

**COUNCIL ASSESSMENT PANEL MEETING****10 February 2021****AGENDA – 9.1**

<b>Applicant:</b> Damian Schultz	<b>Landowner:</b> S J Schultz
<b>Agent:</b> N/A	<b>Originating Officer:</b> Ashleigh Gade
<b>Development Application:</b>	20/894/473
<b>Application Description:</b> Demolition of existing dwelling and outbuilding & construction of replacement two storey detached dwelling, deck (maximum height 2.95m), retaining walls (maximum height 1.6m), fencing & associated earthworks (non-complying)	
<b>Subject Land:</b> Lot:91 Sec: P1022 FP:171040 CT:5324/817	<b>General Location:</b> 33 Yanagin Road Greenhill  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 8 August 2019 <b>Map</b> AdHi/3	<b>Zone/Policy Area:</b> Hills Face Zone
<b>Form of Development:</b> Non-complying	<b>Site Area:</b> 1192m <sup>2</sup>
<b>Public Notice Category:</b> Category 3 Non Complying Notice published in The Advertiser on 20 November 2020	<b>Representations Received:</b> 2  <b>Representations to be Heard:</b> 1

**1. EXECUTIVE SUMMARY**

The purpose of this application is to demolish the existing two storey A-frame dwelling and replace it with a new two storey contemporary style dwelling.

The subject land is located within the Hills Face Zone and the proposal is a non-complying form of development. One representation in opposition and one representation in support of the proposal were received during the Category 3 public notification period. The representation in opposition to the proposal was received from the neighbouring property to the north-west and the representor has identified that they wish to be heard in support of their representation.

The proposal for the construction of a new two storey dwelling involves the retention of the existing swimming pool and a small extension to the existing ground-level decking area and stairs. The eastern extent of the dwelling will require up to 450mm additional excavation which, in addition to the existing excavation on site, will require retaining walls at a maximum of 1.6m in vertical height.

The proposed dwelling will comprise 5 bedrooms, 3 bathrooms (including an ensuite), an open plan kitchen and living area, an office/study space and Juliet balconies to sliding doors on the upper level. The dwelling is to be clad in Colorbond “Single Lok Standing Seam” cladding and roof sheeting in dark grey with select rendered brickwork in grey. The land is not serviced by mains water or sewer and all water supply and wastewater treatment is managed on site.

As per the Council Assessment Panel (CAP) delegations, the CAP is the relevant authority for Category 3 non-complying development where representors wish to be heard.

The main issues relating to the proposal are bulk and scale, siting and overlooking.

Following an assessment against the relevant zone and Council Wide provisions within the Development Plan, staff are recommending that the proposal be **GRANTED** Development Plan Consent, subject to conditions.

Note, concurrence from SCAP is no longer required for consents to non-complying development effective 15 May 2020 as a result of the COVID-19 Emergency Response (Further Measures) Amendment Bill 2020 and subsequent amendment to Section 35 of the Development Act 1993 to delete the need for concurrence to be obtained.

## 2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- Demolition of existing two storey dwelling and associated outbuilding.
- Double storey detached dwelling clad in Colorbond roof sheeting and Colorbond standing seam wall cladding in dark grey, comprising 5 bedrooms, 3 bathrooms, 2 living areas and a study/office.
- Extension to existing deck over water tank – maximum height 2.95m from natural ground level.
- Retaining walls – maximum height 1.6m.

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Attachment – Application Information** and **Attachment – Applicant’s Professional Reports**.

## 3. BACKGROUND AND HISTORY

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
11 July 2017	16/679/473 & 16/680/473	Combined fence (masonry and railing) and utilities structure (6m x .9m x 2.1m above finished ground level) adjacent to front boundary and earthworks (15m3) & Variation to development authorisation 15/30/473: 1.8m extension of fence on front western boundary, new opening in approved screen on western boundary adjacent deck and enclosing of tank base
3 March 2015	15/32/473	Replace roof of existing concrete tank
7 July 2015	15/31/473	Earthworks - maximum cut 2m and maximum fill 1m on eastern boundary

17 September 2015	15/30/473	Retaining wall (maximum height 2.8m), deck constructed over water tank, pool fence, fences (maximum height 1.8m), combined fence and retaining wall (maximum height 4.6m) & associated earthworks
22 June 2009	09/267/473	Dwelling addition - deck (maximum height of 3 metres)

#### 4. REFERRAL RESPONSES

- **CFS**  
The CFS have no objection to the proposal and have recommended a group of standard conditions (refer conditions 8-12).
- **AHC EHU**  
Council's Environmental Health Officer has granted approval to install a waste water treatment system (reference 20/W184/473).
- **AHC Engineering**  
Council's Engineer has reviewed the proposed stormwater disposal method and has deemed that stormwater overflow to the Greenhill Road verge is supportable. The proposed method of stormwater management involves detention via the existing rainwater tank. Engineering are satisfied the method of stormwater management proposed is appropriate but have requested full detention calculations from a suitably qualified engineer be provided prior to the issuing of full Development Approval that demonstrate flows to the Council verge will be limited to pre-development rates.  
  
Engineering are satisfied that the proposed sealing of the driveway is appropriate, with a recommended condition that it be completed to Council standards (refer condition 2).

The above responses are included as **Attachment – Referral Responses**.

#### 5. CONSULTATION

The application was categorised as a Category 3 form of development in accordance with Section 38(2)(c) of the Development Act 1993 requiring formal public notification and a public notice. Two representations were received. One representation was in support of the proposal and was received from a non-adjacent neighbour to the east of the subject land. The other representation received was in opposition to the proposal and was received from neighbours directly adjacent the property to the west. The representor who opposes the proposal has identified that they wish to be heard in support of their representation.

The following representor wishes to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Matt and Kylie Johns	31 Yanagin Road, Greenhill	Matt and Kylie Johns

The applicant(s) (or their representative – Brenton Burman) may be in attendance.

The issues contained in the representation can be briefly summarised as follows:

- The bulk, mass and scale of the proposal and the resulting visual dominance.
- Incapability of the dwelling design with the character of existing buildings in the locality.
- The potential for overlooking from the upper level of the proposed dwelling.
- Perceived discrepancies within application documents.

These issues are discussed in detail in the following sections of the report.

A copy of the submission is included as **Attachment – Representations** and the response is provided in **Attachment – Applicant's Response to Representations**. Note: An additional letter identifying the representor's consultant architect has been provided dated 1 February 2021. This letter is included in the attachments and a copy has been provided to the applicant.

## 6. PLANNING & TECHNICAL CONSIDERATIONS

This application has been evaluated in accordance with the following matters:

i. The Site's Physical Characteristics

The subject land is 1192m<sup>2</sup> in area and rectangular in shape. It has direct frontage to Yanagin Road, a Council-maintained no-through road with access only via Greenhill Road. The subject land is not serviced by mains sewer and water. All wastewater is managed on site. Access to rainwater is via an existing 88,000L rainwater tank. The subject land slopes away from Yanagin Road in the south toward the rear boundary and Greenhill Road to the north. The allotment contains an existing two storey A-frame dwelling which is situated on a balanced site with historic excavation and fill in the section of the allotment closer to Yanagin Road. The rear of the allotment is undeveloped due to the increasing slope of the land, which falls 5 metres over a distance of 19 metres to the rear of the existing decking, down toward the rear boundary. The front gardens are formally landscaped and vegetation along the eastern side boundary is largely exotic species, some of which are to be removed as part of the proposal. A number of native trees are sited to the rear of the allotment and in proximity of adjoining land to the east but none of these are proposed for removal as a result of the development.

ii. The Surrounding Area

Allotments fronting Yanagin Road are somewhat unique in the immediate locality in that they are surrounded predominantly by larger allotments, including the Cleland National Park to the south and primary production land to the north. The allotments fronting Yanagin Road are typically residentially sized allotments, varying in site area from 1,000m<sup>2</sup> to 1,700m<sup>2</sup>. This does not include Yanagin Reserve which is accessible from the eastern extent of the road, beyond which point the road is unmade and accessible to service vehicles only. The streetscape is defined by rectangular

allotments in a linear pattern, typically containing single or double storey dwellings. As the land slopes toward Greenhill Road it is not uncommon for dwellings to present to Yanagin Road as single or double storey, but utilize the fall of the land to accommodate additional levels to the rear. Yanagin Road is separated from the remainder of residential allotments in the suburb of Greenhill by Greenhill Road, though these allotments are similar in character to the Yanagin Road allotments. Dwellings in the locality are predominantly brick buildings with tiled roofs, though there are isolated examples of more contemporary dwelling designs as a result of more recent redevelopments on established sites.

iii. Development Plan Policy considerations

a) *Zone Provisions*

The subject land lies within the Hills Face Zone and these provisions seek:

- A zone where natural character is preserved, enhanced or re-established in order to provide a natural backdrop to the Adelaide Plain and provide a buffer area between metropolitan districts and the Mount Lofty Ranges.
- That buildings be unobtrusive, sited well below the ridgeline, within valleys or behind spurs and set well back from public roads.
- That development not result in excessive earthworks or be sited on land where the slope poses an unacceptable risk of soil movement, land slip or erosion.

The following are considered to be the relevant Zone provisions:

*Objectives:* 1

*PDCs:* 1, 2, 3, 7, 8, 9, 22

*Accordance with the Zone*

The Hills Face Zone envisages that limited residential development will occur and is considered a non-residential zone without typical residential services. Where residential development does occur, it is envisaged that this development will not necessitate the provision of such services and will be sympathetic to or enhance the natural character of the zone. Development should be sympathetic to the topography of the land, be unobtrusive and sited well below the ridgeline so that it is obscured from view from the Adelaide Plains.

The proposal is to construct a two storey detached dwelling that will replace the existing two storey detached dwelling and associated outbuilding. The proposed dwelling will continue to use existing access from Yanagin Road. The level of resulting earthworks is minimised by utilizing a similar building footprint to the existing dwelling which addresses PDC 2. In accordance with Objective 1 and PDC 7 for the zone, the proposed dwelling will not be visible from the Adelaide Plains. The topography of the locality is such that the land north of Yanagin Road, including the subject site, slopes away from Adelaide.

PDC 8 seeks that buildings be of single storey with a low profile, where the mass is minimised through variations in wall and roof lines. The proposed dwelling is double storey and therefore does not meet the envisaged form in PDC 8. Notwithstanding this the character of the locality, which is discussed further below, is that of an

established residential street and Yanagin Road has other examples of two storey development, including the existing dwelling on the subject land. The existing dwelling has maximum height to the peak of the gable roof of approximately 6.2 metres. The proposed dwelling design has two roof gables at a maximum height of 8.1 metres and 8.75 metres viewed from west to east from Yanagin Road. This will result in the proposed dwelling sitting slightly higher than the comparative peak of the skillion roof at 31 Yanagin Road which is shown on the street elevation plan to have a maximum height of 8 metres. The proposal utilizes much of the footprint of the existing dwelling and outbuilding. However, the proposed dwelling will result in an increase in mass compared to the existing built form. This is partially addressed through design features such as separating the pitched roof and articulation to the façade.

The proposal is considered consistent with the Desired Character for the zone in the choice of colours and materials which complement the natural surrounds and will not be visually obtrusive or unnaturally reflective. All large native trees on the subject land are to be retained, with only exotic planted species and two small non-endemic trees along the eastern boundary to be removed. It is noted that the existing decking is sited in direct proximity to native vegetation on site but this element is to be retained and there will be no further impacts to these trees. A tree on the neighbouring property to the east is of a size to be considered a Significant Tree, however it is sited within 20 metres of the adjacent dwelling and therefore tree-damaging activity is exempt from being considered development. Notwithstanding this, there is no intention to significantly prune or impact on the root zone of this tree as part of the development. All landscaping approved parallel with the front fencing under 16/679 is to be retained as a condition of that consent and is shown as such on the landscape plan.

#### *Appropriateness of Proposal in Locality*

There is no Policy Area applicable to the subject land or locality, however the Greenhill area has a notably distinct character within the zone. The locality is characterised by residential allotments typically at least 1,000m<sup>2</sup> in site area generally running parallel to Greenhill Road. Streets in the locality such as Yarrabee Road, Christopher Avenue and Yanagin Road are residential streets, although none are connected to urban residential services such as sewer or water mains.

As mentioned previously, most dwellings in the locality present as single storey to their primary street frontage, though it is not uncommon for these to be two storey dwellings built into the hillside. Notwithstanding this, two storey dwellings that present to the street are not uncommon, particularly where land falls away from the Adelaide Plains.

The proposed dwelling is notably contemporary in scale and design which is not particularly common within the locality. As viewed from Yanagin Road it will not be dissimilar in height to the adjacent dwelling to the north-east. Despite not being commonplace in the locality, the Zone does not preclude contemporary construction.

*b) Council Wide provisions*

The following are considered to be the relevant Council Wide provisions:

*Design and Appearance*

*Objectives: 1*

*PDCs: 1, 2, 3, 7, 9, 17, 18, 19, 28*

In accordance with PDC 1 the proposed dwelling incorporates contemporary design elements including articulation to the façade, external materials in keeping with the desired character for the zone and eaves and window screens incorporated into the built form.

The existing outbuilding on the site is sited directly on the western side boundary. The proposed dwelling which will replace the outbuilding in this area will be setback 900mm from the boundary which will increase the building setback along this boundary. Notwithstanding this, the proposed dwelling is two storeys in height along this boundary and the increase setback will not wholly account for the increase in wall height. As demonstrated on the submitted plans, the garage of the neighbouring dwelling is sited adjacent this boundary. The adjacent dwelling has a second storey element within the roof space which rises above their garage and faces this elevation. This element however is a solid wall and does not contain any windows. Overshadowing diagrams have been provided demonstrating that on 21 June, the proposed dwelling will primarily cast shadows over the front yards of the subject dwelling and adjacent dwellings, with some shadow impact to the side elevation of the eastern neighbouring dwelling between 11am and 1pm. Both adjacent dwellings will retain access to a minimum of two hours of solar access to living area windows and private open space during winter in accordance with PDC 17.

The siting of the proposed dwelling largely within the footprint of the existing dwelling reduces the need for extensive earthworks in association with the proposal which is in accordance with PDC 9. A maximum of 450mm excavation to the west of the existing swimming pool is to be undertaken to align the finished floor level of the proposed dwelling and the existing swimming pool deck. To the rear of the existing building footprint the land falls away and 40m<sup>3</sup> of fill will be introduced to level this section to accommodate the proposed dwelling and the extension to the existing decking and stairs.

As per PDC 18 the proposal incorporates screening elements to reduce overlooking. It is noted that the existing dwelling and the significant second storey decking create overlooking issues demonstrated in the submitted documentation. The proposed dwelling incorporates windows at a sill height of 1750mm above finished floor level on the eastern and western elevations. On the western elevation the large in-set hallway windows are to be screened with fixed louvres directed away from the neighbouring allotment, consistent with the intent of PDC 19. The rear elevation includes two sets of sliding doors that open to Juliet balconies, neither of which can be stepped out onto. The built form of the dwelling extends beyond the façade by 900mm on the rear elevation, preventing direct views to the side of the sliding doors but opening up views to the rear of the allotment which is well screened by and vegetated with native trees. The proposal is therefore considered to appropriately

obscure any direct views into neighbouring habitable room windows or private open space.

In accordance with PDC 28 the dwelling is sited in keeping with the setbacks of the adjacent dwellings. The dwellings fronting Yanagin Road have a fairly uniform setback pattern in this area and are sited further forward than the existing dwelling on the subject site. The proposed dwelling is to be sited closer to the road than the existing, generally in line with the surrounding dwellings at 10.2 metres. The proposal is considered to be in accordance with the above provisions for design and appearance.

#### Hazards

*Objectives:* 2, 5

*PDCs:* 6, 7, 8, 9

The subject land is located within a high bushfire risk area and the development is required to comply with the Minister's Code: Undertaking Development in Bushfire Protection Areas. As identified previously in the report, the proposal required referral to the Country Fire Service (CFS) in accordance with Schedule 8 of the *Development Regulations 2008*. The CFS had no objections to the proposal, subject to standard conditions. The proposal is considered to be in accordance with the above provisions for bushfire hazard.

#### Orderly and Sustainable Development

*Objectives:* 4, 9

*PDCs:* 1, 9

In accordance with PDC 9 it is considered the proposal is sited on land which already forms part of an immediate locality intended for and utilized for residential development. In its context the land is suitable for ongoing residential use and the proposal does not contravene the intent of Objective 9 in creating any encroachment of urban style development over and above what is already existing.

The proposed dwelling will not be visible from the Adelaide Plains and in situ will be visible only when viewed directly from Yanagin Road and its immediate surrounds. As such it is considered the proposal does not prejudice the intended purpose of the zone, which is to retain a natural interface and visual separation between metropolitan Adelaide and the Mount Lofty Ranges. The proposal is therefore in accordance with the above provisions for orderly and sustainable development.

#### Residential Development

*Objectives:* 1

*PDCs:* 1, 3, 4, 5, 8, 9, 10, 17, 18, 28

In accordance with Objective 1 and PDC 3 for the zone, the proposed dwelling is sited on an existing residential street within an established residential locality. The proposal does not significantly increase the capacity of the site for residential purposes and replaces an existing two storey dwelling of a comparable footprint with



another two storey dwelling. It is considered that Yanagin Road and the township of Greenhill in general already accommodates this form of development. There is not considered to be an introduced risk that the proposal would create additional or undue demand on local roads or public utilities.

The dwelling utilizes rainwater for water supply and has an on-site wastewater disposal system. An associated waste application was submitted to and approved by Council's Environmental Health Unit concurrent with planning assessment. In accordance with PDC 5, the proposal includes basic stormwater management details with overflow from the rainwater tank to be directed to the Greenhill Road verge for disposal. Council's Engineering Department have reviewed the stormwater plan and are supportive of the method of management, subject to detention calculations being provided prior to full Development Approval. This is included as a condition in the recommendation below (refer condition 2).

Existing formal landscaping has been established forward of the existing dwelling through previous developments and will be retained in association with the proposed dwelling, with further landscaping along both side boundaries proposed to be established. As per the landscaping plan provided, small native trees will be planted forward of the dwelling along the eastern side boundary, in keeping with the established trees along the western side boundary. To the rear of the proposed garage, small shrubs will be planted along the eastern side boundary. Ample private open space is accessible from the living areas of the proposed dwelling, at the rear of the allotment. The dwelling overlooks Cleland Conservation Park to the south. The entrance to the proposed dwelling is easily identifiable from Yanagin Road. The proposal is therefore considered to adequately address PDCs 8, 10 and 18.

The existing swimming pool and associated decking are to be retained as part of this proposal. The built form of the proposed dwelling includes a pool plant room with roller door to provide discrete and sound attenuated storage for pool equipment associated with the existing pool, in accordance with PDC 28. The proposal is therefore in accordance with the above provisions for residential development

#### Siting and Visibility

*Objectives:* 1

*PDCs:* 1, 3, 4, 5, 6, 7, 10

In accordance with Objective 1 and PDCs 1 and 3, the proposal will be screened from surrounding views to the locality. The subject site and those surrounding on Yanagin Road and not visible from the Adelaide Plain, from Greenhill Road, nor from walking tracks and trails within adjacent reserves. The earthworks required in association with the proposed dwelling will not exceed 1.5m vertical height but will, in conjunction with existing excavation on site, result in a maximum 1.6m retaining wall setback 900mm from the eastern side boundary. The maximum height of retaining is considered consistent with the intent of PDCs 4 and 5, and will be partially screened by landscaping and the built form of the dwelling.

The proposed dwelling is to be clad in non-reflective materials in dark grey tones that will assist to blend with the natural surrounds, consistent with PDC 7. As sought in PDC 6 the proposal uses variation of roof and wall lines to provide visual interest and incorporate large eaves into the building design. It is not considered that the building design as viewed from Yanagin Road is low profile, however within the wider locality viewed from beyond the immediate road frontage the profile of the dwelling will not be readily visible. The visual impacts of the proposed dwelling as viewed from Yanagin Road will be softened through the use of landscaping, consistent with existing landscaping forward of the dwelling established through previous development. The retention of native vegetation to the rear of the proposed dwelling will retain existing vegetative screening from Greenhill Road. It is therefore considered the proposal appropriately addresses PDC 10.

#### Sloping Land

PDCs: 1, 3, 7

The proposed dwelling is to be sited toward the Yanagin Road frontage of the subject land both to utilize the footprint of the existing dwelling and limit earthworks and to site the dwelling away from the steeper land to the rear of the allotment. The siting also prevents the need for an extended driveway for access. The siting does reduce the opportunity for the proposed dwelling to utilize a split-level design or excavate the dwelling into the slope, however in this instance the limiting of associated earthworks is considered a better overall outcome in accordance with PDCs 1 and 3. As addressed above, the siting of the proposed dwelling does not preclude it from being well screened from viewpoints beyond Yanagin Road.

In accordance with PDC 7, an associated wastewater application has been approved that demonstrates adequate siting for an effluent system in association with the proposed dwelling.

#### Parking

Table AdHi/4 seeks the provision of 3 car parking spaces with at least one of those spaces being a covered space, for dwellings comprising 3 or more bedrooms. The proposed dwelling has the capacity to provide 3 covered parking spaces within the attached double garage. There is capacity for at least 1 further parking space on the driveway.

## **7. SUMMARY & CONCLUSION**

This application seeks to demolish an existing two storey dwelling and outbuilding at 33 Yanagin Road, Greenhill and construct a replacement two storey dwelling of a contemporary design.

The subject land is located within the Hills Face Zone and due to the two storey dwelling proposed, the proposal is a Non-Complying form of development. In response to the public notification period, two representors submitted to Council. One representor, from the neighbouring property to the east, responded in support of the proposal. One representor, from the neighbouring property to the west, responded in opposition to the proposal. The representation received in objection to the proposal was predominantly concerned with the resulting bulk, scale and visual impact of the proposal including incompatibility with surrounding

development in the locality. As addressed previously in the report, while contemporary dwelling design is not common in the locality, there are examples within the Greenhill township, and the Zone provisions do not speak against contemporary design. Overshadowing diagrams have been provided to demonstrate that the scale of the proposed dwelling will not introduce unreasonable shadowing to neighbouring habitable room windows or private open space. The concern regarding overlooking has been addressed through design elements such as extension of the built form beyond the rear doors and windows, incorporation of windows with sill heights to a minimum of 1750mm above finished floor level, and external louvers directed away from adjacent land. Maintenance of these screening methods including ensuring that external louvers are adequately oriented away from neighbouring private open space and habitable room windows will form a condition of consent (refer condition 6).

The proposed dwelling is to be constructed of Colorbond “Single Lok Standing Seam” wall cladding in Monument (dark grey) with select rendered brickwork in grey. Though contemporary in design considering the existing dwellings in the locality, the proposal addresses the general zone provisions relating to the obscuring of dwellings as viewed from the Adelaide Plains and the retention of native vegetation. The proposed design also addresses key principles from the Council-wide provisions of the Development Plan with respect to overshadowing, overlooking, reduction of earthworks and appropriate siting.

The proposal is sufficiently consistent with the relevant provisions of the Development Plan, despite its non-complying nature, and it is considered that the proposal is not seriously at variance with the Development Plan. In the view of staff, the proposal has sufficient merit to warrant consent. Staff therefore recommend that the proposal be to **GRANTED** Development Plan Consent, subject to conditions.

## 8. RECOMMENDATION

**That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent to Development Application 20/894/473 by Damian Schultz for Demolition of existing dwelling and outbuilding & construction of replacement two storey detached dwelling, deck (maximum height 2.95m), retaining walls (maximum height 1.6m), fencing & associated earthworks (non-complying) at 33 Yanagin Road Greenhill subject to the following conditions:**

### (1) Development In Accordance With the Plans

The development herein approved shall be undertaken in accordance with the following plans, details and written submissions accompanying the application, unless varied by a separate condition:

- Existing Site Plan prepared by Damian Schultz Sheet 001 Revision B dated 1 November 2020 and received by Council 2 November 2020
- Demolition Plan prepared by Damian Schultz Sheet 002 Revision B dated 1 November 2020 and received by Council 2 November 2020
- Proposed Site Plan prepared by Damian Schultz Sheet 003 Revision B dated 1 November 2020 and received by Council 2 November 2020
- Proposed Landscape Plan prepared by Damian Schultz Sheet 004 Revision C dated 26 January 2021 and received by Council 26 January 2021
- Ground Floor Plan prepared by Damian Schultz Sheet 005 Revision A dated 9 July 2020 and received by Council 2 November 2020

- **First Floor Plan prepared by Damian Schultz Sheet 006 Revision A dated 9 July 2020 and received by Council 2 November 2020**
- **Roof Plan prepared by Damian Schultz Sheet 007 Revision B dated 1 November 2020 and received by Council 2 November 2020**
- **North/South Elevations prepared by Damian Schultz Sheet 008 Revision A dated 9 July 2020 and received by Council 2 November 2020**
- **East/West Elevations prepared by Damian Schultz Sheet 009 Revision B dated 1 November 2020 and received by Council 2 November 2020**
- **Planning Submission dated 19 August 2020 and received by Council 2 November 2020**
- **Planning Statement prepared by Brenton Burman dated 24 August 2020 and received by Council 31 August 2020**

**REASON:** To ensure the proposed development is undertaken in accordance with the approved plans.

**(2) Prior to Building Rules Consent Being Granted – Requirement for Stormwater Calculations**

**Prior to Building Rules Consent being granted all hydrological and hydraulic stormwater calculations shall be provided together with the final drainage plan for approval by the Council. All roof runoff to be directed to the existing 80,000 L rainwater tank. A portion of the tank is to be set aside for stormwater detention, and the discharge from the tank is to be limited to pre-development flows.**

**REASON:** To minimise erosion, protect the environment and to ensure no ponding of stormwater resulting from development occurs on adjacent sites.

**(3) Rural Verge Access Points – SD24**

**The vehicle access point(s) and cross over shall be constructed in accordance with Adelaide Hills Council standard engineering detail SD24 – piped entrance and installed within 3 months of occupation of the development.**

**REASON:** For safe and convenient movement of vehicles and for efficient drainage of stormwater within the road verge.

**(4) External Finishes**

**The external finishes to the building herein approved shall be as follows:**

**WALLS:** Colorbond Standing Seam Cladding in Monument, Rendered Brickwork in Grey, or similar

**ROOF:** Colorbond Standing Seam Roof Sheeting in Monument or similar

**REASON:** The external materials of buildings should have surfaces which are of a low light-reflective nature and blend with the natural rural landscape and minimise visual intrusion.

**(5) Residential Lighting**

All external lighting shall be directed away from residential development and, shielded if necessary to prevent light spill causing nuisance to the occupiers of those residential properties.

**REASON:** Lighting shall not detrimentally affect the residential amenity of the locality.

**(6) Privacy Screening**

Prior to occupation of the approved development, the western upper level windows of the dwelling shall be fitted with fixed louvre screening as shown on East/West Elevations - West Façade to a minimum height of 1.7m above the finished floor level. The screening shall be fixed in such a way that it prevents direct overlooking into neighbouring habitable room windows or private open space. The screening shall be maintained in good condition at all times.

**REASON:** Buildings should be designed to not cause potential for overlooking of adjoining properties.

**(7) Soil Erosion Control**

Prior to construction of the approved development straw bales (or other soil erosion control methods as approved by Council) shall be placed and secured below areas of excavation and fill to prevent soil moving off the site during periods of rainfall.

**REASON:** Development should prevent erosion and stormwater pollution before, during and after construction.

**(8) CFS Access Requirements**

Private roads and access tracks shall provide safe and convenient access and egress for bushfire fighting vehicles as follows:

- Access to the building site shall be of all-weather construction, with a minimum formed road surface width of 3 metres.
- The 'T' shaped turning area, (utilising the public road) shall be a minimum formed length of 11 metres with minimum internal radii of 9.5 metres on bends, including bends connecting private access to public roads.
- Vegetation overhanging the access road shall be pruned to achieve a minimum vehicular clearance of not less than 4 metres in width and a vertical height clearance of 4 metres.
- Driveway should be at right angle to the road (must meet minimum internal radii 9.5m).
- Turning radii cannot be obstructed (fence, retaining walls, vegetation, power poles etc).
- Understorey vegetation either side of the access road shall be reduced to a maximum height of 10cm for a distance of 3 metres. Mature trees within this fuel reduced zone may remain.

**REASON:** To provide safe access to properties in the event of a bushfire.

**(9) CFS Water Supply**

**A supply of water independent of reticulated mains supply shall be available at all times for fire-fighting purposes:**

- A minimum supply of 22,000 litres of water shall be available at all times for bushfire fighting purposes.
- The minimum requirement of 22,000 litres may be combined with domestic use, providing the outlet for domestic use is located above the 22,000 litres of dedicated fire water supply in order for it to remain as a dedicated supply.
- The bushfire fighting water supply shall be clearly identified and fitted with an outlet of at least 50mm diameter terminating with a compliant SA CFS fire service adapter, which shall be accessible to bushfire fighting vehicles at all times.
- The water storage facility (and any support structure) shall be constructed of non-combustible material.
- The dedicated fire-fighting water supply shall be pressurised by a pump that has:
  - i. a minimum inlet diameter of 38mm AND
  - ii. is powered by a petrol or diesel engine with a power rating of at least 3.7kW (thp) OR
  - iii. a pumping system that operates independently of mains electricity and is capable of pressuring the water for fire-fighting purposes.
- The dedicated fire-fighting water supply pump shall be located at or adjacent to the dwelling to ensure occupants safety when operating the pump during a bushfire. An “Operations Instruction Procedure” shall be located with the pump control panel.
- The fire-fighting pump and any flexible connections to the water supply shall be protected by a non-combustible cover that allows adequate air ventilation for efficient pump operation.
- All bushfire fighting water pipes and connections between the water storage facility and a pump shall be no smaller in diameter than the diameter of the pump inlet.
- All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.
- A fire-fighting hose (or hoses) shall be located so that all parts of the building are within reach of the nozzle end of the hose and if more than one hose is required they should be positioned to provide maximum coverage of the building and surrounds (i.e. at opposite ends of the dwelling).
- All fire-fighting hoses shall be capable of withstanding the pressures of the supplied water.
- All fire-fighting hoses shall be of reinforced construction manufactured in accordance with AS 2620 or AS 1221.
- All fire-fighting hoses shall have a minimum nominal internal diameter of 18mm and maximum length of 36 metres.
- All fire-fighting hoses shall have an adjustable metal nozzle, or an adjustable PVC nozzle manufactured in accordance with AS 1221.
- All fire-fighting hoses shall be readily available at all times.

**REASON:** To minimise the threat and impact of bushfires on life and property.

**(10) CFS Access to Dedicated Water Supply**

**Access to a dedicated and accessible water supply shall be made available at all times for fire-fighting. SA CFS has no objection to the existing water supply being utilised as the dedicated supply, providing an outlet can be positioned to comply with the following conditions:**

- **The water supply outlet shall be easily accessible and clearly identifiable from the access way and at a distance of no greater than 30 metres from the proposed dwelling.**
- **The dedicated water supply and its location should be identified with suitable signage (i.e. blue sign with white lettering “FIRE WATER”).**
- **Access to the dedicated water supply shall be of all-weather construction, with a minimum formed road surface width of 3 metres.**
- **Provision shall be made adjacent to the water supply for a flat hardstand area (capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes) that is a distance equal to or less than 6 metres from the water supply outlet.**
- **SA CFS appliance inlet is rear mounted; therefore the outlet/water storage shall be positioned so that the SA CFS appliance can easily connect to it rear facing.**
- **A gravity fed water supply outlet may be remotely located from the tank to provide adequate access.**
- **All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.**
- **All water supply pipes for draughting purposes shall be capable of withstanding the required pressure for draughting.**

**REASON: To provide safe access to water supply in the event of a bushfire.**

**(11) CFS Vegetation/Landscaping Zone**

**Landscaping shall include bushfire protection features which will prevent or inhibit the spread of bushfire and minimise the risk of life and/or damage to buildings and property.**

- **A vegetation management zone (VMZ) shall be established and maintained within 20 metres of the dwelling (or to the property boundaries – whichever comes first) as follows:**
  - i. **The number of trees and understorey plants existing and to be established within the VMZ shall be reduced and maintained such that when considered overall a maximum coverage of 30% is attained and so that the leaf area of shrubs is not continuous. Careful selection of the vegetation will permit the ‘clumping’ of shrubs where desirable, for diversity, and privacy and yet achieve the ‘overall maximum coverage of 30%’.**
  - ii. **Reduction of vegetation shall be in accordance with SA Native Vegetation Act 1991 and SA Native Vegetation Regulations 2017.**
  - iii. **Trees and shrubs shall not be planted closer to the buildings than the distance equivalent to their mature height.**
  - iv. **Trees and shrubs shall not overhang the roofline of the building, touch walls, windows or other elements of the building.**

- v. Shrubs shall not be planted under trees and shall be separated by at least 1.5 times their mature height.
- vi. Grasses within the zone shall be reduced to a maximum height of 10cm during the Fire Danger Season.
- vii. No understorey vegetation shall be established within 1 metre of the dwelling (understorey is defined as plants and bushes up to 2 metres in height).
- viii. Flammable objects such as plants, mulches and fences shall not be located adjacent to vulnerable parts of the building such as windows, decks and eaves.
- ix. The VMZ shall be maintained to be free of accumulated dead vegetation.

**REASON:** To minimise the threat and impact of bushfires on life and property.

**(12) CFS Conditions To Be Completed Prior To Occupation**

The Country Fire Service (CFS) Bushfire Protection Conditions 8 through 11 shall be substantially completed prior to the occupation of the building and thereafter maintained in good condition.

**REASON:** To minimise the threat and impact of bushfires on life and property.

**(13) Timeframe for Landscaping to be planted**

Landscaping detailed on the Proposed Landscape Plan shall be planted in the planting season following occupation and maintained in good health and condition at all times. Any such vegetation shall be replaced in the next planting season if and when it dies or becomes seriously diseased.

**REASON:** To maintain and enhance the visual amenity of the locality in which the subject land is situated and ensure the survival and maintenance of the vegetation.

**NOTES**

**(1) Development Plan Consent Expiry**

This Development Plan Consent (DPC) is valid for a period of twelve (12) months commencing from the date of the decision (or if an appeal has been commenced the date on which it is determined, whichever is later). Building Rules Consent must be applied for prior to the expiry of the DPC, or a fresh development application will be required. The twelve (12) month time period may be further extended by Council agreement following written request and payment of the relevant fee.

**(2) Erosion Control during Construction**

Management of the property during construction shall be undertaken in such a manner as to prevent denudation, erosion or pollution of the environment.

**(3) CFS Bushfire Attack Level**

Compliance with the fire protection requirements is not a guarantee the dwelling will not burn, but its intent is to provide a “measure of protection” from the approach, impact and passing of a bushfire.

The Bushfire hazard for the area has been assessed as BAL 29.



**The buildings shall incorporate the construction requirements for buildings in Bushfire Prone areas in accordance with the Building Code of Australia Standard AS3959 “Construction of buildings in bushfire prone areas”.**

**(4) Department of Environment and Water (DEW) - Native Vegetation Council**

**The applicant is advised that any proposal to clear, remove limbs or trim native vegetation on the land, unless the proposed clearance is subject to an exemption under the Regulations of the Native Vegetation Act 1991, requires the approval of the Native Vegetation Council. The clearance of native vegetation includes the flooding of land, or any other act or activity that causes the killing or destruction of native vegetation, the severing of branches or any other substantial damage to native vegetation. For further information visit:**

**[www.environment.sa.gov.au/Conservation/Native\\_Vegetation/Managing\\_native\\_vegetation](http://www.environment.sa.gov.au/Conservation/Native_Vegetation/Managing_native_vegetation)**

**Any queries regarding the clearance of native vegetation should be directed to the Native Vegetation Council Secretariat on 8303 9777. This must be sought prior to Full Development Approval being granted by Council.**

**(5) EPA Environmental Duty**

**The applicant is reminded of his/her general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes, or may cause, environmental harm.**

**(6) Works on Boundary**

**The development herein approved involves work on the boundary. The onus of ensuring development is in the approved position on the correct allotment is the responsibility of the land owner/applicant. This may necessitate a survey being carried out by a licensed land surveyor prior to the work commencing.**

**9. ATTACHMENTS**

Locality Plan  
Proposal Plans  
Application Information  
Applicant’s Professional Reports  
Referral Responses  
Representation  
Applicant’s response to representations

Respectfully submitted

Concurrence

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**Ashleigh Gade  
Statutory Planner**

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**Deryn Atkinson  
Assessment Manager**

**COUNCIL ASSESSMENT PANEL MEETING**  
**10 February 2021**  
**AGENDA**  
**BUSINESS ITEM – 10.1**

**Originating Officer:** Deryn Atkinson, Assessment Manager

**Subject:** Delegations Review of Powers & Functions of Council Assessment Panel (CAP) as a Relevant Authority under the Planning, Development and Infrastructure Act 2016 & Regulations –Instrument C

**For:** Decision

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**EXECUTIVE SUMMARY**

The Council Assessment Panel (CAP) was established by the Council on 26 September 2017 under Section 83 of the *Planning, Development and Infrastructure Act 2016*.

Section 100 of the *Planning, Development and Infrastructure Act 2016 (PDI Act)* allows a relevant authority, other than an accredited professional, to delegate its powers and functions under this Act. The relevant authorities under the **PDI Act** are the Minister, the State Planning Commission, an assessment panel appointed by a joint planning board, an assessment panel appointed by a council, an assessment panel constituted by the Minister, an assessment manager, an accredited professional and a council. Thus the CAP, the Council and the Assessment Manager can all sub-delegate their powers and functions.

Delegations from the Council Assessment Panel to staff were adopted by CAP on 10 June 2020 and on 13 January 2021 in readiness for the full implementation of the **PDI Act** on the designated date. The delegations were based upon model delegations provided by the Local Government Association (LGA) at the time. The delegations included sub-delegation of powers and functions as a relevant authority to the Assessment Manager and sub-delegation of powers and functions in relation to building rules matters to the Council. The Assessment Manager and Council in turn are able to delegate these functions to staff.

Since adoption of the further amendments to Instrument C under the *Planning, Development and Infrastructure Act 2016* and Regulations by CAP on 13 January 2021, it has been recommended by Council governance staff that the previous delegations are revoked to avoid any confusion and the entire set of delegations adopted afresh in readiness for the implementation of the **PDI Act and Regulations** on 19 March 2021. It has also become clear that the Instruments are Powers in their own right and not inter-related as previously understood. This has necessitated inclusion of further relevant officers in Instrument C.

The entire set of delegations in Instrument C is included as **Attachment 1** of this report for the consideration of CAP.

Note that all the **PDI Act** delegations will run concurrently with the delegations under the *Development Act 1993 and Development Regulations 2008*.

## RECOMMENDATION

1. That, having considered a review of the Council Assessment Panel Delegations as presented, the Council Assessment Panel hereby revokes its previous delegations to the Assessment Manager and Council (Elected Body) for powers and functions under Instrument C of the Planning, Development and Infrastructure Act 2016 and Regulations.
2. 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 Instrument of Delegation (Instrument C) (Attachment 1 of the Report dated 10 February 2021) hereby delegated this 10<sup>th</sup> day of February 2021 to the Assessment Manager and Council (Elected Body) subject to the conditions and/or limitations, if any, specified herein or in the Schedule of Conditions in in the proposed Instrument of Delegation.
3. Such powers and functions of Instrument C may be further delegated by the Assessment Manager and Council (Elected Body) in accordance with Section 100(2) (c) of the Planning, Development and Infrastructure Act 2016 as the Assessment Manager and Council (Elected Body) sees fit, unless otherwise indicated herein or, in the Schedule of Conditions in the proposed Instrument of Delegation.

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## 1. GOVERNANCE

### ➤ Legal Implications

The Council is required to have an Assessment Panel in place which is currently comprised of independent members and up to one Council Elected Member.

The *Planning, Development and Infrastructure Act 2016 (PDI Act)* was assented to by the Governor on 21 April 2016 after the passage through Parliament. It is being implemented over 5 years in stages. On 1 October 2017 the operation of Council Assessment Panel (CAP) pursuant to Sections 82 and 83 of the **PDI Act** commenced and the *Planning, Development and Infrastructure (General) Regulations 2017* [the **PDI (General) Regulations**] came into operation.

The full implementation of the **PDI Act** commenced for phase 2 councils on 31 July 2020. The designated date for phase 3 councils is likely to be in the first quarter of 2021. Just as a council is required to delegate its powers and functions under the *Development Act 1993* and the *Development Regulations 2008* to CAP and staff, there is a requirement under the **PDI Act and Regulations** for delegations. Existing delegations will need to run concurrently with the new ones until all the developments lodged under the Development Act and Regulations have been determined and approvals enacted or, until a designated date, should one be declared.

Pursuant to Section 100(2) (c) of the **PDI Act** the further planning functions and powers related to draft delegations in **Attachment 1** are recommended to be delegated to the Assessment Manager in anticipation of the operational date.

➤ **Customer Service and Community/Cultural Implications**

All applications which have been publicly notified and have representors who wish to be heard are reported to the CAP for consideration. This ensures that such members of the community have an opportunity to present their views about a specific development and its potential impacts to the CAP. Other types of development which do not require public notification, such as developments considered to be minor, are assessed by the staff of a Council.

➤ **Engagement/Consultation**

Community consultation on the Planning Reforms has been undertaken by the State Planning Commission and Council.

No community engagement or consultation is required for new legislation or the delegation of powers and functions, as this is the administrative part of the Planning Reforms.

## 2. THE NEED FOR DELEGATIONS

Under the **PDI Act**, there are more relevant authorities than exist currently (i.e. Council, private certifiers and the State Planning Commission). The relevant authorities under the PDI Act are the Minister, the State Planning Commission, an assessment panel appointed by a joint planning board, an assessment panel appointed by a council, an assessment panel constituted by the Minister, an assessment manager, an accredited professional and a council. The significant difference for the planning assessment function is that CAP and the Assessment Manager are the relevant authorities rather than the Council. Additionally the CAP is also the relevant authority for the building assessment functions.

The functions of an Assessment Manager as prescribed in Section 87 (e) of the **PDI Act** extend beyond acting as a relevant authority under the Act. They also include being responsible for managing the staff and operations of the CAP and providing advice to the CAP. Out of administrative necessity this requires that there are delegations to the Assessment Manager from CAP.

The CAP typically considers approximately 5% of the development applications lodged with Council and thus it is necessary for the CAP to delegate its planning functions and powers to Council staff for the assessment of the remaining 95% of development applications. As mentioned above under the **PDI Act** the building functions and powers are now bestowed on the CAP. Section 99(1) of the **PDI Act** permits a CAP to refer the building rules assessment function onto the Council, and only then can Council become the relevant authority. Out of administrative necessity, CAP will need to authorise the Assessment Manager to be delegated to undertake these additional planning functions.

A consequence of the new arrangements under the **PDI Act** is that CAP and Assessment Managers as relevant authorities in their own right, will both be respondents to planning appeals in their own right rather than the Council. However the Council will be directly responsible for the costs associated with both appeals and the activities of its CAP and its Assessment Manager pursuant to Section 83 (1) (h) (ii) and 87(f) of the **PDI Act**. It should be noted that the Assessment Manager and the CAP will not directly receive application fees.

Out of administrative necessity, CAP will need to authorise the Assessment Manager to make decisions on procedural matters (in the same way Council does now).

The model delegations were prepared for the LGA and consist of the following four instruments:

- Instrument A - Delegations for the Powers of a Council as a Designated Authority
- Instrument B - Delegations for the Powers of a Council as a Relevant Authority
- Instrument C - Delegations for the Powers of a Council Assessment Panel
- Instrument D - Delegations for the Powers of an Assessment Manager

Aligned with good governance practice, it is recommended that the delegations by CAP in Instrument C be revoked and readopted in their entirety for completeness and to avoid confusion i.e. there is a point of in time where the entire Instrument is adopted.

There is a change to Instrument C in relation to Provision ID 309433. This Provision has been amended to be consistent with the delegation for Provision ID 386164 as shown in **Attachment 1**.

Further changes to Instrument C adopted previously included in Attachment 1 relate to the sub-delegations for relevant staff in addition to the Assessment Manager as the Instruments are Powers in their own right and not inter-related as previously understood (i.e. there is no capacity in the model delegations for the Assessment Manager to further sub-delegate on all particular Provisions).

### 3. SUMMARY

The delegations from the CAP to staff have been prepared in readiness for the full implementation of the **PDI Act** on the designated date of 19 March 2021. These delegations are based upon model delegations provided by the Local Government Association.

It is recommended that the delegations as detailed in **Attachment 1** of this report be adopted by the CAP and the previously adopted Instrument of Delegation under the *Planning, Development and Infrastructure Act 2016* and Regulations - Powers of an Assessment Panel (Instrument C) be revoked.

### 4. ATTACHMENTS

- (1) Delegations under the Planning, Development and Infrastructure Act 2016 and Regulations - Powers of an Assessment Panel (Instrument C)

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***Attachment 1  
Delegations under the Planning, Development and Infrastructure Act 2016  
and Regulations - Powers of an Assessment Panel (Instrument C)***

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