

COUNCIL ASSESSMENT PANEL MEETING
14 February 2018
AGENDA

Applicant: Rivergum Homes Pty Ltd	Landowner: P A & L Skoczek
Agent: N/A	Ward: Onkaparinga Valley Ward
Development Application: 17/901/473	Originating Officer: Doug Samardzija
Application Description: Single storey pole frame detached dwelling, deck (maximum height of 3m), undercroft parking, retaining walls (maximum height 1.1m) & associated earthworks	
Subject Land: Lot:3 Sec: P5124 CP:27789 CT:6140/326	General Location: 6/100A Main Street Lobethal Attachment – Locality Plan
Development Plan Consolidated : 28 April 2016 Map AdHi/1, 12 and 55	Zone/Policy Area: Country Township (Lobethal) Zone - Residential Policy Area
Form of Development: Merit	Site Area: 507m ²
Public Notice Category: Category 2 Merit	Representations Received: 2 Representations to be Heard: 2

1. EXECUTIVE SUMMARY

The purpose of this application is for the construction of a single storey pole frame dwelling with a front facing deck at a maximum height of 3m from natural ground level, undercroft parking, retaining walls to a maximum height of 1.1m and associated earthworks.

The subject land is located within the Country Township (Lobethal) Zone - Residential Policy Area and the proposal is a merit form of development. Two (2) representations in opposition were received during the Category 2 public notification period from adjoining landowners.

As per the CAP delegations, the CAP is the relevant authority for Category 2 applications where representors wish to be heard.

The main issues relating to the proposal are protection of privacy, overshadowing and loss of views.

In consideration of all the information presented, and 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.

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- Single storey pole frame detached dwelling
- Deck (maximum height of 3m from natural ground level)

- Undercroft parking
- Retaining walls to a maximum height of 1.1m
- 2,000 litre water storage tank
- Associated earthworks

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

December 16, 2008	2006/C011/473	Council approved community division to create three (3) additional allotments
January 23, 2006	2004/C027/473	Council approved community division to create three (3) additional allotments
December 09, 2005	2005/D071/473	Council approved land division to create one (1) additional allotment
December 09, 2005	2005/C064/473	Council approved community division to create two (2) additional allotments
August 30, 2005	2004/D057/473	Council approved land division to create two (2) additional allotments

4. REFERRAL RESPONSES

- **AHC ENGINEERING**
Council’s Engineering Officer has reviewed the proposed stormwater management plan and is satisfied with the proposal. There were no concerns raised with the proposed access.

5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with Country Township (Lobethal) Zone PDC 9 requiring formal public notification. Two (2) representations were received opposing the proposal. Both representations were from owners of adjacent properties.

The following representors wish to be heard:

Name of Representor	Representor’s Property Address	Nominated Speaker
Colin Harvey	9 David Street, Lobethal	Rod Harvey
Janis Bromfield	9A David Street, Lobethal	Rod Harvey

The applicant or their representative – may be in attendance.

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

- Protection of privacy and overlooking
- Overshadowing
- Loss of views

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

Copies of the submissions are included as **Attachment – Representations** and the response is provided in **Attachment – Applicant’s Response to Representations**.

6. PLANNING & TECHNICAL CONSIDERATIONS

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

- The Site’s Physical Characteristics
The subject land is a regular shaped allotment of approximately 507m² in area and is one of seven community title allotments accessed via a private lane from Main Street Lobethal. The allotment is located on the higher side of the community division and the land slopes up from east to west. The allotment is one of the three remaining vacant blocks of land within the subdivision.
- The Surrounding Area
The locality is characterised by predominantly residential development on both regular and irregular shaped allotments. The allotments in the locality are generally consistent in size with the subject land and contain a mixture of single and two storey dwellings in varying designs, external colours and materials. Infill development in the locality is of a mass, scale and design generally consistent with the proposed dwelling. To the west is the Main Street of Lobethal with a mixture of residential and commercial developments.
- Development Plan Policy considerations
 - Residential Policy Area*

The subject land lies within the Country Township (Lobethal) Zone - Residential Policy Area and these provisions seek:

Residential Policy Area

- Provisions of a range of residential developments which are sympathetic to the Policy Area’s existing character
- Location of medium density residential development on existing large allotments

The following are considered to be the relevant Policy Area provisions:

Objectives: 1 and 2

PDCs: 1

Form of Development

The proposal is for a single storey pole frame detached dwelling with external colours and appearance consistent with the locality. The allotment size and the proposed dwelling footprint are consistent with existing development in the locality. The proposal is therefore considered to accord with the relevant objectives and PDCs of the Policy Area.

Country Township (Lobethal) Zone

- Location of medium density residential development in the residential area, particularly on some of the existing large allotments.

The following are considered to be the relevant Zone provisions:

Objectives: 2

PDCs: 1

Objective 2 of the zone seeks that residential development occurs within the residential area on existing allotments. This is further reinforced by PDC 1 which states that development should be in accordance with the Lobethal Structure Plan. The proposal is for a single storey pole frame detached dwelling with associated decking and retaining walls on an existing vacant allotment in a residential area which is also reflected in the Lobethal Structure Plan. The proposal is therefore considered to accord with Objective 2 and PDC 1 of the zone.

b) Council Wide provisions

The Council Wide provisions of relevance to this proposal seek (in summary):

- Orderly and economic development
- A variety and choice of dwelling types to meet the need and preference of all sections of the community
- Safe, pleasant, convenient and efficient residential zones

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

Objectives: 1, 27, 29, 87, 88 and 90

PDCs: 2, 3, 7, 13, 22, 23, 24, 25, 71, 76, 77, 78, 86, 87, 88, 229, 230, 231, 233, 235 and 245

Form of Development

Objective 1 and PDC 2 seek development which is orderly and economic while PDC 3 states that development should take place on land which is suitable for the intended use. This is further reinforced by PDC 71 which states that residential zones and areas should be developed with housing to meet the needs of the community and by PDC 76 which states that development in a residential zone should not impair the character or amenity of the locality as a place in which to live. The proposal is for a single storey detached dwelling on an existing residential allotment in a residential zone. The proposal is therefore considered to be orderly and economic and the nature of the development is considered to be appropriate for the locality and is therefore consistent with Objective 1 and PDCs 2, 3, 71 and 76.

PDC 7(a) states that excavation or fill associated with the development should be kept at a minimum and should not exceed 1.5m to preserve the natural form of the land and PDC 88(a) states that residential buildings should be sited on an excavated rather than a filled site to reduce the vertical profile. Furthermore PDC 229 seeks development which will minimize alteration to the existing land. PDC 7(b) also seeks that the earthworks are to be undertaken only to reduce the visual impact of the building. The proposed earthworks associated with the development are considered to be relatively minimal due to the pole frame design of the dwelling. Earthworks proposed include a 1.1m maximum excavation along the south eastern portion of the allotment and 580mm of fill in the south western corner of the allotment with the rest of the land form remaining unchanged. The proposal is therefore considered to accord with PDCs 7(a) and (b) as well as PDCs 88 and 229.

Overlooking and Overshadowing

PDC 13(d) states that development should not detrimentally affect the character or amenity of the locality by loss of privacy and this is further reinforced by PDCs 77 and 86 which also refer to overshadowing of neighbouring properties. Adjoining neighbours immediately to the south have raised concerns in their representation about protection of their privacy and the potential for the owners of the new development to overlook into their rear yards and kitchen area from the balcony as well as the laundry and bedroom. In the response to the representation the applicant argues that the overlooking was taken into consideration in the design of the dwelling with the living areas positioned to the northern side of the dwelling and obscure glazing is proposed to be installed in the bathroom and laundry windows at a height of 1.7m. Whilst some overlooking will occur from external stairs located at the rear of the dwelling, this area is not considered to be a balcony or an area where the occupants of the land would spend any prolonged time and therefore overlooking from this location would be minimal. The same applies for the bedrooms with Good Residential Design SA envisaging that greater emphasis should be placed on maintaining privacy between living areas and private open space rather than for bedrooms. The hours of occupancy of bedrooms and the ability to screen with curtains offset the priority for privacy. The proposal also includes a deck area in the northwest corner of the dwelling. It is considered that any overlooking from the proposed deck would be minimal with any views to the neighbour to the west being predominantly blocked by the roof of the existing shed and the dwelling, with the only possible overlooking impact being for the neighbour immediately across the private road. As such it is considered that the proposed development sufficiently addresses any overlooking concerns and therefore accords with PDC 13(d).

Overshadowing was also raised as a concern from the adjoining neighbours and that the proposed development would overshadow the whole of the rear yard and garden area of 9A David Street and much of the rear yard of 9 David Street. The applicant has provided shadow diagrams as part of the response to the representation for 9am, 11am, 12 noon, 1pm and 3pm on 21st June winter solstice showing the levels of overshadowing that would occur on neighbouring properties. In summary the drawings demonstrate that at 9am most of the rear yards of 7 and 9 David Street would be overshadowed by the proposed dwelling predominantly due to the topography of the landscape but also the pole frame design of the dwelling. At 11am and 12 noon the diagrams show that a small part of the rear yard at 7 and part of the shed at 9 David Street will be overshadowed by the proposed dwelling whilst at 1pm

the diagram shows a shadow cast over the shed at 9 David Street and only a small section of the rear yard of 9A David Street. At 3pm the diagram shows that the shadow cast over the neighbouring property to the south will cover the shed at 9 David Street and north/west corner of the rear yard at 9A David Street. The diagrams illustrate that the biggest shadow will be cast first thing in the morning whilst during the other times of the day the overshadowing is considered to be minimal. The proposal is therefore considered to accord with PDCs 77 and 86.

Appearance of Land and Buildings

The Council Development Plan anticipates the use of appropriate colours and materials to complement the locality. This is also backed up by PDC 22 which states that buildings should be clad in materials which are non-reflective and which do not detract from the amenity and character of the locality. Furthermore PDC 235 seeks external materials to be of natural colours so as to be unobtrusive, blend in with the natural landscape and minimize visual intrusion. The external colour selection provided as part of the documentation illustrates the roof colour as Colorbond Basalt and the majority of the wall cladding in Dulux Milton Moon which is a form of a grey colour similar to Colorbond Windspray and the external feature wall cladding in Dulux White. Given that the colours selected are primarily darker tone similar to some examples in the immediate locality the proposal is considered to accord with PDCs 22 and 235 as well as PDC 88(b) which seeks that residential development should be comprised of materials and finishes that complement those of surrounding developments.

Objectives 87, 88 and 90 as well as PDCs 231, 233 and 245 seek development that is compatible with the character of existing buildings by taking into account the scale, mass and siting of the building, development which does not affect the amenity of the locality and development which is sited unobtrusively. The proposal is for a pole frame detached dwelling in the locality characterised by a mixture of dwelling designs. Immediately to the east of the subject land is a similar pole frame dwelling design as the one proposed. The design and scale of the dwelling is not considered to be obtrusive with the dwelling proposed to be setback 2m from the rear boundary and 4m from the allotment on the lower side to the west, noting the setback is greater than the 1m anticipated in the Development Plan. To further minimise the bulk and scale of the works the area beneath the deck is going to be utilised as the carport. The proposal is therefore considered to be sufficiently consistent with the above Objectives and Principles of Development Control.

PDC 87 states that residential buildings should be primarily of single storey design, and split level design on sloping sites. Whilst the intent of the PDC is clear, the use of the word should (not “will” or “must”) implies that there could be some degree of flexibility in the application of this principle, particularly given that there are examples of pole frame dwelling designs in the immediate locality. As such the proposal is also considered to be consistent with the existing development in the locality and therefore in accordance with PDC 245 which states that development should be compatible with the existing buildings in the locality and exhibit a high standard of design and external appearance which takes into account the scale, mass and siting of buildings and the materials to be used.

PDC 23 also seeks that buildings should be deeply setback from the road frontage to enable retention of the beauty and wooded character of the locality and PDC 25 states that buildings be setback a minimum of 8m from the main road boundary of the allotment. Given that the subject land is part of a community subdivision, faces onto a common driveway and the overall depth of the allotment is 17m, applying the 8m setback requirements as stipulated in the above PDCs would make it difficult to create a suitable dwelling design for the subject land. Notwithstanding the fact that the proposal is not able to achieve the 8m setback from the front allotment boundary, it is considered to be consistent with the established dwellings within the subdivision. It is also consistent with an indicative building envelope which was provided at the time of the land division to demonstrate that an appropriate dwelling could be established on the subject land.

PDC 86(b) anticipates that development in residential zones or areas should maintain the attractiveness of the area as a place in which to live, with buildings designed in such a way as to not cause loss of sunlight or views from existing or proposed development. In the representations received, neighbours to the south have expressed concerns about the proposed development blocking the views to the north and northwest from 9A David Street and significantly reducing the views from 9 David Street. Whilst it is acknowledged that views from these properties will be restricted by the proposed development it is also anticipated that those views could change as a result of the changing landscape and the impact of infill development. When assessing views a judgement of the Supreme Court (*Hutchens & Annor v City of Holdfast Bay and Annor* [2007] SASC 238; 98 SASR 412 dated 27 June 2007) is considered relevant, where the Honourable Justice Debelle confirmed that there is no common law right to a view and the capacity to protect existing views depends on the provisions of the relevant Development Plan. Justice Debelle stated that when determining whether to grant consent to a new building which will obstruct views enjoyed by existing developments, regard *“must be had to the nature and extent of the view, the extent to which the view will be obstructed by the proposed development, and the reasonableness of the proposal as determined by reference to planning controls”*. The judgement discusses the assessment of impact on views by utilising a four step process:

1. The first step is to assess/determine the value of the view that is being affected. With water views being given more value than the land views and iconic views such as substantial land marks are more valued than views without icons and whole views are valued more highly than partial views.
2. Consideration of which part of the property is obtaining the view and whether the view is obtained from a sitting or standing position with the views enjoyed from the side of the property and from a sitting position being more difficult to protect than views from the rear of the property and a standing position.

3. Extent of the impact is the next assessment which should be done for the whole of the property, not just from the view that is affected. The assessment should be done quantitatively, but in some cases this can be difficult should the portion of the view that is obstructed contain the only iconic view.
4. The final step discussed is to assess the reasonableness of the proposal causing an impact and should be done against the provision of the Development Plan and if failing to meet the relevant provisions is a contributing factor to the impacts on the views.

Based on the above case law and using the four steps outlined it was determined that impacts on the views of 9 and 9A David Street were considered acceptable. Based on the first point, the views that are being impacted are land views predominantly of the Township of Lobethal which are not considered to be a high value views as coastal views or views of substantial landmarks. The views that are currently available are predominantly from the rear of the property so therefore the proposed application fails to fully satisfy point two. Having said that and given that the views are predominantly from a deck area they would most likely be enjoyed from sitting rather standing position which therefore becomes much harder to protect. Point three refers to the extent of the views that are being blocked. It is considered that the proposed development will block majority of the views towards north/west currently available to 9 David Street. However, views towards north/east would not be affected and only that portion of the views available to 9A David Street are going to be blocked. Given that the views impacted are not considered of high value as outlined in point one above, and based on the quantitative impacts the proposal is considered to be acceptable. The last point refers to the Development Plan and the impacts on the views being a result of the proposal failing to meet the relevant provisions. As outlined in the report above, the proposal is considered to adequately address the relevant Development Plan provisions and the impacts on the views is therefore not considered to be a direct result of failing to meet the relevant Development Plan provisions.

7. SUMMARY & CONCLUSION

The proposal is for a single storey pole frame detached dwelling in the Country Township (Lobethal) Zone. The locality is characterised by a mixture of single and two storey dwellings with the proposal considered to be sufficiently consistent with the established pattern of development.

The design of the dwelling is consistent with some of the dwellings in the immediate locality as well as the wider Lobethal Township due to a steep topography in certain sections of Lobethal. The proposal utilises both cut and fill however due to the pole frame design the earthworks are kept to a minimum and the topography of the land is relatively unchanged. The setback from the side and rear boundaries goes beyond the requirements stipulated in the Development Plan and the footprint of the dwelling is in keeping with other development in the locality.

The proposal will not have any impacts on the privacy of adjoining properties with the living areas facing north and the southern facing windows proposed to be fixed with obscured glazing. Shadow diagrams have been provided to illustrate the level of overshadowing on neighbouring properties, with the impacts considered to be minimal and predominantly in the early morning.

The proposal is sufficiently consistent with the relevant provisions of the Development Plan, and it is considered 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 Development Plan Consent be **GRANTED**, 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 17/901/473 by Rivergum Homes Pty Ltd for Single storey pole frame detached dwelling, deck (maximum height of 3m), undercroft parking, retaining walls (maximum height 1.1m) & associated earthworks at 6/100A Main Street Lobethal 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:

- Amended civil plan prepared by FMG Engineering, drawing number HC01 Rev A date stamped received by Council 19/01/2018
- Borehole location plan prepared by FMG Engineering, drawing number BH01 Sheet 1 of 1 dated 03.08.2017 and date stamped received by Council 16/01/2018
- Drainage details sheet prepared by FMG Engineering, drawing number DD1 date stamped received by Council 16/01/2018
- Detail sheet domestic roof stormwater drainage sealed pipe system prepared by FMG Engineering, drawing number DD2 date stamped received by Council 16/01/2018
- Floor plan prepared by Rivergum Homes, drawing sheet 2 of 7 dated 22.8.17 and stamped by Council 19 October 2017
- Elevation drawings prepared by Rivergum Homes, drawing sheet 3 of 7 dated 22.8.17 and stamped received by Council 19 October 2017
- External colour schedule prepared by Rivergum Homes, dated 10 October 2017 and stamped received by Council 19 October 2017

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

2) 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.

3) Obscure Glazing To Windows

The south facing windows and door of the dwelling on elevation 3 of the approved plans referred in condition 1 shall be glazed with fixed obscure glass to a minimum height of 1.7 metres above finished floor level. The glazing shall be maintained in good condition at all times.

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

4) External Finishes

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

WALLS: Startum Contour Cladding in Dulux Milton Moon or similar
Duragrid Cladding in Dulux White or similar

ROOF: Colorbond Basalt 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) Stormwater Roof Runoff To Be Dealt With On-Site

All roof runoff generated by the development hereby approved shall be managed on-site to the satisfaction of Council using design techniques such as:

- Rainwater tanks
- Grassed swales
- Stone filled trenches
- Small infiltration basins

Stormwater overflow management shall be designed so as to not permit trespass into the effluent disposal area. Stormwater should be managed on site with no stormwater to trespass onto adjoining properties.

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

NOTES

1) 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.

2) Sewer Connection

The dwelling shall be connected to SA Water mains sewer supply in accordance with the approval granted by SA Water. All work shall be to the satisfaction of SA Water.

3) 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.

4) 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.

5) 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.

9. ATTACHMENTS

Locality Plan
Proposal Plans
Application Information
Representation
Applicant's response to representations

Respectfully submitted

Concurrence

Doug Samardzija
Statutory Planner

Deryn Atkinson
Manager Development Services

COUNCIL ASSESSMENT PANEL MEETING
14 February 2018
AGENDA

Applicant: Jan Schroeder	Landowner: J J Schroeder
Michael Zaina	Ward: Marble Hill Ward
Development Application: 17/771/473 17/D35/473	Originating Officer: Doug Samardzija
Application Description: Land Division- Boundary realignment (non-complying)	
Subject Land: Lot:100 Sec: P849 DP:36382 CT:5129/159 & Lot:52 Sec: P342 DP:22174 CT:5651/934	General Location: 15 & 15A Old Norton Summit Road, Teringie Attachment – Locality Plan
Development Plan Consolidated : 28 April 2016 Map AdHi/1	Zone/Policy Area: Hills Face Zone
Form of Development: Non-complying	Site Area: 3 hectares
Public Notice Category: Category 1	Representations Received: N/A Representations to be Heard: N/A

1. EXECUTIVE SUMMARY

The purpose of this application is for a boundary realignment involving two allotments and the establishment of a right of way over proposed allotment 2 in favour of proposed allotment 1.

The subject land is located within the Hills Face Zone and the proposal is a non-complying form of development. In accordance with Schedule 9 (3)(c) of Part 1 of the Development Regulations 2008 a proposed land division is considered to be category 1 form of development where the number of allotments resulting from the division remain equal to the number of existing allotments.

As per the CAP delegations, the CAP is the relevant authority for non-complying land division applications.

The main issue relating to the proposal is the impact on native vegetation.

Following an assessment against the relevant zone and Council Wide provisions within the Development Plan, staff are recommending that **CONCURRENCE** from the State Commission Assessment Panel be sought to **GRANT** Development Plan Consent.

2. DESCRIPTION OF THE PROPOSAL

The proposal is for a boundary re-alignment involving two titles. The proposal is for a minor boundary realignment which will not result in the creation of an additional allotment. The breakdown of the existing and proposed allotment configurations are listed below:

Existing Allotments

Allotment	Area (ha)	Currently containing
Lot 100	1.7 hectares	Dwelling and associated outbuilding
Lot 52	1.3 hectares	Dwelling, metal fabrication building, office and carport

Proposed Allotments

Allotment	Area (ha)	Containing
Lot 1	1.9 hectares	Dwelling and associated outbuilding
Lot 2	1.1	Dwelling, metal fabrication building, office and carport

The plan of division includes:

- Location of the new boundary proposed between allotment 1 and 2, transferring 0.2 ha from existing lot 52 to existing lot 100.
- Location of existing buildings on site
- Location of existing easements on each of the allotments
- Location of proposed easement (E) over proposed allotment 2 as a proposed right of way in favour of allotment
- The reason behind the proposed boundary realignment is to straighten out a boundary separating the two allotments.

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

May 28, 2002 2002/235/473 Council approved alterations and additions to existing dwelling.

Allotment 52 has existing use rights for a flow control manufacturing and engineering business established in 1963.

4. REFERRAL RESPONSES

- **DPTI- TRANSPORT SERVICE DIVISION**
 The proposed boundary realignment is supported by Department of Transport (of DPTI) subject to the existing access being utilised for both properties as entry and exist points. Standard conditions have also been recommended pertaining to closing off any other existing access and vehicles entering and exiting the property should do so in a forward motion (**refer to recommended conditions 3 to 5**).

- **SA POWER NETWORKS**
A general statement have been provided by SA Power Networks in relation to the existing easements which are being retained, the statutory requirements for structures to be kept away from overhead powerlines and SA Power Networks ability to acquire an easement over any other infrastructure that might exist on the allotment.
- **SA WATER**
Standard response from SA Water provided in relation to financial requirements, investigations on standard or non-standard connection and internal water piping.
- **AHC EHU**
Council's Environmental Health Officer has inspected the site and advised that proposed realignment of boundaries does not impact on the existing on-site waste water systems.

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

5. **PLANNING & TECHNICAL CONSIDERATIONS**

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

- i. The Site's Physical Characteristics
The subject allotments are irregular in shape with a combined area of three (3) hectares. Existing allotment 100 is used for residential purposes only and contains a dwelling with associated outbuilding and the remainder of the allotment is covered in predominantly native vegetation. Existing allotment 52 is a mixed use site with a small cottage along the western side of the property and a large metal fabrication building with associated office along the eastern side of the property. Both allotments are accessed via one access point directly in front of lot 52. The access also includes a crossing over Third Creek which runs along the front of the two allotments.
- ii. The Surrounding Area
The surrounding area is characterised by a mixture of allotment sizes which are used predominantly for residential and primary production purposes. The northern side of Old Norton Summit Road is characterised by larger allotments with dense vegetation whilst the southern side of the road is predominantly characterised by smaller residential allotments.
- iii. Development Plan Policy considerations
 - a) *Policy Area/Zone Provisions*

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

Hills Face Zone

- *A zone in which the natural character is preserved and enhanced by preserving the native vegetation and fauna habitats close to metropolitan Adelaide*

The following are considered to be the relevant Zone provisions:

Objectives: 1

PDCs: 22

The Objective of the zone anticipates that the natural character of the area is retained through preservation of native vegetation. This is also reinforced by PDC 22 which envisages development occurring if it can be located and designed to maximize the retention of existing native vegetation. The proposal is seeking to realign the boundary between existing allotments 100 and 52 by moving part of the boundary further east to run along the drainage line that is currently located on lot 52. The new boundary will be located in the area which contains less native vegetation and as such is considered to be consistent with Objective 1 and PDC 22 of the zone.

b) Council Wide provisions

The Council Wide provisions of relevance to this proposal seek (in summary):

- *Orderly and economic development*
- *Land in appropriate localities divided into allotments in an orderly and economic manner*

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

Objectives: 1, 10, 70, 72 and 79

PDCs: 2, 29 and 30

Form of Development

The proposal is for a minor boundary readjustment between two allotments which will not result in the creation of a new allotment or impact on the existing or future uses of the land. The proposal is therefore considered to be orderly and economic and therefore consistent with Objective 1 and 10 and PDC 2.

PDC 29(e) states that when allotments are divided, each allotment should be provided with safe and convenient access to the carriageway of an existing or proposed road. Whilst the proposed land division is for the purposes of boundary realignment rather than creation of new allotment, it is important to note that the two allotments are currently utilising a single access point in front of Lot 52 with an internal access track on lot 52 leading to lot 100 without a current right of way registered against the title. The proposed boundary realignment will improve this arrangement by registering a free and unrestricted right of way over proposed lot 2 in favour of proposed lot 1. As mentioned earlier in the report this arrangement is also supported by Department of Transport who seek to restrict the number of new access points created onto arterial roads. The proposal is therefore considered to accord with PDC 29(e).

Conservation

PDC 30 states that allotment boundaries should be located where interference with native vegetation and drainage lines will be minimal while Objective 70, 72 and 79 seek the retention of remaining native vegetation. Schedule 1- Division 2 part 14 of Native Vegetation Regulation 2017 prescribes circumstances in which native vegetation may be cleared. As per Section 27(1)(b) of the Native Vegetation Act 1991, native vegetation may, subject to any other Act or law to the contrary, be cleared if the clearance is for the purpose of providing a strip of cleared land of not more than 5 metres in width on either side or both sides of an existing fence or of a fence in the course of construction to provide access for the purpose of maintaining or establishing the fence. This section of the Act refers to the native vegetation that is permitted to be cleared without a permit subject to notification to Native Vegetation Council. The current boundary is located in an area which goes through significant native vegetation in particular in the northern section of the allotment. With the proposed boundary realignment the new boundary will be located in an area which whilst still having some native vegetation has significantly less vegetation. The new boundary will, however, be located closer to the natural drainage line but it is not considered that the new boundary is going to have any impacts on it. Considering these points the proposal is considered to be relatively consistent with PDC 30 and Objective 70, 72 and 79.

6. SUMMARY & CONCLUSION

The proposal involves rearrangement of a boundary between two existing allotments and does not involve creation of new allotments nor does it impacts on the current or future use of the land.

The proposal also includes establishment of a free and unrestricted right of way in favour of proposed allotment 2 which is currently accessed without a right of way.

The proposal will also improve the native vegetation management with the new boundary being proposed through an area with less native vegetation.

The proposal is sufficiently consistent with the relevant provisions of the Development Plan, despite its non-complying nature, and as such it is considered 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 **CONCURRENCE** from the State Commission Assessment Panel be sought to **GRANT** Development Plan Consent, subject to conditions.

7. 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 seeks the CONCURRENCE of the State Commission Assessment Panel to GRANT Development Plan Consent and Land Division Consent to Development Application 17/771/473 (17/D35/473) by Jan Schroeder for Land Division- Boundary realignment (non-complying) at 15 & 15A Old Norton Summit Road, Teringie subject to the following conditions:

Planning 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:

- Plan of division prepared by Zaina Stacey Development Consultants, reference 17268 amended 17/08/2017
- Statement of support prepared by Matt Falconer dated 21 December 2017

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

DTPI Conditions

2) Forward Entry And Exit

All vehicles shall enter and exit Old Norton Summit Road in a forward direction.

REASON: For safe and convenient movement of vehicles.

3) Access To Site

All vehicular access shall be gained via rights-of-way 'E' only. No additional access onto Old Norton Summit Road shall be permitted.

REASON: For safe and convenient movement of vehicles.

4) Removal Of Redundant Crossovers

Any obsolete vehicle access points shall be permanently closed and fenced-off.

REASON: For safe and convenient movement of vehicles.

Council Land Division Notes

1) Land Division Development Approval Expiry

This development approval is valid for a period of three (3) years from the date of the decision notification. This time period may be further extended beyond the 3 year period by written request to, and approval by, Council prior to the approval lapsing. Application for an extension is subject to payment of the relevant fee. Please note that in all circumstances a fresh development application will be required if the above conditions cannot be met within the respective time frames.

SPC Land Division Statement of Requirements

1) Requirement For SA Water Internal Piping Alterations

On approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries to the satisfaction of the SA Water Corporation.

REASON: Statutory requirement in accordance with Section 33 (1) (c) of the Development Act 1993.

2) Requirement For SA Water Provisions

The financial and augmentation requirements of the SA Water Corporation shall be met for the provision of water supply and sewerage services (SA Water [SA Water reference]).

REASON: Statutory requirement in accordance with Section 33 (1) (c) of the Development Act 1993.

3) Requirement For Certified Survey Plan

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

REASON: Statutory requirement in accordance with Section 51 of the Development Act 1993.

8. ATTACHMENTS

Locality Plan
Proposal Plans
Application Information
Referral Responses

Respectfully submitted

Concurrence

Doug Samardzija
Statutory Planner

Deryn Atkinson
Manager Development Services