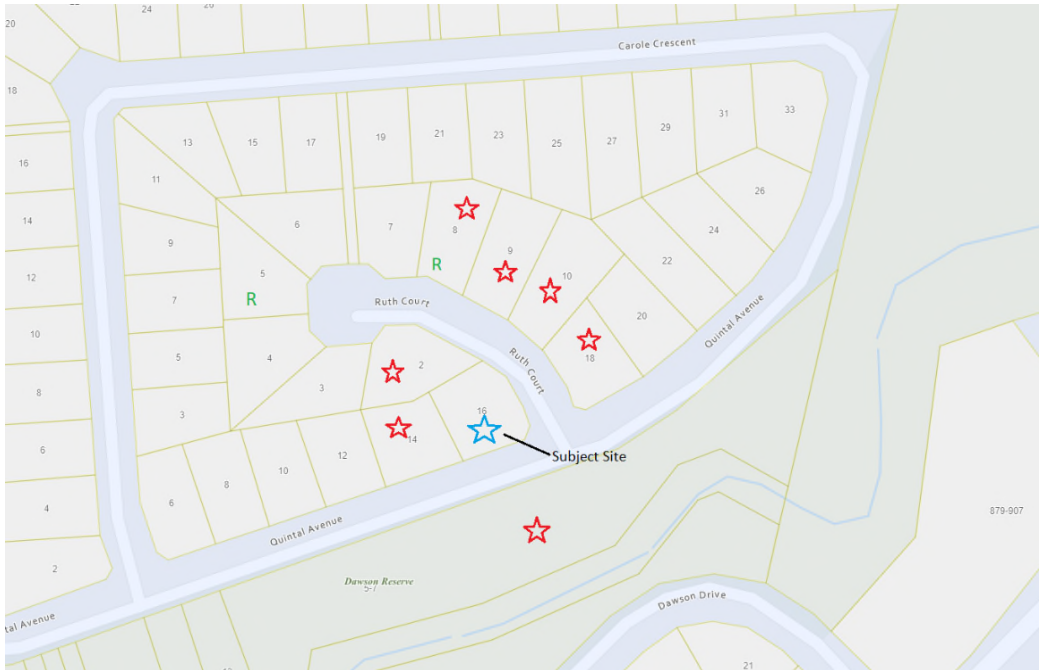


Figure 1 - Notified properties (Red Star) and locations of representors (Green R)

In summary, the concerns raised by representors are as follows:

- ☒ Vehicle Parking
- ☒ Safety
- ☒ Traffic and Vehicle Movements
- ☒ Access for delivery and emergency vehicles
- ☒ Impact during construction (noise and traffic)

On behalf of the applicant, planning consultants URPS, prepared a response to the representations (see Attachment 12).

The concerns raised by the representations are discussed further within this report.

4. SITE AND LOCALITY

The subject site is an irregular allotment of some 633m², with a total frontage of 21.31m together with a 4.24m corner cut off, rear boundary length of 20.08m, western boundary of 24.73 and a total eastern boundary of 26.35m. The subject site has a generally north south orientation.

The site currently accommodates a single storey detached dwelling, verandah and an ancillary outbuilding. The dwelling on the land was constructed in 1976.

The site has two street frontages, Quintal Avenue to the south and Ruth Court to the east.

The site has a general fall from the northern most point of the allotment to south of approximately 2m with the lowest point being the south western corner. The levels are as they were established at the time of the dwelling construction.

Item 4.2

The subject site is connected to SA Water mains sewer via a single connection point to Quintal Avenue.

The subject adjoins one allotment to the north and one allotment to the west. With both allotments containing dwellings constructed at a similar time to the subject site's dwelling.

The locality is defined as the area illustrated in Figure 2 below:



Figure 2 – Locality Map

Quintal Avenue and Ruth Court both contain predominantly single storey detached dwellings on moderately sized allotments. The most recent developments in the locality involve 2 new detached dwellings at 11 and 13 Quintal Avenue, three row dwellings at 7 Quintal Avenue and two detached dwellings further to the west, again on Quintal Avenue. All these developments have occurred in since 2010.

Further afield there has been limited redevelopment bar a single multi-dwelling development to the south west of the site at 2 Angus Court.

The streetscapes of both Quintal Avenue and Ruth Court contain a number of trees of varying sizes and species. With two large gum trees in front of 2 Ruth Court and regulated Eucalyptus sideroxylon (Red Iron Bark) located in the Quintal Avenue verge directly in front of the subject site.

The locality is bounded by dwellings to the north and west on Carole Crescent with the east and south bounded by Dawson Reserve including the Dry Creek watercourse.

The topography of the locality is best described as undulating with a general fall of the land towards the large reserve and Dry Creek.

The locality comprises predominantly 1970's and 1980's single storey detached dwellings on moderately sized allotments in the vicinity of 600m². As noted above, there are a small number of more recent developments and newly created allotments. These generally involve the division of land into smaller allotments, approximately 300m² at their smallest.

The wider locality generally follows this pattern of development with similarly aged dwellings and a small number of newer developments. To the south is North East Road and a small multi-tenancy shopping centre.

5. PLANNING ASSESSMENT

5.1 Land Use

The objectives of the Residential Zone are as follows:

Residential Zone Objective 2, which aims for:

Increased dwelling densities in close proximity to centres, public transport routes and public open spaces.

Residential Zone Objective 3, which aims for:

Development that contributes to the desired character of the zone.

Further to this, the **Residential Zone Desired Character Statement** outlines the following:

The majority of the zone will retain its low-density residential character. It is expected that higher densities will be focused in strategic locations predominantly within walking distance of high frequency public transport routes and interchanges, activity centres, and public open space. These forms of development will be undertaken in an orderly manner and site amalgamation may be required to achieve the high quality development outcomes that are envisaged for the zone. Increasing densities in these locations will allow future development to take advantage of views and recreational opportunities, will improve accessibility to transport and services, and will allow the balance of the zone to retain a predominantly low-density suburban character.

Residential Zone Principle of Development Control (PDC) 6 also states:

Development should not be undertaken unless it is consistent with the desired character for the zone.

Having regard to the above **Desired Character Statement**, the Residential Zone seeks to maintain its low-density residential character for the majority of the zone by anticipating higher densities to be focused in strategic locations.

These strategic locations are intended to be within walking distance of high frequency public transport and interchanges, activity centres and public open space.

This is supported by **Residential Development Objective 3**, which seeks medium and high-density residential development in areas close to activity centres, public and community transport and public open spaces.

There are two primary points of consideration in determining if the site is suitable for its intended use.

- Does the proposal present a higher density than the desired 'low density' character?
- Is the subject site considered to be within a strategic location?

These points of clarity are discussed below in 5.1.1 and 5.1.2.

5.1.1 Density

The State Government's 30 Year Plan for Greater Adelaide (the '30 Year Plan'), provides guidance in regards to what is deemed low density. Low density, according to the 30 Year Plan, is a net density with less than 35 dwellings per hectare.

Further to this, benchmark factors in determining density can be found within the Development Plan. These include minimum complying site areas, minimum and maximum site coverage and allotment sizes, with no one factor being an absolute rule.

The locality has an approximate net density of 16.6 dwellings per hectare, and the proposed net density for the subject site is 47.39 dwellings per hectare. With the above guidance from the 30 Year Plan in mind, the proposal is determined to be medium density.

Legal advice to Council has also provided some guidance as to how 'low density' may be determined:

1. *The following factors within the Development Plan can be used as a 'benchmark' (but no factor can be treated as an absolute rule):*
 - a. *The minimum complying site area for detached dwellings,*
 - b. *Minimum and maximum site coverage, and*
 - c. *Allotments sizes.*
2. *What is low density in one location, may not be considered low density in another. Determining density may be dependent on upon the prevailing character and pattern of development in a particular locality, and whether the Development Plan:*
 - a. *Seeks to preserve and enhance existing character; or*
 - b. *Is neutral on existing character; or*

c. *Seeks to encourage new forms of development.*

As noted previously, the prevailing character of the subject locality is one of moderately sized allotments of approximately 600m² with frontages in excess of 18m. Only the previously noted more recent developments veer from this norm.

The locality has undergone few redevelopments, with only two land divisions in the past 11 years. These divisions have all created allotments of approximately 300m² or greater in site area, and accommodate single storey row or detached dwellings.

Established allotment frontages range between 18m to 26m for larger allotments, with the more recently divided allotments comprising frontages between 6m to 12m.

The character of the locality has not notably shifted as a result of these additional or altered allotments, thus maintaining a low-density residential character.

The development proposes three allotments of 212m², 207m² and 214m², with frontages of 8.38m, 7.22m and 9.42m respectively.

Whilst the proposed density is inconsistent with the pattern of development in the locality, the proposal does accord with the desired character for the zone. This is discussed in Section 5.1.2 below.

5.1.2 Location

Notwithstanding the current low-density character occurring within the Residential Zone, the **Desired Character Statement** suggests that higher density development could still be considered in areas of the zone in 'strategic locations.'

Residential Growth Policy Area 11 advocates for higher density development, and would certainly be considered as a 'strategic location'. This Policy Area is not applicable to the subject site.

Higher density development could still potentially occur outside of this policy area, however it is considered the location of such developments should be within walking distance of high frequency public transport, centres and public open space.

The *30 Year Plan* provides guidance with regards to walking distances to public transport, activity centres and public open space. Walking distance is regarded as 400m to high frequency bus services (15 minute Go-Zones), 800m to an O-Bahn interchange, 800m to shops (activity centres) and a 400m walk to public open space greater than 4,000m².

The distance to the above noted features in the area are as follows:

- ☒ 15m to Dawson Reserve
- ☒ 190m to North East Road High Bus Stops, 15 minute bus frequency
- ☒ 270m to Modbury Shopping Centre
- ☒ 620m to commercial uses to the south west on North East Road

The subject site is therefore considered to be within walking distance to public open space, high frequency transport services and activity centres and as such, is considered to be a strategic location.

5.2 Built Form

5.2.1 Setbacks

The following table demonstrates the quantitative setback requirements set out in **Residential Zone PDC 7** and **PDC 8**, and how the proposal performs against this requirement.

	Development Plan Requirement	Dwelling 1	Dwelling 2	Dwelling 3
Front Setback (Dwelling)	5.5m (2m forward of adjoining)	4.5m	4.4m	4.5m
Front Setback (Garage)	5.5m	5.5m	6.5m	5.5m
Side Setback (Left)	900mm	900mm	NA	NA
Side Setback (Right)	900mm	NA	NA	600mm
Rear Setback (Closest Point)	3m	3m	3m	4.7m

Residential Zone PDC 7 nominates front setbacks should be 2m forward of adjoining properties or 4m, whichever is greater. This is supported by **Design and Appearance PDC 23**.

The allotment to the west accommodates a single storey detached dwelling with a front setback of approximately 7.5m. Based on **PDC 7**, dwelling 3 should have a setback of 5.5m, however 4.4m is proposed. Whilst this does not accord with the above two **PDCs** it is not considered to be detrimental to the locality or streetscape. The closest part of dwelling 3 to the adjoining dwelling is the garage which has a 5.5m setback which provides a stepped and articulated appearance to dwelling 1 allowing a transition to the lesser setback of 4.5m

The rear setbacks of all three proposed dwellings satisfy **PDC 7** with 3m rear setbacks. The side setback for dwelling 3 however is only 600mm where **PDC 7** seeks 900m. This 300mm shortfall still allows for separation from the adjoining allotment and will not have any notable detrimental impact on the streetscape as it will maintain the built form having “room to breathe”.

The remaining setbacks of the dwellings are considered to be consistent with **PDC 7**.

5.2.2 Vehicle Access and Parking

Both representors raised concerns in regards to parking impacts to the locality, with one seeking 3 off street parks per dwelling. Concerns were also raised in regards to the impacts of construction activities on parking in Ruth Court.

Table TTG/2 requires row dwellings to provide one undercover parking space and one additional visitor space per dwelling.

Transportation and Access PDC 11 requires driveway crossovers to be separated to optimise the provision of on-street visitor parking. **Transportation and Access PDC 33** seeks vehicle parking areas be sited and designed so as minimise the number of vehicle access points onto public roads. **Transportation and Access PDC 23** requires development which provides safe and convenient access onto roads.

Further, **Transportation and Access PDC 29** seeks driveways to be designed and constructed to avoid the removal of existing vegetation. The Quintal Avenue street verge contains a large native street tree. The access points have been positioned such that they are outside the critical root zone of the tree and these crossovers have been endorsed by Council’s Arboriculture Officers.

Each dwelling is provided with a single garage space and adequate setback for a single visitor park in the driveway. Each dwelling is to be provided with a single width crossover with dwelling 1 utilising the existing crossover location and dwelling 2 and 3 having new crossovers. These have been endorsed by Council’s Traffic Engineer.

The proposal has demonstrated sufficient space between the crossovers to ensure at least one on-street park is available on Quintal Avenue with two available on Ruth Court, as is currently available.

As such the proposal satisfies the required parking rate for the proposed land use and the design and location of the crossovers satisfies all the relevant provisions.

The concerns raised in regards to the impact of construction on parking and access in Ruth Court has been addressed, at the recommendation of the applicant’s planning consultant, the inclusion of a condition ensuring all access is to be achieved from Quintal Avenue has been made.

5.2.3 Landscaping, Fencing and Walls

Landscaping, Fences and Walls PDC 1 encourages landscaping in order to complement the built form and reduce the visual impact of larger buildings, enhance the appearance of road frontages, and screen driveways and parking areas from residents and neighbours.

Residential Zone Desired Character states:

In the most part the zone is characterised by spacious setbacks that contribute to uniform streetscapes that are high in amenity and provide large front gardens and opportunities for on-site car parking. It is expected that development will continue to provide setbacks that create these opportunities and enhance streetscape amenity.

The proposal includes approximately 15m² of landscaping space in the front yards of all three dwellings. This landscaping is detailed in a landscaping plan provided with the proposal (see Attachment 6).

The relatively wide allotment widths and single width driveways allows for an adequate area of landscaping. This landscaping complements the character of the area which is noted for generally well landscaped front yards.

Retaining walls and fencing have been included as part of the proposal. The majority of the walls are cut towards the rear of the site with the highest wall being 1.2m behind dwelling 1. There are retaining walls along the Ruth Court boundary line, but these are completely in cut and will not be visible to the public realm.

The proposed fencing is to be 1.8m high pre-coloured steel fencing to be located on the rear and side boundaries in a Monument (Dark Grey) colour. This is consistent with much of the fencing in the locality.

In order to ensure no sightline impact to vehicles the fencing is shown to not extend beyond the building line of dwelling 1 on the Ruth Court boundary.

The proposed retaining walls and fencing are consistent with **Landscaping, Fences and Walls PDC 4**.

5.2.4 Private Open Space

Residential Development PDC 11 requires private open space (POS) for site areas of 250m² or less to be a minimum area of 35m². One part of this space should be directly accessible from a living room, have an area greater than or equal to 16m² with a minimum dimension of 3.0m and a maximum gradient of 1 in 10.

The following table demonstrates the POS provided by the proposal for each dwelling.

	Dwelling 1	Dwelling 2	Dwelling 3
Site area	214m ²	207m ²	212m ²
Development plan requirement	35m ²	35m ²	35m ²
POS area provided	38m ²	39m ²	36m ²

Each dwelling's POS area is located to the rear of the dwellings and is of a shape and dimensions to ensure it is fully usable. All POS areas are accessed from the primary living areas of each dwelling.

Residential Development PDC 12 states that private open space should not include rubbish bin storage areas, sites for rainwater tanks and other utility areas.

The proposal shows the rainwater tanks in the rear yards, however when these are considered the area of POS available still satisfies the minimum area requirements.

As such, the private open space is of sufficient size and area to satisfy **Residential Development PDC 11**.

5.2.5 Waste Management

Waste Objective 2 seeks development which includes the management of waste to prevent undesired impacts to the environment and amenity of the locality.

Waste PDC 5 states development should include an appropriately sized area to facilitate the storage of receptacles that will enable the efficient recycling of waste.

Tea Tree Gully Council offers a three-bin kerbside collection system, and this proposal seeks to utilise this service. A single wheelie bin requires approximately 700mm of road frontage width. With two bins placed kerbside per week for each dwelling, 4.2m of road frontage in total is required. Given the proposal demonstrates 38m of road frontage available across the three allotments, there is ample area to facilitate this method of collection.

The proposal does not designate any specific on-site area in which to store the bins required for each dwelling. However, dwelling 1 and 3 have the ability to access rear yards via side access with dwelling 2 having the ability to access the rear yard via the garage.

5.2.6 Stormwater

The proposal was referred to Council's technical officer to assess the risk of flooding given the close proximity of Dry Creek.

The response states that there are no flood risks with the finished floor levels at least 300mm above the top of kerb. The dwellings had finished floor levels 450mm, 800mm and 700mm above their respective tops of kerb. As such the proposal has removed the risk of flooding.

The proposed stormwater collection and detention systems have been designed to satisfy Council requirements in accordance with **Table TTG/4 – Stormwater Detention Specifications**. The tanks are proposed to be located within the rear yards of all three dwellings. Whilst this is not ideal as it potentially compromises the usability and quantity of private open space, for reasons previously discussed the locations of the tanks are deemed acceptable.

The detention requirements for all three dwellings are 2000 litres connected to the entire roof area. Conditions have been added to ensure this is achieved.

5.3 Land Division Provisions

Residential Zone PDC 15 states that land division for row dwellings should have a minimum site area of 225m² (one storey) and 200m² (two storey), and a frontage to a public road of no less than 5.0m. The proposal meets the quantitative provision for the frontages for all three lots, however, all fall short on the desired site area as the proposed built form is single storey.

	Desired Frontage	Proposed Frontage	Desired Site Area	Proposed Site Area
Lot 741	5m	8.38m	225m ²	212m ²
Lot 742	5m	7.22m	225m ²	207m ²
Lot 743	5m	5.18m + 4.24m	225m ²	214m ²

Whilst there is a short fall in site area, it is not considered to be detrimental to the development as a whole. As discussed above in section 5.2 and below in Section 5.4, the land is considered to be suitable for its intended use with the built form generally satisfying the desired provisions for the zone.

Land Division PDC 1 outlines a number of requirements for land division to occur. They are addressed as follows:

- (a) *Stormwater is capable of being drained safely and efficiently from each allotment;*
- (b) *Sufficient water supply is available;*
- (c) *Each allotment can be connected to mains sewer;*
- (d) *No new roads are proposed;*
- (e) *The gradient of the land is no steeper than 1-in-10 across the width of the allotment;*
- (f) *The allotments are orientated with the long axis of the allotment within 30 degrees east and 20 degrees west of true north.*

Land Division PDC 2 states that land should not be divided if any of the following apply:

- (a) *The size, shape, location, slope or nature of the land makes any of the allotments unsuitable for the intended use;*
- (b) *Any allotments will not have frontage to one of the following*
 - i. *An existing road*
 - ii. *A proposed public road*
 - iii. *Access to a public road via an internal roadway in a plan of community division;*
- (c) *The intended use of the land is likely to require excessive cut and/or fill;*
- (d) *It is likely to lead to undue erosion of the subject land or land within the locality;*
- (e) *The area is unsewered and cannot accommodate an appropriate waste disposal system within the allotment to suit the intended development;*
- (f) *The intended use of the land would be contrary to the zone objectives;*
- (g) *Any allotments will straddle more than one zone or policy area; and*
- (h) *The potential for the orderly development or division of adjacent land is jeopardised.*

The proposal is considered to satisfy all provisions in **Land Division PDC 1** and **Land Division PDC 2**. A detailed discussion can be found in Section 5.2 below.

5.4 Suitability of the Intended Use

Land Division Objective 2 seeks:

Land division that creates allotments appropriate for the intended use.

Land Division PDC 2(a) states land should not be divided if *any* one element, size, shape, location, slope or nature of the land, make the allotments unsuitable for the intended use.

Further, **Land Division PDC 2(f)** states that land should not be divided if the intended use of the land would be contrary to the zone objectives.

The intended use of the land is row dwellings and as discussed in Section 5.2, has been considered to satisfactorily address the zone objectives and principles of the zone, as well as the general objectives and principles of the wider Development Plan.

6. CONCLUSION

The proposed development results in a reasonable development that is on the lower range of medium density. The higher density has been considered to be appropriate given the proximity to public open space, public transport and activity centres.

The impacts of the building and associated elements on the locality have been adequately managed with the resulting built form fitting well with the adjoining and surrounding developments.

Having regard to the Development Plan and other supporting details, the proposal is considered to be, on balance, of a kind that is expected in this part of the Residential Zone.

Subsequently, the proposal is recommended for Development Plan Consent and Land Division Consent subject to conditions.

7. RECOMMENDATION

That pursuant to the authority delegated to the Council Assessment Panel by Council, the Council Assessment Panel:

- A. RESOLVES that the proposed development is not seriously at variance with the policies in the Tea Tree Gully (City) Development Plan.
- B. RESOLVES to GRANT Development Plan Consent to the application by Stunning Homes Pty Ltd c/- Pyper Leaker Surveying Services Pty Ltd to divide land into 3 torrens title allotments and for the construction of three row dwellings including Retaining Walls and Fencing and Landscaping at 16 Quintal Avenue, Modbury as detailed in Development Application No. 070/121297/2021 subject to the following conditions and advisory notes:

Conditions of planning consent

- (1) The development must be undertaken, completed and maintained in accordance with the plan(s) and information detailed in Application No. 070/121297/21 (except where varied by any condition(s) listed below.
- (2) The materials used on the external surfaces of the building and the pre-coloured steel finishes or paintwork must be maintained in good condition at all times. All external paintwork must be completed within two (2) months of the erection of the dwellings.
Reason: To preserve and enhance the amenity of the site and locality.
- (3) All driveways, parking and manoeuvring areas must be formed, sealed with concrete, bitumen or paving, and be properly drained. They must be maintained in good condition thereafter.
Reason: To ensure useable and safe carparking.

- (4) Free and unrestricted access must be available to the driveway and this area must be available for parking at all times.
Reason: To ensure appropriate off street carparking is provide at all times.
- (5) Any existing crossing places not providing vehicle access on the approved plans shall be replaced with kerb and watertable and the verge restored with materials consistent with the surrounding verge to a uniform level free of obstructions.
Reason: To maintain consistency of the streetscape and protect the infrastructure within the road verge.
- (6) Except where varied by the conditions listed below, the new or modified crossing place shall meet the minimum standard of design and construction as detailed on City of Tea Tree Gully drawings (as applicable):
- 1/15/SD – ‘Concrete Vehicle Crossing Place’;
 - 2/15/SD – ‘Block Paved Vehicular Crossing Place’;
 - 40/15/SD – ‘Property Access Grades;’ and/or;
 - 45/15/SD – ‘Commercial Concrete Vehicular Crossing Place.’
- Reason: To maintain consistency of the streetscape and protect the infrastructure within the road verge.*
- (7) The new crossing places must be constructed and/or modified, as per the approved plans and conditions, within six (6) months of completing the dwellings.
Reason: To maintain consistency of the streetscape and protect the infrastructure within the road verge.
- (8) The new crossing places for dwelling 2 and 3 must be constructed of permeable materials and all works must be undertaken by hand or no destructive construction methods.
Reason: To ensure no tree-damaging activity occurs to nearby regulated trees.
- (9) Stormwater generated on the site during the construction period and for the life of the development, must be collected, treated as necessary to ensure contaminated stormwater does not discharge directly or indirectly to any waters. Discharged water shall not contain suspended solids in excess of twenty milligrams per litre (20mg/L).

Note: The Environment Protection Authority ‘Handbook for Pollution Avoidance on Building Sites’ details a range of strategies to collect, treat, store and dispose of stormwater during construction.

Reason: To assist and maintain water quality entering Council’s drainage network.

- (10) Two Type-1 Stormwater Detention Tank(s) must be attached to each dwelling; with the entire roof area of that dwelling connected to the respective tank(s). The tank(s) must be installed as part of the stormwater disposal system and be installed within two (2) months of the erection of the dwelling and must be maintained in good working order at all times.
Reason: The stormwater drainage system in the area surrounding the subject land has limited capacity. The reason for this condition is to reduce the flow of stormwater off the subject land to a rate which does not exceed the system's capacity.
- (11) Discharge from the detention facility is to be restricted to four litres per second (4 L/s) for flows during the 1 in 100 year average recurrence interval storm event.
Reason: The stormwater drainage system in the area surrounding the subject land has limited capacity. The reason for this condition is to reduce the flow of stormwater off the subject land to a rate which does not exceed the system's capacity.
- (12) Where stormwater is to be discharged to the street gutter, the stormwater system installation shall meet the minimum requirements of City of Tea Tree Gully drawing:
- 62/15/SD – 'Stormwater Pipe Connection to Council Kerb and Gutter'.
Reason: To maintain consistency of the streetscape and protect the infrastructure within the road verge.
- (13) All vehicle movements and parking including loading and unloading during the construction of the approved dwelling must be via the Quintal Avenue street frontage. No access or parking shall occur from the Ruth Court street frontage.
Reason: To restrict construction vehicle movement's in Ruth Court and maintain the amenity of the site and locality.
- (14) The planting and landscaping identified on the Landscape Plan submitted with the application must be completed prior to occupation of the dwellings. Such plantings and landscaping must not be removed nor the branches of any tree lopped, and any plants which become diseased or die must be replaced by a suitable species to the satisfaction of Council.
Reason: To maintain the amenity of the site and locality.
- (15) Any excavation within the TPZ of the regulated tree located in the Quintal Avenue street verge, must be undertaken by hand or using a non-destructive method such as Air-Spade, HydroVac or similar.
Reason: To ensure no tree-damaging activity occurs to nearby regulated trees.
- (16) The applicant/developer shall provide Council written notice 30 days prior to the commencement of construction so that Council can install secure protective fencing within the adjoining Council road reserve (Quintal Avenue).
Reason: To prevent tree damaging activities occurring the Council street trees

Conditions of land division consent

- (1) A final certified survey plan shall be lodged with Council prior to final clearance of the land division.
- (2) All existing structures and deleterious material shall be cleared from all allotments prior to the final clearance of the land division.

Conditions imposed by prescribed body under section 122 of the act

- (1) The financial requirements of SA Water shall be met for the provision of water supply and sewerage services.

On receipt of the developer details and site specifications an investigation will be carried out to determine if the connections to your development will be standard or non-standard fees.

On approval of the application, it is the developer's/owner's responsibility to ensure all internal pipework (water and wastewater) that crosses the allotment boundaries has been severed or redirected at the developer's/owner's cost to ensure that the pipework relating to each allotment is contained within its boundaries.

- (2) Payment of \$15,522 into the Planning and Development Fund (2 allotment(s) @ \$7,761 per allotment).

Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (7109 7018), by cheque payable to the Department of Planning, Transport and Infrastructure and marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001 or in person, at Level 5, 50 Flinders Street, Adelaide.

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

ADVISORY NOTES

General Notes

- (1) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
- (2) Appeal rights—General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

- (3) This consent or approval will lapse at the expiration of 12 months from its operative date, subject to the below.
- (4) An approved development must be substantially commenced within 12 months of the date of Development Approval, and completed within 3 years from the operative date of the approval, unless this period has been extended by the relevant authority.
- (5) A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - (a) until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - (b) if an appeal is commenced—
 - (i) until the appeal is dismissed, struck out or withdrawn; or
 - (ii) until the questions raised by the appeal have been finally determined (other than any question as to costs).

Planning Consent Notes

- (1) The cost of rectifying any damage or conflict with any existing services or infrastructure arising out of this development will be borne by the applicant.
- (2) All earthworks must be confined to and contained entirely within the property boundaries and must not encroach on or over the roadside verge/reserve.
- (3) The applicant/owner is advised that any driveway crossovers works on the Council verge as shown on the stamped plans, has been approved as part of this application. For further information on the specifications and conditions relating to crossovers and stormwater connections, please contact Council's Civil Operations Department on 8397 7444.

Any further works undertaken on Council owned land (including but not limited to stormwater connection, access over Council reserves to construct the development, verge landscaping, and underground electrical and other service connections), requires a separate authorisation from Council. Further information and/or specific details can be obtained by contacting Council's Civil Operations department on 8397 7444 or accessing the web form at https://www.teatreegully.sa.gov.au/Council_documents_Landing/Council_documents/Permits/Section_221_Application.

- (4) The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.
- (5) This application involves development located on the boundary or within close proximity to the boundary of the allotment. To ensure that the proposed development is constructed within the allotment, it is recommended that a site survey be undertaken to confirm the location of the relevant boundaries.

- (6) You are advised that under the *Fences Act 1975* you are legally required to give notice for the removal of a fence on the common boundary. Please refer to the *Fences Act 1975* for the correct procedural requirements.
- (7) Please be advised that your application involves work that may impact on the stability of neighbouring land. Pursuant to section 139 of the *Planning Development and Infrastructure (PDI) Act 2016* (previously section 60 of the *Development Act 1993*), you are reminded of your obligations to:
- 28 days before the building is commenced, caused to be served on the owner of the affected land a notice of intention to perform the building work and the nature of that work; and
 - Take precautions as may be prescribed to protect the affected land or premises and carry out work in accordance with the Act.
- (8) Public services may be present in the road and it is the property owner's responsibility to ensure these services are not damaged as a result of the work. If services require alterations, it is the property owner's responsibility to consult with the particular service agency before performing any works. (Contact "Dial Before you Dig" on telephone 1100 or their website www.dialbeforeyoudig.com.au).
- At all times during the construction, removal or repair of a crossing place or stormwater pipe, sufficient barricades and signs, visible at night (where work duration exceeds daylight hours), are to be installed and maintained to give adequate warning to the public.
- The applicant shall be responsible for all costs associated with:
- The construction, removal or repair of crossing places or stormwater pipes. This may include the repairs and modifications to an abutting footpath as a result of the construction or alteration of the crossing place or stormwater pipe.
 - The pruning, removal and replacement of any tree as approved in accordance with Council's Tree Management Policy and the Council's Fees and Charges Register.
- (9) NBN Co. is responsible for the installation of National Broadband Network (NBN) fibre for all developments in areas where NBN Co. has already rolled out fibre. To ensure services are available when residents move in, developers and builders must register their developments and apply to NBN Co. before building has commenced. To determine if your site is in an NBN area and to register your development, please complete the pre-qualifier forms located at www.nbnco.com.au/newdevelopments. For more information, please contact the NBN Co. New Developments Team on 1800 687 626 or email newdevelopments@nbnco.com.au.

Land Division Consent Notes

- (1) With regards to Condition 2 of 'Council's Requirements', you may wish to provide Council with photographic evidence confirming compliance with this condition. This should assist Council with expediting final clearance of the land division. Photos can be uploaded to the 'Land Division Clearance Request' form available on Council's website: <http://cttg.sa.gov.au/development>.

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