

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 via electronic means on TUESDAY 15 FEBRUARY 2022 commencing at 10.00am

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

Council is committed to providing greater community access to Council meetings during the COVID-19 pandemic. Members of the community are welcome to listen and observe minutes via [Council's website](#).

Members of the public are unable to physically attend 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.

JOHN MOYLE
CHIEF EXECUTIVE OFFICER

Dated: 10 February 2022

CITY OF TEA TREE GULLY
COUNCIL ASSESSMENT PANEL MEETING
15 FEBRUARY 2022

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 21 December 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 Development Act 1993 - Nil

Applications under the Planning, Development and Infrastructure Act 2016

- 4.1 CAP.21026139/2022 - Two storey detached dwelling at 43 The Promenade
Highbury 5

Recommended to Grant Planning Consent

Procedural Matters

- 4.2 Council Assessment Panel - Updated Delegation Changes to Instrument C 51

5. Other Business

- 5.1 E.R.D. Court Matters Pending - Nil

- 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

15 March 2022

REPORT NO: CAP.21026139/2022

RECORD NO: D22/6777

TO: COUNCIL ASSESSMENT PANEL MEETING - 15 FEBRUARY 2022

FROM: Daniel Oest
Senior Planning Officer

SUBJECT: TWO STOREY DETACHED DWELLING AT 43 THE PROMENADE HIGHBURY

SUMMARY

DEVELOPMENT NO.	21026139
APPLICANT	Metricon Homes
ADDRESS	43 The Promenade, HIGHBURY SA 5098
NATURE OF DEVELOPMENT	Construct a two storey detached dwelling with associated retaining wall and fencing
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 Housing <input checked="" type="checkbox"/> Hazards (Bushfire – Urban Interface) <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	14 September 2021
RELEVANT AUTHORITY	Council Assessment Panel at City of Tea Tree Gully
PLANNING & DESIGN CODE VERSION	2021.13
CODE RULES APPLICABLE AT LODGEMENT	Planning and Design Code Rules - 21026139 - 43 The Promenade Highbury - 15 February 2022

CATEGORY OF DEVELOPMENT	Code Assessed - Performance Assessed
NOTIFICATION	Yes – Notification Period 25 November 2021 to 15 December 2021
NUMBER OF PROPERTIES NOTIFIED	12
REPRESENTATIONS RECEIVED	2
REPRESENTATIONS TO BE HEARD	Nil
RECOMMENDING OFFICER:	Daniel Oest
REFERRALS STATUTORY	Nil
REFERRALS NON-STATUTORY:	Nil
RECOMMENDATION	Grant Planning Consent

1. DETAILED DESCRIPTION OF PROPOSAL

Proposed is a two-storey detached dwelling and associated retaining walls and fencing to existing vacant land, known as 43 The Promenade, Highbury.

The existing parcel is located in one of the southernmost portions of the greater “Wicks Estate” which was the name given to the parent land division released circa 1990. It is one of only a few undeveloped parcels of land remaining in the estate.

The dwelling is contemporary in design and style, with four bedrooms and a formal leisure area located on the upper storey with associated wet areas and balconies. The ground floor includes two living areas, study, kitchen, additional wet areas, a two car garage, and an outdoor room (semi enclosed verandah under main roof).

Finishes of the dwelling include face brick to the lower level, render to the upper storey with colorbond panel lift doors, tiled roof, cedar screen infill panels to the upper storey façade windows, and feature tiling to a blade wall also to the façade.

The site fronts a curve in the road, with a significant corner cut off provided and associated wide road verge area. The result is a 2.05m front boundary setback at its closest point notwithstanding the garage is located 10.5m from the road frontage.

The dwelling is orientated on a north to south axis to have its façade front the same direction as the established neighbours to the west. The remainder of the road frontage to the east of the dwelling forms a pseudo side setback.

1.8m high fencing is proposed to the side and rear boundaries (east, north and west boundaries).

The retaining walls associated with the development are aligned parallel to the rear of the dwelling, inboard of the rear boundary, and range between 0.4m to 0.65m in cut.

A retaining wall is aligned with the road frontage and landscaping area forward of the building line, with walls 0.6m to 0.8m.

The retaining wall accommodates the bench level for the proposed dwelling, however it is noted that the driveway remains at a lower level in order to allow for an increased garage ceiling height.

A significant tree is located to the north of the site on adjacent and vacant land, however the proposed dwelling and associated earthworks is not considered to result in tree damaging **activity, only having a minor fringe encroachment into the tree's Tree Protection Zone (TPZ).**

Plans of the proposed development can be found in Attachments 3 and 4.

2. SUBJECT LAND & LOCALITY

2.1 Site Description:

Location reference: 43 THE PROMENADE Highbury 5098

Title Reference:	Plan Parcel:	Council:
822/777	D54599 A145	CITY OF TEA TREE GULLY

The subject site comprises a single allotment that has one long road frontage to The Promenade due to being on the inside of a road curve. The allotment therefore has an irregular boundary where it aligns with this road frontage and forms almost a triangular shape.

The allotment has a fall from the rear (northern) boundary to the front (southern) boundary of approximately 5.5m over the 37m allotment length. However, the fall is considered minimal toward the front, with the rear portion of the allotment accommodating an area of existing batter up to 4m in height.

The batter to the north of the site is located with the TPZ of a significant tree. The allotment is currently vacant with no recent earthworks and has remained as such since the parent division.

Figure 1 below demonstrates the approximate extent of the allotment when viewing the site toward the west from The Promenade and illustrates the flatter portion to the south of the site and the battered area to the north.



Figure 1 – Subject site views from the east to west

2.2 Locality

The locality is considered the area as depicted within Figure 2 below being the land encircled by the red line.



Figure 2 – Locality Map

The locality accommodates detached dwellings and vacant allotments on the northern side of the River Torrens watercourse and associated reserves. Land over the River Torrens to the south is located within the City of Campbelltown.

The built form character for the locality is of a mix of single and two storey dwellings typical in design and styling of the late 1990s to mid 2000s.

Dwellings are generally conventional with hipped roofs and gable ends with brick, render and iron sheeting being common building materials. The locality is considered to be well vegetated with established gardens, fencing and regulated native vegetation. Land opposite the site forms a reserve as part of the River Torrens Linear Park network.

The locality is comprised of land that is both part of the General Neighbourhood Zone and that of the Open Space Zone. The subject site is located within the General Neighbourhood Zone, with the abutting road reserve and beyond located in the Open Space Zone. Figure 3 below identifies the zoning in the locality in relation to the subject site highlighted in blue.



Figure 3 - Zoning

3. CATEGORY OF DEVELOPMENT

PER ELEMENT

Detached Dwelling – Performance Assessed

Retaining walls – Performance Assessed

Fencing – 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 two building levels however there is a total building height of 9.47m and a wall height (blade wall) of 7.5m, thereby not satisfying DTS/DPF 4.1 of the General Neighbourhood Zone and requiring public notification.

LIST OF REPRESENTATIONS

Name	Address	Position	Wishes to be Heard
Steve Olech	35 The Promenade HIGHBURY SA, 5089 Australia	Oppose	No
Amy Ahrens	6 Cabernet court BURTON SA, 5110 Australia	Oppose	No

SUMMARY

Notification consisted of direct contact with the 12 owners or occupiers of adjacent land and a sign detailing the proposal placed on the subject site for the duration of the notification period.

Two representations were received that oppose the development with neither of the representors electing to be heard by the Panel.

The first representor being the owner of 35 the Promenade has concerns for the two storey form of the proposed dwelling. Specifically, that if a two storey form was to go ahead, this will require the adjacent vacant allotment to the north west of the subject site (41 The Promenade) to take on a two storey built form to obtain views to the south and west. The concern is that this **two storey form will then obscure views from the representor's property.**

The second representor advises that there is too much traffic with all the schools. The representor cannot be correlated with any property in the area that was directly notified, with the provided address for correspondence being from the suburb Burton.

As there are no schools in the locality or wider area, it is unclear the intention for the objection and it is regarded that the opposition may have limited relevance to the application.

Both representations were forwarded to the applicant to respond.

A copy of the representations can be found in Attachment 5.

The applicant responded via the services of a consultant planner with the response highlighting;

- ☒ the proposal is considered to be compliant with the Residential Code, specifically General Neighbourhood Zone DPF 4.1,
- ☒ there are other two storey dwellings and the proposal contributes positively to the character of the local area,
- ☒ the Planning and Design Code does not include provisions with regard to the protection and loss of views, and
- ☒ the proposal, due to its siting on the subject land, will not impact directly on views from 35 The Promenade.

The response to the representations can be found within Attachment 6.

With specific regard to the representor at 35 The Promenade, the concerns are noted however there is little within the policy applicable to this assessment to protect views of the adjoining land owner. This is primarily due to the general compliance of the proposal to relevant built form and character objectives of the Code (see Section 7 of this report), but that it also relies on a hypothetical subsequent development of another site. Notably the further development of other land can only be assessed on its merits against the relevant planning instrument at the time of lodgement.

Without detail on how the adjacent site of 41 The Promenade is to be developed, it is unclear on to what degree views of 35 the promenade may be impacted. Further, it is considered that a dwelling constructed at 41 The Promenade will still be able to take advantage of views to the west and over the road to the east should its views to the south be impacted by the proposed dwelling.

Notwithstanding, the policy applicable to the assessment of this proposed dwelling does not refer to the concerns raised by the representor regarding any impact or loss of views by any subsequent dwellings on adjacent land.

The representor of 6 Cabernet Court, Burton is not considered to have raised any concerns relevant to the proposal.

5. AGENCY REFERRALS

Nil

6. INTERNAL REFERRALS

Nil

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

Table 1 General Neighbourhood Zone – Quantitative Provisions (DPF criteria)

DPF	Provision	Requirement	Provided	Complies
3.1	Site coverage	60% maximum	35%	✓
4.1(a)	Building height	2 Building Levels and 9m maximum	2 and 9.47m	X
4.1(b)	Wall height	7m maximum	7.5m	X
5.1	Front setback	1m forward of neighbouring dwelling = 3.8m	2.05m	X
8.1	Side setback	0.9m plus 1/3 of the height above 3m = 1.2m	1.27m	✓
9.1	Rear setback	4m ground floor, 6m any other building level	6.7m ground and 7.4m upper	✓

7.2 Land Use

Proposal is for residential land use in the General Neighbourhood Zone. Zone Performance Outcome (PO)1.1 speaks to *predominantly residential development*, with **the Zone Desired Outcome (DO)1 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 two building levels and a maximum building height of 7.47m to the top of the roof ridgeline. Zone PO4.1 states that buildings are to contribute to a low-rise suburban character and the corresponding Designated Performance Feature (DPF) 4.1 stipulates dwellings should have a maximum height of **2 building levels and 9m. The Code definition of ‘low-rise’** means development up to and including 2 building levels.

The proposal comprising two building levels is considered to satisfy PO4.1, however the height of 9.47m exceeds the height requirement by 0.47m. It is noted that even with the additional height above the requirement, the proposal remains a low-rise development having regard to the above definition.

It is also noted that the initial design of the dwelling had an overall height of 10.3m. Amendments to the proposal have seen the roof line reduced substantially to now result in only a minor variance to the maximum height requirement.

The degree of variance in height requirements is limited to the very top of the roof ridge line and is illustrated in the following Figure 4.

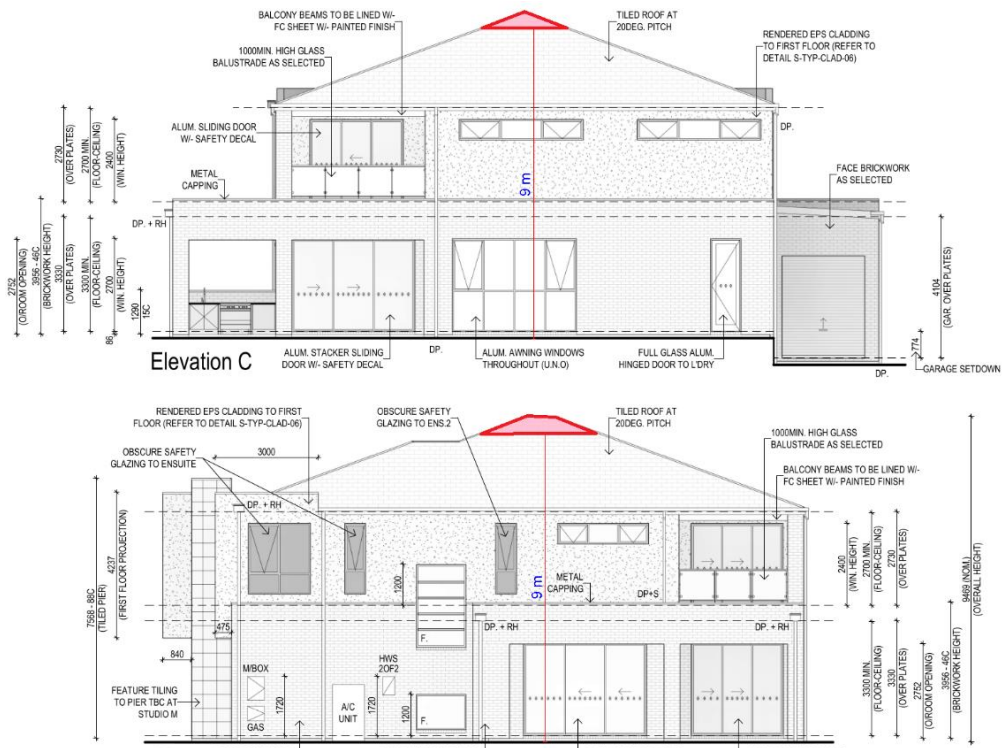


Figure 4 – Height variance shown in red

It is therefore concluded that the additional height is of limited consequence and will not be to the detriment of the character of the zone or that of the locality.

Furthermore, the degree of overshadowing, particularly to the adjacent dwelling to the west will be largely unimpacted other than for what is predicted to be a few hours in the morning during winter solstice. As a result, the building height and overall form is compliant with Design in Urban Areas DPF 3.1 and 3.2 with respect to overshadowing.

The additional height is therefore considered acceptable.

7.4 Setbacks, Design & Appearance

As demonstrated in Table 1 above, side setbacks and rear setbacks satisfy Zone DPF 8.1 and 9.1, however the proposal does not satisfy front setback DPF 5.1 on the technicality that the site only has one road frontage with a road.

Nevertheless, the dwelling is proposed to be entirely consistent with the alignment of existing dwellings adjacent to the site to the west. With this consistent alignment, the **proposal satisfies PO 5.1 in that “buildings are setback from primary street boundaries to contribute to the existing/emerging pattern of street setbacks in the streetscape.”**

This is evident in the Figure 5 which demonstrates the siting of the dwelling in comparison to existing development within the immediate streetscape.

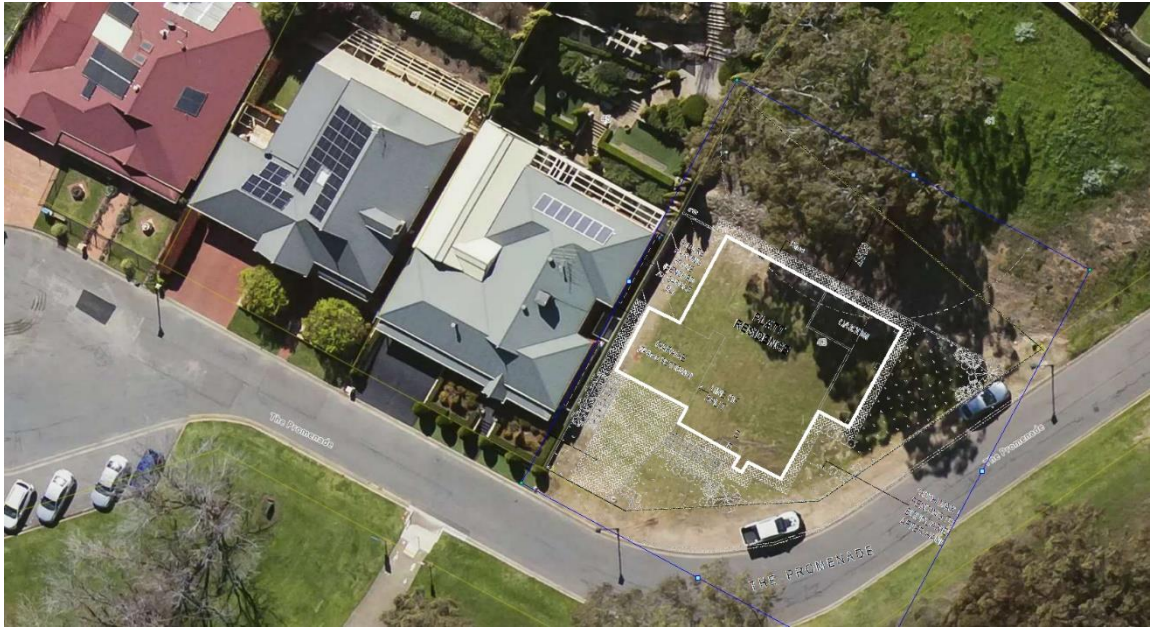


Figure 5 – Pattern of Development in the streetscape

Also included in the proposal is a blawall to the primary façade that has a height of 7.5m. This does not satisfy the height requirements of DPF 4.1 which seeks a maximum wall height of 7m. It is considered that the blawall assists in the extensive articulation of the dwelling façade to achieve a positive streetscape contribution. The blawall **contributes to the satisfaction of PO 20.2 in that “dwelling elevations facing public streets and common driveways make a positive contribution to the streetscape and the appearance of common driveway areas.”**

The additional 0.5m of wall height is limited only to the blawall. Given this limitation and its assistance in articulating the façade, the wall height variance is considered to be of little detriment to the locality and does not detract from the low-rise suburban character.

The provision of balconies from upper storey living areas that also overlook the street, and location of lower level living areas that directly front outdoor recreation areas satisfy Design in Urban Areas DPF 18.1.

Garaging dominance is also reduced with the proposed double garage being sufficiently setback from the primary façade of the dwelling to satisfy DPF 19.1.

Site coverage is at 35% and therefore satisfies Zone DPF 3.1, which seeks a maximum of 60%. Additionally the provision of 430² private open space satisfies Design in Urban

Areas DPF 22.1. The private open space remains directly accessible from living areas of the dwelling to satisfy DPF 21.2.

7.5 Retaining walls, Fencing and Landscaping

The western, northern and eastern boundaries of the site are to be fenced with 1.8m high colorbond fencing, and is attached to 0.4m high retaining walls along the western and eastern boundaries. The majority of the fencing and retaining walls are not considered development in their own right, however the combined height of the fencing and retaining wall results in some of the combined structures requiring a development authorisation.

There are limited provisions relating to retaining walls and fencing that are applicable to this application, however the fences are considered to satisfy Design in Urban Areas **PO 9.1 in that “fences, walls and retaining walls of sufficient height maintain privacy and security without unreasonably impacting visual amenity and adjoining land's access to sunlight or the amenity of public places.”**

With respect to landscaping, Design in Urban Areas DPF 22.1 requires a minimum 25% of the allotment to comprise soft landscaping, with 30% of the front setback area also comprising soft landscaping. The proposal providing 46% and 53% respectively to satisfy these requirements.

A large tree has been proposed within the landscaping plan to satisfy Urban Tree Canopy Overlay DPF 1.1.

7.6 Hazards (Flooding) Overlay

The River Torrens is located to the west of the subject land which captures the assessable criteria of the Hazards (Flooding) Overlay for development on the subject site. Data belonging to Council details that the known 1 in 100 year flooding event would not to impact on the development site and therefore the overlay is not applicable in this instance.

7.7 Waste Management

Areas for domestic bin storage that are screened from public view are available within the site to achieve Design in Urban Areas PO 24.1.

7.8 Regulated or Significant Trees

A known significant tree is located on the adjacent vacant allotment north of the subject site. The tree has a maximum TPZ of 15m. The proposed development does not to encroach more than 10% into the TPZ, with the encroachment able to be substituted elsewhere as per Australian Standards AS 4970-2009 Protection of Trees on Development Sites. As the encroachment is therefore considered as minor pursuant to the standards tree damaging activity does not form part of this assessment.

8. CONCLUSION

The proposal is for a two storey detached dwelling and associated retaining walls and fences, all of which are envisaged within the General Neighbourhood Zone.

Albeit, the proposal does exhibit some variances in terms of height and road setbacks, the height proposed is not considered excessive nor detrimental to the locality or zone, and the front setback still contributes to the desired pattern of development in the locality and Zone.

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

Hazards (Flooding) Overlay

PO 3.1, PO 3.2, PO 5.1

Hazards (Flooding – Evidence Required) Overlay

PO 1.1

Stormwater Management Overlay

P O1.1

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

Retaining Wall

Hazards (Flooding) Overlay

PO 5.1, PO 5.1

Design in Urban Areas

PO 9.1, PO 9.2

Fences
Design In Urban Areas
PO 9.1

10. RECOMMENDATION

That pursuant to the authority delegated to 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 21026139, by Metricon Homes 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.

Condition 5

Free and unrestricted access must be available to the driveway and this area must be available for parking 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.’

Condition 7

All upper storey windows that do not directly front a road frontage 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.

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 landscaping must be maintained thereafter in good condition being immediately replaced should it become diseased or dies, subject to the ongoing reasonable satisfaction of Council.

Condition 9

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’.

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

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Report Authorisers

Daniel Oest	
Senior Planning Officer	8397 7370
Nathan Grainger	
Manager City Development	8397 7200
Carol Neil	
Director Community & Cultural Development	8397 7341

REPORT NO: CAP.Changes to Delegations/2022

RECORD NO: D21/102065

TO: COUNCIL ASSESSMENT PANEL MEETING - 15 FEBRUARY 2022

FROM: Deana Taglierini
Governance Advisor

SUBJECT: COUNCIL ASSESSMENT PANEL - UPDATED DELEGATION CHANGES TO INSTRUMENT C

SUMMARY

Under the Planning Development and Infrastructure Act (PDI Act), the Council Assessment Panel (CAP) as a relevant authority will need to set delegations in relation to daily administrative tasks.

This report allows the Panel to consider an updated list of matters that require delegation to ensure the timely processing of matters under the PDI Act.

1. BACKGROUND

The review is being undertaken from legislative amendments and reviewing of current delegations.

This instrument of delegation from CAP to the Assessment Manager is known as Instrument C.

The delegations set out in Instrument C have since been updated to include minor alterations following further review by the Local Government Association (LGA) and Norman Waterhouse Lawyers as well as some new delegations as part of legislative amendments. The proposed changes to the template can be found in Attachment 1.

2. DELEGATIONS

CAP as Relevant Authority

As Panel Members would be aware, The Act provides that an Assessment Panel will be a relevant authority (planning and building) in relation to a proposed development that is to be undertaken within the area of a council, unless another authority is prescribed by the Act or Regulations (section 93 of the Act).

The Assessment Panel is designated the relevant authority for:

- ☒ Performance assessed development under section 107 of the Act where notice of the application must be given under section 107(3) of the Act.
- ☒ Development which involves the assessment of the Building Rules under section 99 of the Act where a building certifier has not been nominated.

3. CONCLUSION

These minor amendments will ensure all functions of the CAP under the PDI Act are captured under the recently approved delegation framework, and it is recommended that CAP endorse the delegations as put forward by the LGA in order to ensure timely and legally compliant processing of applications under the PDI Act.

4. RECOMMENDATION

- A. In exercise of the power contained in Section 100 of the Planning, Development and Infrastructure Act 2016 the powers and functions under the Planning, Development and Infrastructure Act 2016 and statutory instruments made thereunder contained in the proposed update to the Instrument of Delegation contained in Attachment 1 of the **report titled “Council Assessment Panel - Updated Delegation Changes to Instrument C”** and dated 18 January 2022 to the person(s) occupying the positions of Assessment **Manager (or person(s) ‘acting’ in the above mentioned positions)** except where otherwise indicated in the Attachment, subject to the conditions and/or limitations, if any, specified herein.
- B. Such powers and functions may be further delegated by the Assessment Manager (or persons occupying the positions) in accordance with Section 100(2)(c) of the Planning Development and Infrastructure Act 2016 as the Assessment Manager sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation.

Attachments

1. [Instrument C – Instrument of Delegation under the Planning Development and Infrastructure Act 2016 - November 2021](#)54

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