

**COUNCIL ASSESSMENT PANEL MEETING**  
**10 October 2018**  
**AGENDA – ITEM 8.1**

<b>Applicant:</b> Service Stream Ltd	<b>Landowner:</b> M P Dallwitz & J A Dallwitz
<b>Agent:</b> Graeme Lane	<b>Ward:</b> Marble Hill
<b>Development Application:</b> 17/710/473	<b>Originating Officer:</b> Marie Molinaro
<b>Application Description:</b> Telecommunications facility, comprising a lattice tower (maximum height 53.95m, including antennae), associated equipment shelter (maximum height 2.75m), security fencing (maximum height 2.4m), retaining walls (maximum height 6m) & associated earthworks (non-complying)	
<b>Subject Land:</b> Lot:102 Sec: P644 DP:19712 CT:5917/890	<b>General Location:</b> 1293 Montacute Road, Cherryville  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 24 October 2017 <b>Map</b> AdHi/3	<b>Zone/Policy Area:</b> Watershed (Primary Production) Zone – Water Protection (Marble Hill) Policy Area
<b>Form of Development:</b> Non-complying	<b>Site Area:</b> 2.39 hectares
<b>Public Notice Category:</b> Category 3 Non-Complying  Notice published in The Advertiser on 22 June 2018	<b>Representations Received:</b> 12, with one subsequently withdrawn, resulting in 11 remaining representations  <b>Representations to be Heard: 8</b>

**1. EXECUTIVE SUMMARY**

The purpose of this application is to construct a 53.95m high lattice telecommunications tower with associated infrastructure, fencing, retaining walls & earthworks (telecommunications facility).

The telecommunications facility is proposed by Telstra, but partly funded by the Federal Government through its Mobile Blackspot Funding Program. The Blackspot Program identified that there is a service coverage deficiency in the Cherryville area.

The subject land is located within the Water Protection (Marble Hill) Policy Area of the Watershed (Primary Production) Zone. In the Zone, telecommunications facilities greater than 30m in height are listed as a non-complying form of development.

The proposal being non-complying, and not considered minor in nature was subject to the Category 3 public notification process.

Three written representations in support of the proposal and nine written representations in opposition to the proposal were received during the public notification period. One opposing representor has subsequently withdrawn, resulting in 11 remaining representations, of which six have requested to speak in support of their representation.

As per the CAP delegations, the CAP is the relevant authority where there are representors who wish to be heard in support of their written representation received during the public notification period.

The main issue relating to the proposal is the potential negative visual impact on the natural surrounds of the locality, including the Heysen Trail.

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 (SCAP) be sought to **GRANT** Development Plan Consent.

## 2. DESCRIPTION OF THE PROPOSAL

The proposal is for a telecommunications facility, comprised of the following:

- A 53.95m high lattice tower finished in galvanised grey metal.
- Six (6) panel antennas mounted at a height of 51m on the proposed lattice tower.
- An additional dish antenna with a diameter of 1.2m, mounted at a height of 42m on the proposed lattice tower.
- A fenced compound area 10.0m x 15.0m (150 square metres in total) surrounding the tower.
- Fencing around the compound area of 2.4m high powder coated chainwire/chain mesh construction.
- Excavation to a depth of approximately 6 metres to create the pad area of the compound.
- Gabion natural stone retaining walls to stabilise the excavation with a height of approximately 6 metres on the northern and western side of the compound area.
- Equipment shelter and other ancillary equipment erected within the compound area.

The proposed facility is located near the north-western portion of the subject site, approximately 15m from the Montacute Road boundary.

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Attachment – Application Information**.

## 3. BACKGROUND AND HISTORY

DATE OF APPROVAL	DA NUMBER	DESCRIPTION OF PROPOSAL
March 23, 2016	15/1089/473	Council approved a concrete water storage tank
December 17, 1996	96/210/030	Council approved dwelling additions
February 08, 1991	91/0012/030 90/0242/030	Council approved dwelling addition
January 24, 1989	89/011/030	Council approved storage shed

#### 4. REFERRAL RESPONSES

##### Environment Protection Authority (EPA)

A referral to the EPA was a statutory requirement pursuant to Schedule 8 Part 210(a) of the Development Regulations (2008) as the proposal is a non-complying form of development in the Mount Lofty Ranges Water Protection Area.

The EPA was satisfied that the proposal would not impact on water quality within the Mount Lofty Ranges Water Protection Area provided that a Soil, Erosion & Drainage Management Plan (SEDMP) is implemented during construction – refer recommended condition four (4).

The EPA also sought that several advisory notes be included in the decision to the applicant – refer recommended notes two (2) & three (3).

- **Council Biodiversity Unit**

The Council Biodiversity Officer advised that some clearance of roadside native vegetation may be required during construction to facilitate machinery access. Removal of this vegetation would require consultation with the Native Vegetation Council.

A recommended note is a reminder to the applicant to consult with the Native Vegetation Council if native vegetation removal is required.

#### 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.

12 representations were received during the public notification period. Three of the representations received were in support of the proposal, and nine representations were in opposition to the proposal.

Representations received were from a mixture of adjoining property owners/occupiers and nearby residents. One of the representations received in support of the proposal, was from the local Country Fire Service (CFS) brigade.

One opposing representor has subsequently withdrawn, resulting in 11 remaining representations.

The following representors wish to be heard:

<b>Name of Representor</b>	<b>Representor's Property Address</b>	<b>Nominated Speaker</b>
Bill Spragg	136 Corkscrew Road, Montacute	Bill Spragg
Simon Biggs	45 Cherryville Road, Cherryville	Simon Biggs or Sue Hawksley
Evelyn & John Orr	2 Church Road, Cherryville	TBA
Jenifer Watson & Oliver Klein	478 Marble Hill Road, Cherryville	Margaret Watson

Suzie Maguire	1291 Montacute Road, Cherryville	TBA
Michael & Jodie Quandt	13 Fernhurst Road, Cherryville	TBA
John Rogers	17 Cherryville Road, Cherryville	John Rogers
Lynda Menashe	14 Moores Road, Montacute	TBA

Graeme Lane, the planning consultant representing the applicant, Service Stream Ltd will be in attendance.

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

- Negative impact on visual amenity and natural scenery, including the Heysen Trail.
- Negative impact on residential amenity (property de-valuation) as a result of the visual impacts, possible electromagnetic energy (EME) exposure and noise impacts relating to ongoing operational equipment.
- Negative impact of land modification as a result of native vegetation clearance and earthworks, and subsequent erosion/run-off issues.
- Positive impact associated with anticipated improved phone and internet coverage and flow-on effects relating to improved communication especially in the event of a bushfire.
- The proposed facility will be ineffective in an emergency such as bushfire if power supply is not available.
- The level of community consultation about the proposal has been insufficient, and not in accordance with statutory requirements.

In regards to this concern, staff advise that Council undertook the Category 3 public notification process as per standard practice and in accordance with the requirements of the Development Act (1993) and Development Regulations (2008) with both a public notice in the 'Advertiser' newspaper and letters to adjacent property owners and other landowners.

It is understood that the applicant also undertook additional community consultation, outside of the formal Category 3 public notification process.

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

Copies of the representations are included as **Attachment – Representations** and the applicant's 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:

i. The Site's Physical Characteristics

The subject land is 2.93 hectares in area and is irregular in shape. The subject site has a primary street frontage to Montacute Road and secondary street frontage to Cherryville Road.

The subject site is on the eastern side of Montacute Road and northern side of Cherryville Road.

The subject site is located on a ridgeline, and slopes steeply down to the east.

The subject site is a rural residential allotment, containing a detached dwelling and associated outbuildings. Structures on the land are clustered towards the Montacute Road frontage, which has been cleared of vegetation.

Access to the site is via a cross-over located to the north of the Montacute Road frontage.

The Heysen Trail is located within the Montacute Road reserve adjoining the subject site.

ii. The Surrounding Area

The locality contains allotments of various sizes that are used for rural living, and some primary production (horticulture).

Allotments in the locality are steeply sloping and densely vegetated.

The subject land is approximately 1.6km north-east of an existing telecommunications facility at Lot 51 Marble Hill Road, Norton Summit and 4km north of an existing telecommunications facility at Ashton.

The subject site is approximately 1km north-east of the State Heritage Place – Dwelling ('Marble Hill') – Former Governors' Summer Residence at Marble Hill Road, Marble Hill and 315m north of the local heritage place – Community Centre, former school at 49 Cherryville Road, Cherryville.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Water Protection (Marble Hill) Policy Area of the Watershed (Primary Production) Zone. The provisions of the Policy Area seek:

Water Protection (Marble Hill) Policy Area

- *Retention of agricultural activities which have low pollution potential.*
- *Restricted residential development.*
- *No intensification of urban development.*

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

*Objectives:* 1, 3 & 4

*PDCs:* 7, 8, 9, 10, 11, 12, 13, 14

The Objectives of the Policy Area seek to ensure that agricultural activities are retained, and activities resulting in increased residential development and further intensification of urban development are restricted.

The proposal is considered to be sufficiently consistent with the Objectives of the Policy area as it will not prejudice primary production, and it is not a form of residential development. Urban development is not defined, however in the context of the Policy Area it is considered to mean industrial land uses, noting that several PDCs of the Policy Area aim to restrict light industrial development and warehousing associated with primary production activities in the Policy Area.

Telecommunications facilities are not considered to be so narrowly defined as urban development, noting that the Council Wide Objectives and Principles relating to such facilities encourage these types of developments in rural areas and non-residential (urban) zones – see further discussion below.

*Height and Impact on Visual Amenity and Residential Amenity*

PDC 7 re-enforces the Objectives of the Policy Area as it seeks development to

- a) be of a scale and intensity which is unlikely to have detrimental impact on the locality; and
- b) to not prejudice primary production within the locality.

The proposed telecommunications facility will be of the largest height scale in the surrounding area, noting that it will have a height of 53.95m.

However, the height of the tower and its associated visual impact is considered to be the only aspect of the proposal which will likely have a detrimental impact on the locality.

In relation to the height of the tower, the applicant has provided advice that the height is necessary to ensure that the facility is effective in its intended purpose of reducing black spot coverage in the Cherryville area. This is discussed in greater detail further in the report.

So to this end, the negative visual impact associated with the facility is considered to be negated to some extent by the community benefit it will bring.

Regardless, the applicant has undertaken measures to reduce the visual impact of the facility which are discussed in greater detail in following sections of the report.

Other possible detrimental impacts on the locality resulting from the proposal; and relating to noise and traffic are considered to be minimal, and are anticipated not to have an unreasonable impact on residential amenity.

The applicant has provided a response that in regards to noise that any disturbance will be limited to the initial construction phase of approximately four weeks.

Ongoing noise from the facility will be confined to the operation of air-conditioning equipment associated with the equipment shelter. The applicant has advised that noise from the air-conditioning equipment will be of a comparable level to a domestic air-conditioning unit, and will generally accord with the background noise levels prescribed by Australian Standard AS1055 and the EPA Noise Policy.

The nearest dwelling on an adjoining allotment is approximately 115m down-slope of the facility compound area at 17 Cherryville Road, Cherryville. Given the distance between buildings the noise impact from the facility is unlikely to impede residential amenity.

In regards to traffic, the applicant anticipates that during the four week construction period will be when the facility will generate the most traffic movements, with six additional vehicle movements per day likely. Once the facility is complete, maintenance by staff will only need to occur two-six times per year.

This level of traffic movement is considered to be very low impact.

Electromagnetic energy exposure (EME) has been raised as an additional potential detrimental impact relating from the proposal. EME is not a recognised planning matter for consideration, however the applicant has provided technical data to show that the public EME exposure calculated for the proposed facility will be within acceptable levels.

PDCs 8-13 relate to the appearance of land and buildings, with both qualitative and quantitative advice provided in relation to minimising the visual impact of buildings.

PDCs 8 & 9 provide setback guidance, seeking that buildings should be setback 25m of public road where there is potential for the natural beauty of the locality to be impaired; and for non-residential buildings to be setback at least 20m from side and rear boundaries.

The proposal is consistent with PDC 8 as the facility is approximately 35-40m from Montacute Road, the setback from the road being different to the setback of the subject site allotment boundaries.

The proposal is also consistent with PDC 9 as the proposed facility will be setback approximately 50m from the nearest side and rear boundaries. The nearest side boundary is a secondary street frontage to Cherryville Road (southern side boundary).

PDC 10 provides quantitative height guidance, stating that buildings should not exceed 10 metres in height above natural ground level.

The proposal is inconsistent with PDC 10, as the height of the proposed tower greatly exceeds 10m above natural ground level.

A strict interpretation of PDC 10 could signal that telecommunications facilities are inappropriate in the Policy Area given their inherent height. However, it is considered that in the context of the Policy Area PDC 10 is intended to primarily relate to large scale buildings associated with primary production such as farm buildings, horticultural buildings and industrial buildings associated with agricultural production.

Telecommunication facilities rely on their height in order to provide the best possible service to the surrounding area and also to connect to the wider network and by nature would not be expected to comply with the height guidelines.

#### Watershed Primary (Production) Zone

- *The maintenance and enhancement of the natural resources of the south Mount Lofty Ranges.*
- *The enhancement of the Mount Lofty Ranges Watershed as a source of high quality water.*
- *The long-term sustainability of rural production in the south Mount Lofty Ranges.*
- *The preservation and restoration of remnant native vegetation in the south Mount Lofty Ranges.*
- *The enhancement of the amenity and landscape of the south Mount Lofty Ranges for the enjoyment of residents and visitors.*

The following are considered to be the relevant Zone provisions:

*Objectives: 1, 2, 3, 4 & 5*

*PDCs: 1, 2, 10, 11, 14, 15, 28, 29, 32, 31, 37, 39, 70*

#### Form of Development

PDC 1 of the Zone states that buildings should be located in unobtrusive locations and in particular, should: a) be located well below the ridge line; be located within valleys or spurs; b) be located not to be visible against the skyline when viewed from public roads; d) be set well back from public roads; e) be site on an excavated rather than filled site to reduce the vertical profile of the building; f) where possible be screened by existing native vegetation when viewed from public roads; and g) maximise the retention of existing native vegetation and the protection of watercourses.

The proposal is considered to be partly consistent with PDC 1 as it is considered to meet part e), f) and g). However the proposal is at variance with part a) and b).

The proposed tower will be visible above the Montacute Road ridgeline and photo montages provided by the applicant indicate that from some vantage points that the tower will be visible against the skyline.

However, this variance needs to be considered in the context of the proposal. The proposed facility has been designed and located near the higher portions of the site and area generally to meet the coverage deficiency of the Cherryville area as identified in the Federal Government Blackspot Program.

A visual comparison between the proposed 53.95m tower and that of a lower height tower has not been provided, however it is also assumed that a tower with a reduced height in this location would still be visible against the skyline, but to a lesser degree.

The applicant has provided detailed modelling demonstrating the visual impact of the proposed tower directly from representor properties, which is discussed in further detail below.

#### Conservation

PDC 32 seeks that the provision of services, including power and access roads to be located over areas cleared of native vegetation, or if this is not possible to cause the minimum interference or disturbance to native vegetation.

The proposal is considered to be consistent with PDC 32 as power to the proposed facility will be connected via underground trenching to the existing electricity supply to the land. The areas of underground trenching are clear of native vegetation.

Access to the proposed compound facility area will be via existing cleared access tracks, but noting as per the Council Biodiversity Officer comments that in order for large machinery to gain access during construction, that native vegetation may need to be removed. This possible clearance is considered to be unavoidable, and will need to be approved by the Native Vegetation Council. It is assumed that as part of the approval process that the Native Vegetation Council would need to be satisfied that clearance is minimised.

Recommended note six (6) reminds the applicant of their obligation to seek Native Vegetation Council approval for removal of any native vegetation.

#### Appearance of Land and Buildings

PDC 37 provides that vegetation should be provided as part of the development where the environment will be visually improved by such a provision.

PDC 39 provides that if necessary buildings should be screened by trees or shrubs.

The applicant has provided a landscaping plan consisting of native plant species, which is considered to assist in screening the compound area and lower level of the tower in particular from the nearby Heysen Trail.

Due to the height of the tower, it is not possible to screen it entirely from view. The applicant has provided modelling to demonstrate the visibility of the tower from representor properties – see further discussion below.

The proposal is considered to be sufficiently consistent with PDCs 37 and 39.

#### Non-complying Development

PDC 70 provides that all development is non-complying in the Watershed (Primary Production) Zone, except for a list of exempt development activities/types. Telecommunications facilities below 30 metres in height are listed as a non-complying exemption.

Because the proposal includes a tower with a height of more than 30 metres it therefore defaults to being a non-complying form of development.

The non-complying designation is considered to be a procedural matter, and does not limit an assessment of the merits of the proposal from being made against the relevant Objectives and Principles of the Development Plan.

In relation to this though, the applicant has provided technical data comparing the coverage provided by a 30m high tower at the subject site against the proposed 50m high tower at the subject site.

The data shows a 30m high tower at the site would provide coverage to much of the identified blackspot area. However, the deeper gully areas of the locality would remain in a coverage shadow, which would not satisfy the coverage requirements of the Federal Blackspot Program.

*b) Council Wide provisions*

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

- *Orderly and economic development*
- *The amenity of localities not impaired by the appearance of land, buildings and objects.*
- *Buildings or structures unobtrusively sited and of a character and design which blends naturally with the landscape.*
- *The retention, conservation and enhancement of places of State Heritage value, Local Heritage values and areas of historic character.*
- *Protection of watersheds from pollution.*
- *Telecommunications facilities provided to deliver communication services to the community.*
- *Telecommunications facilities sited and designed to minimise visual impact on the character and amenity of the local environment.*

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

*Form of Development*

*Objectives: 1*

*PDCs: 1, 2, 3, 7, 9, 13, 15, 23, 26 & 27*

Objective 1 and PDCs 2 & 3 in essence seek orderly development that takes place on land that is suitable for its intended use, having regard to the location and condition of the land, and the Objectives for the Zone in which it is located.

The proposal is considered to be an orderly form of development, responding to a telecommunication service deficiency in the Cherryville area as identified by the Federal Government Black Spot Program.

The subject site is located in a rural zone, which is identified in the Council Wide Telecommunications module as being a suitable zone for the location of such facilities – see further discussion below.

The siting of the telecommunications facility is considered to be responsive to the condition of the land, noting that it is sited in the cleared portion of the land, clustered near the dwelling and outbuildings on the site.

The cleared portion of the land is near to the Heysen Trail, however from the trail views of the facility area expected to mainly be of the lower sections of the tower and surrounding base compound.

The visual impact of the lower sections of the tower and surrounding base compound are considered to be lessened by excavating the base compound into the site and introducing landscaping to screen the compound.

PDC 7 refers to land modification stating that the excavation and/or filling of land should: a) be kept to a minimum and limited to no greater than 1.5 metres to preserve the natural form of the land and the native vegetation; b) only be undertaken to reduce the visual impact of buildings, including structures; c) only be undertaken if the resultant slope can be stabilised to prevent erosion; and d) result in stable scree slopes which area covered with top soil and landscaped to preserve and enhance the natural character, or assist in the re-establishment of the natural character.

Associated with the proposal is approximately 6m of cut to create the pad area for the tower and base compound. Whilst this is not consistent with part a), the proposal is considered to be generally consistent with parts b), c) & d) as the excavation will assist in reducing the visual impact of the facility, the excavation will be retained by a gabion stone retaining wall, and the base compound area will be screened with new landscaping.

PDCs 26 and 27 provide building heights in reference to Adelaide International Airport and Parafield Airport aviation safety requirements in regard to Map AdHi/1 (Overlay 3 Part A and Part B) of the Development Plan.

The subject site is not marked on Map AdHi/1 (Overlay 3 Part A and B) so despite the height of the proposed facility there are no impacts on aviation safety requirements and the proposal is consistent with PDCs 26 and 27.

Conservation

*Objectives: 68, 70, 71, 75, 77, 78*

*PDCs: 202, 203, 204, 205*

The Objectives and PDCs of the Council Wide Conservation module seek to preserve the rural character and scenic amenity of the area in particular areas adjoining scenic routes, partly by minimising the removal of existing native vegetation and re-planting of additional landscaping.

Whilst it is acknowledged that the height of the proposed tower may impact on the rural character and scenic amenity of the area, telecommunication facilities are encouraged in rural areas by the Council Wide Telecommunications Facilities provisions.

The base compound has been located in a cleared area, and as part of the proposal additional landscaping is to be planted for screening. Details of the proposed landscaping are provided further below.

*Appearance of Land and Buildings*

*Objectives: 87, 88, 90*

*PDCs: 228, 229, 230, 231, 233, 234, 236, 237*

PDCs 229 and 230 relate to land modification and state that development should take place in a manner which will minimise alteration to existing land form, and that excavation and earthworks should take place in a manner that is not extensively visible from surrounding localities.

The proposal is considered to be partly consistent with PDCs 229 and 230 as a deep excavation in the order of a depth of 6m is proposed. However, the excavation will be limited to the pad area for the base compound which has a relatively small area of 150 square metres when considered against the context of the size of the subject site. In addition, no further additional earthworks will be required to establish access to the base compound area, with the exception of trenching for connection to the existing electricity supply.

PDC 236 further seeks that buildings and excavations near the Heysen Trail to be sited unobtrusively and landscaped to minimise their visual impact on scenic views from the trail.

The proposal is considered to be mostly consistent with PDC 236 as the area of excavation and associated retaining walls will sit below the Heysen Trail. In addition, the base compound area surrounding the tower will be landscaped with additional native plant species in accordance with the landscaping plan provided by the applicant. The landscaping species selected by the applicant are all contained within Council's Native Habitat Landscaping Guide.

The native plant species selected by the applicant for planting are the Silver Banksia, Sweet Bursaria, Common Oak Bush, Wreath Wattle and Hard Mat-rush.

These species consist of a range of larger shrub species with a mature height between 2-8m, smaller shrub species with a mature height between 1-4m and a ground cover species.

Recommended condition five (5) will require the applicant to plant mature plant species as detailed on the landscaping plan within the next available planting season after completion of the facility.

Also in regards to PDC 236, it is worth having regard to the existing level of scenic amenity from the Heysen Trail relative to the subject site. The existing dwelling, associated outbuildings and large concrete water storage tank on the subject site are clustered in close proximity to the trail, with overhead powerlines located between this built form and the trail.

Therefore, in this regards the introduction of the telecommunications facility may only have a marginal impact on the scenic amenity of the Heysen Trail relative to the subject site.

Watershed Protection

*Objectives: 103, 104 & 105*

*PDCs: 296, 299*

The Objectives and PDCs of the Council Wide Watershed Protection module aim to protect the Mount Lofty Ranges Watershed against pollution and contamination, noting that development within the Mount Lofty Ranges should be compatible with its use as a water catchment and storage area.

The Environment Protection Agency (EPA) has reviewed the proposal, especially relating to potential water quality impacts and is satisfied that the proposal does not present an unacceptable risk to water quality. This is subject to a required condition that a Soil, Erosion & Drainage Management Plan (SEDMP) being provided to ensure that environmental impacts are appropriately managed during the construction phase of the proposed facility – refer recommended condition four (4).

The proposal is considered to be consistent with Objectives 103, 104 & 105 and PDCs 296 & 299.

Telecommunications Facilities

*Objectives: 114 & 115*

*PDCs: 341, 342, 343 & 345*

The Council Wide provisions relating to telecommunications facilities are considered to be the most relevant to the proposal. Accordingly, each relevant Objective and PDC has been noted in full in the discussion below.

*Objective 114 –*

Telecommunications facilities provided to meet the needs of the community.

The applicant has provided advice that the facility has been proposed in response to the Federal Government black spot program which has identified that there is a need for a new telecommunications facility in the Cherryville area.

The application has also provided advice that the proposed facility will provide an additional 2.18km of major road coverage, and additional coverage area of 9.5km<sup>2</sup>. This area of coverage will serve approximately 87 people.

Whilst this may not seem to be a large gain, the applicant has also provided advice that population densities are not necessarily a consideration when a provider responds to a blackspot nomination. Instead the aim is to deliver as much coverage as possible into the low-lying areas of the black spot. This coverage is considered to be especially important in times of emergency, such as a bushfire event.

To ensure that the facility is effective in a bushfire emergency the applicant has provided advice that Telstra guarantee four hours of reserve power for telecommunications base stations in bushfire prone areas. This is in addition to an extra three hours reserve (total seven hours reserve power).

The proposal is considered to be consistent with Objective 114.

*Objective 115 –*

Telecommunications facilities sited and designed to minimise visual impact on the character and amenity of the local environment.

Qualifying paragraphs in the Development Plan following on from this Objective state that where required, the construction of new facilities is encouraged in preferred industrial and commercial and appropriate non-residential zones. This is also recognising that new facilities may be unavoidable in more sensitive areas in order to achieve coverage for uses of communications technologies.

The proposed facility is located in a non-residential zone and there are no nearby industrial or commercial zones in which the facility could be re-located to.

The visual impact on the character and amenity of the local environment is considered to be minimised to some extent by the following measures:

- Siting of the facility in a cleared and disturbed area of the subject site.
- Excavating the pad area for the base compound area into the subject site.
- The restriction of the base compound to a relatively small area of 150 square metres.
- Construction of associated retaining walls used to retain the excavation being of a gabion natural stone wall design.
- Construction of fencing around the compound area being of open chainmesh/wire design in powder-coated black finish.
- Construction of associated storage facilities within the compound area of non-reflective materials in dark natural colours.
- Planting of native landscaping around the base compound area to screen this and the lower level of the tower from the nearby Heysen Trail.
- The tower being of an open lattice design, as opposed to solid monopole design.
- The tower being constructed of a non-reflective material and finished in a grey colour.
- The associated antenna attached to the tower being compact and close to the tower.

The applicant has provided LIDAR modelling produced by Photomapping Services to show the visual impact of the proposed tower from the opposing representor properties.

LIDAR modelling is an optical remote sensing technology that utilises non-visible light to map the ground surface and objects present on the surface of the Earth.

The results as summarised by the applicant demonstrate that the tower should only be fully visible from the representor property at 1291 Montacute Road, Cherryville, which abuts the subject site.

Of the remaining opposing representor properties the tower as predicted by the LIDAR modelling will be visible from four properties being:

- 2 Church Road, Cherryville;
- 8 Church Road, Cherryville;
- 478 Marble Hill Road, Cherryville; and
- 17 Cherryville Road, Cherryville.

However, only 17 Cherryville Road and 8 Church Road are expected to have views of the tower above existing vegetation, with the remaining properties expected to have partial views through existing vegetation.

*PDC 341 –*

Telecommunications facilities should: a) be located and designed to meet the communication needs of the community; b) utilise materials and finishes that minimise visual impact; c) have antennae located as close as practical to the support structure; d) primarily be located in industrial, commercial, business, office, centre, and rural zones; e) incorporate landscaping to screen the development, in particular equipment shelters and huts; and f) be designed and sited to minimise the visual impact on the character and amenity of the local environment, in particular visually prominent areas, main focal points or significant vistas.

PDC 341 is considered to repeat the desired outcome of Objectives 114 & 115 as discussed above.

*PDC 342 –*

Where technically feasible, co-location of telecommunications facilities should primarily occur in industrial, commercial, business, office, centre and rural zones.

The applicant has provided technical advice to demonstrate that is not feasible to co-locate the proposed facility with existing telecommunications facilities in the nearby area.

Initially the applicant considered co-location with the existing telecommunications facility at Lot 51 Marble Hill Road, Norton Summit. This location is approximately 1.6km south-west of the subject site but was considered to be too far south to achieve reduction in the Cherryville blackspot area.

The applicant also provided data which shows that the existing tower at Norton Summit does not transmit into the blackspot area.

Council staff also asked the applicant to consider co-location with another existing telecommunications facility at Ashton.

Advice from the applicant in regards to this co-location option is that the Ashton site is also too far separated from the Cherryville blackspot area to provide adequate coverage as it is 4km south of the subject site.

As co-location is not technically feasible, three 'greenfield' sites (including the subject site) were investigated for their suitability.

The subject site was determined by the applicant to be the most suitable site for the proposed facility as the two other sites were either located in the more sensitive Hills Face Zone and required native vegetation clearance, or were too steep to build upon.

*PDC 343 –*

Telecommunications facilities in areas of high visitation and community use should utilise, where possible, innovative design techniques, such as sculpture and art, where the facilities would contribute to the character of the area.

The proposed facility is adjacent to a public scenic walking trail, being the Heysen Trail. Whilst the trail is considered to be an area of high visitation and community use incorporating sculpture and art into the design of the facility is considered to detract from the natural character of the area and to not be appropriate in this situation.

*PDC 344 –*

Telecommunications facilities should not detrimentally affect the character or amenity of Historic Conservation Zones or Policy Areas, Local Heritage Places, State Heritage Places or State Heritage Areas.

The subject site is approximately 1km north-west of a State Heritage Place and 315m north of a local heritage place.

Given what are considered to be large separation distances between the facility and the heritage places the proposal is not considered to detrimentally affect the heritage character or amenity of these places.

Accordingly, a referral to State Heritage and the Council local heritage advisor was not deemed necessary.

## 7. SUMMARY & CONCLUSION

The proposal is for construction of a telecommunications facility comprising a 53m high lattice tower and associated base compound infrastructure. The subject site is in the Watershed (Primary Production) Zone, and in this Zone telecommunications towers with a height greater than 30m are a non-complying form of development.

Despite this, the proposal is considered to be sufficiently consistent with the relevant provisions of the Development Plan to warrant consent.

The proposed facility is responding to a community need as identified by the Federal Government Blackspot Program, and justification has been provided to support the height of the tower. Technical data has also been provided to demonstrate that co-location with existing telecommunications facilities in the area is not feasible in reducing the identified blackspot in coverage.

The inherent visual amenity impact associated with the proposal is considered difficult to mitigate and balance the functional requirements of the facility with this impact. The Development Plan does envisage telecommunication facilities in rural areas/zones. The siting and design of the facility is considered to assist in minimising the visual impact of the facility as much as practicably possible, and the proposed new landscaping will provide screening of the compound and tower base from the closest section of the Heysen Trail and the closest representor.

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.

## 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 seeks the CONCURRENCE of the State Commission Assessment Panel to GRANT Development Plan Consent to Development Application 17/710/473 by Service Stream Ltd for Telecommunications facility, comprising a lattice tower (maximum height 53.95m, including antennae), associated equipment shelter (maximum height 2.75m), security fencing (maximum height 2.4m), retaining walls (maximum height 6m) & associated earthworks (non-complying) at 1293 Montacute Road Cherryvillesubject 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:

- Drawing No. S107294, Sheet S1 Overall Site Plan Issue 3 dated 8 June 2018
- Drawing No. S107294, Sheet S1-1 Site Layout Plan Issue 3 dated 8 June 2018
- Drawing No. S107294, Sheet S1-2 Antenna Layout Plan Issue 3 dated 8 June 2018
- Drawing No. S107294, Sheet S3 North East Elevation Plan Issue 3 dated 8 June 2018
- Drawing No. S107294, Sheet S3-1 South West Elevation Plan Issue 1 dated 8 June 2018
- Drawing No. S107294, Sheet S3-2 East Elevation Plan Issue 1 dated 8 June 2018
- Landscape Plan, 18ADL-0202 Revision 2 dated 5 June 2018
- Sheet A3L Key Plan by CMW Geosciences Revision 1 dated 27 April 2018
- Sheet A3L Long-section and Layout Plan by CMW Geosciences Revision 1 dated 27 April 2018

- Sheet A3 L Typical Section & Specifications by CMW Geosciences Revision 1 dated 27 April 2018
- Statement of Effect by Service Stream – Mobile Communications, dated 8 June 2018

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

**(2) Commercial Lighting**

Flood lighting shall be restricted to that necessary for security purposes only and shall be directed and shielded in such a manner as to not cause nuisance to adjacent properties.

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

**(3) External Finishes**

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

**LATTICE TOWER:** Galvanised grey steel or similar

**ASSOCIATED INFRASTRUCTURE:** Grey, brown, green 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.

**(4) Prior to Building Rules Consent Being Granted - Requirement for Soil Erosion And Drainage Management Plan (SEDMP)**

Prior to Building Rules Consent being granted the applicant shall prepare and submit to Council a Soil Erosion and Drainage Management Plan (SEDMP) for the site for Council's approval. The SEDMP shall comprise a site plan and design sketches with details of erosion control methods that will prevent:

- a. soil moving off the site during periods of rainfall and detail installation of sediment collection devices to prevent the export and sediment from the site; and
- b. erosion and deposition of soil moving into the remaining native vegetation; and
- c. soil transfer onto roadways by vehicles and machinery

The works contained in the approved SEDMP shall be implemented prior to construction commencing and maintained to the reasonable satisfaction of Council during the construction period.

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

**(5) Timeframe For Landscaping To Be Planted**

Landscaping, of mature plant species as detailed in the approved landscaping plan (Landscape Plan, 18ADL-0202 Revision 2 dated 5 June 2018) shall be planted in the planting season immediately following the completion of the telecommunications facility. Any such vegetation shall be replaced if and when it dies or becomes seriously diseased in the next planting season.

**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 and comply with the requirements of Section 42(4) of the Development Act 1993.

## 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) **EPA Information Sheets**

Any information sheets, guideline documents, codes of practice, technical bulletins, are referenced in this decision can be accessed on the following web site:  
<http://www.epa.sa.gov.au/pub.html>

(3) **Environment Protection (Water Quality) Policy 2015**

The applicant is also advised that the Environment Protection (Water Quality) Policy 2015 came into effect on 1 January 2016. Therefore, all reasonable and practicable measures must be put in place to prevent or minimise environmental harm during the construction process.

(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.

(6) **Native Vegetation Council Requirements**

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.

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.

**9. ATTACHMENTS**

- Locality Plans
- Proposal Plans
- Application Information
- Referral Responses
- Representations
- Applicant's response to representations

Respectfully submitted

Concurrence

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**Marie Molinaro**  
**Statutory Planner**

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**Deryn Atkinson**  
**Manager Development Services**

**COUNCIL ASSESSMENT PANEL MEETING**  
**10 October 2018**  
**AGENDA – ITEM 8.2**

<b>Applicant:</b> Stephen Hooper	<b>Landowner:</b> M & J Kozned Pty Ltd
<b>Agent:</b> -	<b>Ward:</b> Torrens Valley
<b>Development Application:</b> 18/310/473	<b>Originating Officer:</b> Sam Clements
<b>Application Description:</b> Mixed use development comprising a cellar door sales outlet (75 person capacity) including ancillary special events (maximum of 10 per calendar year) and winery (50 tonne crush per annum) consisting of two winery buildings with an attached canopy, in association with existing vineyard, water storage tanks (3 x 22,500 litre), car park, retaining wall (maximum height 750mm) & earthworks	
<b>Subject Land:</b> Lot:1 Sec: P6513 FP:6785 CT:5825/237	<b>General Location:</b> 11 Woodlands Road Kenton Valley  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 24 October 2017 <b>Map</b> AdHi/3	<b>Zone/Policy Area:</b> Watershed (Primary Production) Zone
<b>Form of Development:</b> Merit	<b>Site Area:</b> 40.84 hectares
<b>Public Notice Category:</b> Category 2 Merit	<b>Representations Received:</b> 6  <b>Representations to be Heard:</b> 4 (one not adjacent)

**1. EXECUTIVE SUMMARY**

The purpose of this application is for a mixed use development comprising a cellar door sales outlet (75 person capacity) including ancillary special events (maximum of 10 per year) and winery (50 tonne crush per annum) consisting of two winery buildings with an attached canopy, in association with existing vineyard, water storage tanks (3 x 22,500 litre), car park, retaining wall (maximum height 750mm) and earthworks.

The subject land is located within the Watershed (Primary Production) Zone and the proposal is a merit form of development. Five representations in opposition and one in support of the proposal were received during the Category 2 public notification period.

The proposal is to establish envisaged uses within the Watershed (Primary Production) Zone. The development will value add to the primary production activities that already occur on the site and increase the economic base of the region. The proposed development will not result in the loss of any native vegetation and will be appropriately setback from watercourses. The proposal is for a small scale winery and appropriately sized cellar door, and wastewater will be suitably managed.

Whilst the proposed development is located high up a ridge line, the proposed buildings are sited predominantly on an excavated site, setback appropriately from roadways and the material selections are mostly appropriate. The proposed siting allows the winery and cellar door to be grouped together and well setback from watercourses and other natural features, as well as adjacent dwellings. Any amenity impacts created from the proposed development are not considered to be unreasonable. The development features sufficient on-site car parking and the proposal will not result in significant increases to traffic generation on Woodlands Road.

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

The main issues relating to the proposal are the siting of the buildings high on the ridgeline, colour and material selections, water quality impacts, the increase in traffic generation, traffic safety and amenity impacts.

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 a mixed use development comprising the following:

- A cellar door sales outlet with 75 person capacity and a gross leasable area of 248m<sup>2</sup>
- The northern wing of the cellar door is the main tasting and sales space, featuring the serving/sales bar, a lounge area, tasting benches and tables and chairs
- The southern wing features a commercial kitchen, sanitary facilities, a wide hallway and a private tasting room, with access to a private seating area outside to the east under a pergola
- The commercial kitchen is for the preparation of the tasting platters and light snacks only, not 'meals'
- Additional tables and chairs are depicted on the eastern and western sides of the proposed cellar door building. These outside areas are to be surfaced with exposed aggregate concrete and are not to be covered (not roofed/sheltered areas)
- The cellar door building is to be clad in Colorbond Metallic 'Aries'©. The building also features perforated steel in front of sections of glazing on the northern and western elevations
- A winery with a maximum 50 tonne crush capacity per annum
- The winery consists of two winery buildings with an attached canopy in between to be used as a hardstand loading area
- The northern winery building features a bathroom with a toilet and shower room, a laboratory, a store room and the remainder of the floor area is open wine making space. The wine making processes of crushing, fermenting and maturation are proposed to occur within this area
- The southern winery building is proposed to be used for wine maturation (barrels on pallets) and storage purposes (bottled wine on pallets)
- Bottling of wine is to occur off-site
- Both winery buildings are to be bunded with an impervious concrete floor that will be graded to strip grates. These grates will be connected into the trade wastewater control system
- The northern winery building is 18 metres in width and 21 metres in length with a total area of 378m<sup>2</sup>
- The southern winery building is 17.99 metres in length and 15 metres in width with a total floor area of 269.8m<sup>2</sup>

- A flat roof canopy in-between and attached to each of the winery buildings with a roof area of 66m<sup>2</sup>
- The winery buildings are to clad in Colorbond 'Woodland Grey'©
- Special events (maximum of 10 per year) ancillary to the proposed cellar door and winery uses
- The hours of operation are proposed to be:
  - Cellar door- Thursday to Sunday 11am to 4pm
  - Special events- Thursday to Sunday 11am to 12am
  - Winery- Monday to Friday 7.30am to 5pm, and during vintage 7.30am to 7.30pm (any day of the week)
- Water storage tanks (3 x 22,500 litre)
- One new crossover on Woodlands Road which will be the entrance and exit for all vehicle movements (to the north of the site)
- Associated car park featuring 26 spaces, including one accessible park and one bus bay for events. The car parks , driveway and manoeuvring areas are to be a permeable all-weather surface. The plans also depict an informal overflow car parking area for events with the potential for an additional 32 spaces
- Associated earthworks to create a level benched area for the proposed buildings and hard surface areas and mildly sloped areas for the driveway, manoeuvring, car parking and effluent disposal area. Earthworks include excavation up to 3.7 metres and filling of land up to 2.6 metres
- A retaining wall on the western side of the driveway area with a maximum height 750mm
- Installation of waste control system for the cellar door, specifically a 3900L Ozzi Kleen RP10+ system with a 5000L buffer/balance tank with a shallow sub-surface irrigation area (minimum of 200m<sup>2</sup>) within the irrigated lawn area of 562.7m<sup>2</sup>
- Installation of a trade wastewater system for the winery. Specifically, wastewater holding tank with a minimum capacity of 9000 litres
- The removal of approximately 4280m<sup>2</sup> of vines to accommodate the development

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

#### *Background*

The original proposal sought to host 30 special events within the cellar door building and therefore the proposal was considered to include an additional function centre use. As the application was treated as non-complying the proposal was later amended to only host a maximum of ten special events per year.

Further, Council's planning staff also highlighted that the cellar door sales outlet had a gross leasable area greater than 250 square metres and requested more detail to be provided around the use of the southern winery building. Specifically, it was queried whether this building was a winery building for the storage of maturing wine (in bottles and/or barrels) or

solely used as a commercial storage building in association with the cellar door to store bottled wine prior to wholesale or retail sale. The applicant has confirmed that southern shed will be used for both maturation of wine within barrels on pallets and storage of bottled wine on pallets (pallet racking). Given the majority of the floor area of the winery buildings will be used for wine making activities, Council's planning staff are now satisfied that the wine storage is a subordinate activity. The applicant has also reduced the gross leasable area of the cellar door to 248m<sup>2</sup> by removing the roof area over the private outdoor patio area accessible from the private tasting room (southern wing of the cellar door). Council's planning staff now accepts this calculation of gross leasable area.

Following public notification, the application was further amended as summarised below:

- The car parking layout was amended due to traffic engineering advice obtained (Cirqua Engineers). The amended car park now features more car parking spaces on the eastern side of the aisle (car park space more evenly distributed on both sides of the aisle/driveway), the aisle has changed to two way traffic flow and the overflow car parking areas are now depicted
- Further details on the plans in relation to the disability access
- Removal of the southern crossover due to traffic engineering advice. The proposal no longer includes two additional crossovers with one way movement through the site, specifically it was previously proposed that access would be via the northern and exit via the southern access point. The southern access point was removed as there were insufficient sight distances from this location. Also, customer vehicles no longer pass the winery buildings to exit the site
- Confirmation of the colour finish of the sleeper retaining walls (painted charcoal)

#### *History*

DATE OF APPROVAL	DA NUMBER	DESCRIPTION OF PROPOSAL
August 13, 2001	01/671/473	Council approved a horticultural building

#### **4. REFERRAL RESPONSES**

- **AHC Engineering**

No objection to the proposal and have requested that the new crossover constructed is a 'rural crossover' (swale depression) provided to not impede the flow of stormwater at the edge of the road shoulder. Some minor comments:

- The (superseded) civil plan does not show the unsealed pavement (gravel surface) over the whole of the car park and driveway. The whole car park and driveway is required to be an all-weather surface
- (planning comment) The civil plan will need to be updated to be consistent with the amendment made to the architectural plans (as summarised in the background section above)

- **AHC EHU**

Council's Environmental Health Officer has granted pre-approval to install the trade and domestic wastewater treatment systems (refer 18/W077/473).

In the assessment of this wastewater application a referral was made to the EPA due to the proposal involving the use of the holding tank. EPA comments:

- The nine kilolitre waste holding tank would have an effective holding capacity equal to 18 days design flow during peak periods (or 16 days when considering the 8,000 litre alarm level)
- Provided the installed wastewater holding tank is maintained effectively (including a regular pump out by an EPA licenced contractor) the proposal is likely to have neutral impact on water quality within the Torren River Catchment
- The EPA did not require the tank to be bunded, but an audible and visual alarm for this tank is required to be installed on the site

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

## 5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with Section 38(2)(a) of the *Development Act (1993)* and Zone requiring formal public notification. Six (6) representations were received in the public notification period. Five representations are opposing the proposal and one representation is in support, with comments. Excluding one representation, all were from adjacent property owners. Therefore, one representor did not receive a notice in relation to this application and it is at the Panel's discretion whether this representor is given the opportunity to speak in support of their representation.

The following representors wish to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Ben and Jayne Freeman <b>(not adjacent and not notified)</b>	54 Woodlands Road Kenton Valley	Did not indicate
Craig John Seidel	16 Woodlands Road Kenton Valley	Diane Seidel
Donna Bartsch	149 Woodlands Road Kenton Valley	Personally
Steve Steggles	82 Woodlands Road Kenton Valley	Did not indicate

The applicant and their representatives as detailed below will be in attendance:

- Matthew Field, Planner, PAD Studio
- Tom Wilson, Engineer, Cirqa (traffic)
- Stephen Hooper, Architect, Skein (if required for further information)

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

- Amenity impacts, namely increased traffic generation, noise, odour, air borne pollutants, light spill, dust pollution, hours of operation, privacy and visual impact
- The siting of the building on a ridge top and the large scale nature of the proposed buildings
- Extensive excavation and fill
- The inaccuracies in the proposal documentation, including the floor area of the proposed cellar door
- The categorisation of the development proposal
- The processing tonnage of the winery

- Wastewater management and potential water quality impacts
- The separation distance of the winery to natural features and the absence of a spill retention basin
- The proposal also includes an occasional restaurant
- Potential conflicts between service and customer vehicles
- Disability access
- Stormwater runoff onto Woodlands Road
- Proximity of the development to residential properties
- Hours of operation proposed are not realistic
- The control of events
- The condition of Woodlands Road
- Traffic safety on Woodlands Road and at the intersection of Woodlands and Burfords Hill Roads
- Whether the winery would have sufficient access to water without use of bore water
- Bushfire considerations

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

A copy of the submissions is included as **Attachment – Representations** and the response is provided in **Attachment – Applicant’s Response to Representations**. A copy of the plans which were provided for notification are included as **Attachment – Publically Notified Plans**

## 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 40.84 hectares in area and a large proportion of the allotment is a vineyard. The land is also developed with horticultural buildings in the north-western corner of the site and down by the dam in the centre of the site.

There are a number of watercourses that flow through the site. The main watercourse flows through the valley on the site from the southern boundary to the northern boundary. The main watercourse flows through a large dam in the centre of the site which has an area of approximately 1 hectare. There are some clusters of native vegetation in the north-eastern corner of the site.

There are two ridge tops on the site with the highest in the south-eastern corner of the site and the other on the western boundary. This south-eastern ridge top has a contour level of 470 and the western ridgetop has a contour level of 459. The slope of the land varies, but is considered to be mildly sloping land. The land has a slope of approximately 1 in 6 on the eastern side downhill to the dam and a downhill slope from the south-western ridge top to the dam of approximately 1 in 8.

The property is accessed via Woodlands Road in the north-western corner of the site.

ii. The Surrounding Area

The locality is predominantly made up of large rural allotments that are used for livestock grazing. There is one small rural residential allotment with a land area of approximately 7700m<sup>2</sup> in the locality, which is located directly opposite the horticultural building in the north-western corner of the site. The allotments in the locality range in size from 7700m<sup>2</sup> to 47 hectares.

The locality is a relatively 'open' undulating rural landscape with only scattered native vegetation on adjacent allotments. The densest area of native vegetation is to the south-east of the subject land in the road reserve. This is an irregular road reserve portion of approximately 7402m<sup>2</sup> and is a blue marker site highlighting that there is high value native vegetation in this reserve.

The topography varies in the locality, but the locality includes relatively undulating land and features ridgelines. Woodlands Road roughly follows a north-south ridgeline of approximately 1.5km from Maidment Road to Burford Hills Road. The elevations along this ridgeline vary from approximately 440 – 490mAHD. The site of the proposed development is on this ridgeline.

Locality features include a number of watercourses with the smaller tributaries flowing into more notable watercourses that flow south to north and eventually into Howard Creek to the north.

iii. Development Plan Policy considerations

a) Zone Provisions

The subject land lies within the Watershed (Primary Production) Zone and these provisions seek:

- Maintain and enhance the natural resources of the Mount Lofty Ranges
- Long-term sustainability of rural production
- Preservation of native vegetation
- Development of a sustainable tourism industry
- Enhancement of the amenity and landscape character of the Mount Lofty

The following are considered to be the relevant Zone provisions:

Objectives: 1, 2, 3, 4 & 5

PDCs: 1, 2, 3, 4, 8, 9, 10, 11, 13, 14, 15, 16, 17, 28, 29, 31, 32, 36, 37, 39, 41, 42, 43, 44, 48, 50, 51, 54, 55, 56, 57, 59, 60, 61, 62, 63, 67, 69 & 70

Accordance with Zone

The objectives of the Watershed (Primary Production) Zone primarily seek the protection and enhancement of the natural environment and rural production within the Mount Lofty Ranges.

There are several zone provisions that provide specific guidance for new cellar doors and wineries within the Watershed Area. These provisions actively envisage cellar doors and wineries provided that their scale and operational activities do not result in adverse impacts on the natural character or amenity of the locality or on natural resources.

The proposed cellar door will be constructed adjacent to the proposed winery buildings on the same allotment. The cellar door will primarily offer the tasting of wine produced at the winery and from grapes grown on the site. A cellar door where the gross floor area is less than 250 square metres is an envisaged use within the Zone, as is the case with this proposal. The scale of the cellar door and associated events are considered appropriate for the Zone and careful siting and design considerations ensures that any nearby dwellings will be sufficiently protected from amenity, noise or traffic impacts. As such the proposal is considered to accord with PDCs 2, 13, 14, 15, 67 and 69.

The proposal is to establish a small scale winery (maximum crush of 50 tonne per annum), noting that wineries of this size with the Mount Ranges Watershed do not need to be licenced with the Environment Protection Authority. The two proposed winery buildings are anticipated to have minimal impact on the amenity of the locality. The proposed winery operations, which include capacity to undertake the wine making processes of crushing, fermenting and maturation, are proposed to be wholly contained within the proposed winery buildings and include appropriate on-site management measures to treat and contain waste water. There will be no bottling or packaging of wine undertaken on the site.

Car parking is provided at rates which are appropriate for a development of this scale in accordance with Table AdHi/4. Additional elements including water tanks, retaining walls and earthworks are located to reduce their impacts on the character of the locality. They also provide important functions with respect to rainwater storage, appropriate grading for car parking/driveway areas and sufficient benched areas for the proposed buildings and their curtilage.

The winery buildings have been carefully considered with regard to siting, materials and colour selection to ensure their appearance responds to and enhances the rural character. The winery is largely proposed on an underutilised portion of the allotment and the proposal is not considered to have a significant impact on the productive value of the land, in accordance with PDC 16 and 17. Noting the overall size of the vineyard, only a small area of approximately 4280m<sup>2</sup> of vineyard is required to be removed to facilitate the development.

#### *Wineries in the Watershed*

The proposed winery is located on an allotment with a vineyard and is proposed to be established in Watershed Area 2. There is no other authorised winery on the allotment and the winery is within the boundaries of a single allotment. The proposed winery is small scale and will not detrimentally impact on the rural landscape of this locality provided amenity impacts such as odour, dust noise and traffic generation are managed. Noting that wastewater contained within a sealed holding tank then carted off site, provided the aerator on the holding tank is maintained, the odour levels should be minimised. The grape marc is proposed to be spread over the large vineyard. Refrigeration units are within enclosed buildings and noting the separation distance to adjacent dwellings (at least 265 metres), the EPA noise protection guidelines should easily be achieved. As mentioned, the winery capacity is less than 500 tonne crush per annum and therefore the storage of winery wastewater in holding tanks as proposed is appropriate and a 300 metre setback to adjacent residences is not required (PDC 53). The proposal is consistent with PDCs 51, 53, 54 and 55.

The wine making activities and wine storage will occur within enclosed winery buildings. No packing and bottling of wine is proposed to occur on the site. The proposal is therefore considered to be in accord with PDC 56.

The winery is not sited 300 metres away from the nearest watercourse. The proposed winery is approximately 90 metres away from nearest watercourse. The winery buildings will have an impervious floor that is graded to strip drains which are connected to the wastewater holding tank. The winery buildings are also bunded to contain 120 percent of the total holding tank capacity. It has been confirmed that the proposed winery complies with this requirement and the bund has this capacity even when the holding tank is completely full. The design of this sealed system prevents spills entering stormwater, and downstream watercourses and dams. As mentioned, this winery will not have on-site treatment of wastewater (irrigation field). The EPA has reviewed the design of the trade wastewater system with holding tank and is supportive of this waste control method. For the above reasons, it is therefore considered that spill retention basin is not required. Whilst the proposal is at odds with PDC 57, the proposal achieves the same results as outlined in PDC 58 with this design and liquid spills are less likely to enter waterways. The proposal is therefore considered consistent with PDCs 58 and 60.

The winery has convenient all-weather parking, including for service vehicles. The proposal includes an undercover loading area in-between the proposed winery buildings. The winery will process the grapes grown on the site and therefore process produce that is grown with the Mount Lofty Ranges Region and the cellar door will sell these goods produced in the region. As mentioned, the proposal will value add to the primary production that already occurs on the land and therefore both add to the rural/agricultural character of the region and increase tourist activities in this area. The proposal is considered consistent with PDC 61.

The winery will generate very low traffic volumes and therefore not generate traffic beyond the capacity of the unsealed road. Also, this very low increase in traffic volumes on Woodlands Road will retain the low traffic volume of this road and therefore not result in a significant increase in traffic noise. The proposal will therefore not alter the character and amenity of the locality. Based on the proposal documentation, the winery will not operate outside of the EPA Noise Policy "daytime hours" (7am to 10pm), even during the vintage period. Given this is a rural industry environment, the noise levels detailed in the PDC 62 are lower than what would be deemed appropriate for this locality. Irrespective, these noise levels should not be exceeded at the nearest neighbouring dwelling. The proposal is considered consistent with PDC 62.

#### Cellar door sales outlets

The cellar door will be established on the same allotment as a winery and vineyard. The cellar door will sell wine produced on the site and the gross leasable area does not exceed 250 square metres. The cellar door is not located on land with a slope greater than 1 in 5 or on land that is flood prone and the site is greater than 25 metres from a watercourse. The proposal is considered in accord with PDCs 67 and 69.

*Appearance of Land and Buildings*

Woodlands Road roughly follows a north-south ridgeline running approximately 1.5km from Maidment Road to Burford Hills Road. The elevations along this ridgeline vary from approximately 440 – 490m AHD. The site is considered to be located adjacent to this ridgeline, sitting east of Woodlands Road.

Some analysis has been given to determine how pronounced the development may be along the ridgeline. Calculations indicate that the proposed cellar door with a FFL of 456.4 will have a total building height (roof line) of 460.70m AHD. The two winery sheds with a FFL of 456.2m AHD will have a total building height of 463.17m AHD (northern building) and 463.6m AHD (southern building) respectively.

Although the proposal is located adjacent to the ridgeline running between Maidment Road and Burford Hills Road, it is noted that at its highest point of the built form (the roof line of the southern winery building measured at 463.6m AHD) will sit well below the highest elevation of the subject ridgeline, which reaches up to heights of approximately 490m AHD, particularly to the south. This equates to a vertical difference of some 25 metres.

This illustrates in practical terms that the proposed winery buildings will be largely obscured by the higher levels of the ridgeline when approaching the site from the south along Woodlands Road. As such the buildings forming this proposal are likely to be visually unobtrusive from this orientation, minimising their impact within the locality.

The proposed buildings will be visible and affect views from residential properties to the north (between the site and Burford Hills Road) and when approaching from the north along Woodlands Road or Burford Hills Road. This is due to the site being above the northern portions of the ridgeline. However, it is considered that this will be offset by the fact that the cellar door will be the most prominent structure when viewed from this orientation. It is noted that the cellar door is of a low profile design, aided by the skillion roof, lateral emphasis and material selection. This will ensure that the rural character is not unreasonably impacted, with the cellar door giving the appearance of an architecturally designed residential building, as opposed to a more commercial style building. Further, the cellar door will assist in breaking up the mass of the larger winery buildings to the south.

Wider impacts of the siting of the proposal have also been considered, in particular views of the buildings from the east and west. To the east, views of the site are likely to be restricted to the dozen or so homes located in the valley between Mount Torrens and the subject site. Of these the closest four are located between 800 metres and 1.2kms from the proposed buildings. This sightline distance is considered sufficient to minimise the visual impact of the cellar door and winery buildings within the landscape. The 'Porter Scrub' to the west of the site, which reaches the 480-490m AHD range will provide a distant natural backdrop.

To the west, views of the site from residential properties will be limited or obscured by the Woodlands Road ridgeline and existing vegetation. Further, landscaping proposed to be retained on the site as part of the application will further reduce the visual impact of the buildings within the landscape when viewed from this orientation.

In addition, the residential properties west of the subject site, that are situated at a higher AHD, are likely to view the buildings within a rural backdrop, with the proposed roof lines of all three buildings anticipated to sit below the horizon (when viewed from the higher elevations), minimising their impact to the natural character. This is not to suggest that buildings will not be visible, but more to highlight that their location and design has had regard to the topographic characteristics and this is likely to result in a development that reasonably integrates within the rural setting, retaining the rural character whilst ensuring the amenity of adjoining landowners and visitors to the area is not detrimentally impacted.

As such, although the location of the proposal may not fully accord with parts of PDC 1 and 2 of the Zone on account of its location, it is considered that on balance the visual impact of the proposal will be reasonable in the context of the locality, in part due to siting and design considerations but also due to the favourable influence of natural features and vegetation within the broader locality.

#### Conservation

No native vegetation is proposed to be removed as a consequence of the proposal and the development is sufficiently setback from watercourses, bores and a dam to ensure the conservation of these features. The proposal is consistent with PDCs 28, 29, 31, 32 and 36.

#### Summary

Accordingly, the proposed cellar door and winery and the additional components of this proposal are considered to be of a desirable form and function to meet the Objectives and PDCs of the Zone. The proposal both maintains the existing primary production related land use and increases the economic base of the operation through the addition of the cellar door and winery facilities, whilst also maintaining the natural resources and character of the Mount Lofty Ranges Watershed.

#### *b) Council Wide provisions*

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

- *Orderly and economic development*
- *Development that does not undermine the objectives of the zone and policy area*
- *Development that protects the rural character and amenity of the locality*
- *Safe and convenient traffic movements*
- *Retention, protection and restoration of the natural resources and environment, including South Australia's surface waters, including inland and underground waters.*
- *Minimal disturbance and modification of the natural landform and the protection of the scenic qualities of natural and rural landscapes.*
- *Provision of increased employment opportunities, protection of primary production land and encouragement of sensitive tourism developments*
- *Environmentally sustainable and innovative tourism development that sustains or enhances the local character, visual amenity and appeal of the area*

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

Design and Appearance

Objectives: 1

PDCs: 1 & 9

The proposed cellar door building is considered to be of a high design standard. The design features some detailing and articulation, with eaves and window screens on the northern and western elevations.

The winery buildings are 'shed' buildings with little articulation or design interest, but they serve a practical purpose and therefore the desire to achieve a high design standard is considered less applicable to these buildings. The proposal includes two winery buildings attached by a canopy. Rather than proposing one large building, the separation of these buildings breaks up the building mass. Whilst the winery buildings are tall structures with a wall height of 5.3 metres and an overall height of 6.8 metres these buildings require such a height for practical purposes to allow for sufficient space for fermentation tanks, racked barrel storage and ancillary wine storage. Greater height allows for more vertical storage and minimises the floor area of the buildings.

The roof forms are considered suitable. The winery buildings are proposed to have a minimal pitch of 10 degrees and the cellar door a skillion roof form with a 3 degree roof pitch. The cellar door is quite low profile with a maximum overall height of 4.3 metres. Given PDC 1 indicates a desire to incorporate contemporary design and the endeavour for buildings to be low profile, the skillion roof form is considered appropriate. The cellar door is to be clad in Colorbond Metallic Aires which is a metallic reddish-brown colour. This is a strong colour and is therefore not considered to be a soft, natural tone that will blend in well with the natural landscape. However, given the low-profile nature of the building, the large sections of glazing, the skillion roof form and that the building will contrast with the larger dark grey winery buildings (Woodland Grey Colorbond), this selection is supported. The buildings are considered to reflect the desired character of the locality and the cellar door building incorporates contemporary design. The proposal is considered sufficiently consistent with Objective 1 and PDC 1.

The proposed development has been sited on a less undulating part of this subject land at a ridge top in an endeavour to reduce the extent of earthworks required, minimise loss of vineyard and to be sited well away from natural features. As mentioned, up to 3.7m of excavation and 2.6m of fill is required to create the benched area for the buildings, carpark and effluent disposal area. However the development does not minimise the alteration to the existing land form as the various areas could be stepped to minimise the alteration to the land form. The grassed area (accommodating the effluent irrigation area) to the north of the cellar door also could have been stepped down to reduce the extent of fill in this area, as could have the southern winery building. This building could have been stepped down on a lower floor level than the northern winery building. Nevertheless the deep excavation assists in reducing the visual impact of the buildings on the character of the locality. The extensive earthworks provide an important function with respect to creating level areas for rainwater storage, appropriate grading for car parking/driveway areas,

effluent irrigation, disability access and generally sufficient benched areas for the proposed buildings and their curtilage. It is noted that it is much more practical for the winery buildings and central loading canopy to be on the one level for forklift movements and general access. Landscaping will soften the appearance of these filled areas and once established this modification of the land form will be less notable. The establishment of the landscaping is included in recommended condition 2. As mentioned, the siting of the buildings in this location is reasonable but the proposal is still considered to be partly contrary to PDC 9.

#### Energy Efficiency

Objectives: 1

PDCs: 1 & 2

The cellar door has been designed to maximise views over the site and valley and to provide for efficient solar access. The cellar door has large windows on the north and east elevations and incorporate screening to windows on the western elevation. The proposal is sufficiently consistent with Objective 1 and PDCs 1 & 2.

#### Hazards

Objectives: 1, 2, 5 & 10

PDCs: 1, 6, 8 & 11

The proposed development is located in a relatively clear area of the site, with only a few trees and is therefore not located near any clusters or large stands of hazardous vegetation. The building designs with simple roof forms are such that it will not trap debris. As the site is accessed via an all-weather road and the driveway and manoeuvring areas have a minor gradient the access to the site is considered to be suitable. As discussed above, the large benched area creates ample space for heavy vehicles to manoeuvre on the western side of the winery buildings, including CFS appliances if required. The proposal is considered to be sufficiently consistent with Objectives 1 & 2, 5 & 10 and PDCs 1, 6, 8 & 11.

#### Industrial Development

Objectives: 2

PDCs: 6, 11 & 12

The proposal is for a small scale winery in rural area, in accordance with Objective 2. Excluding the vintage period the hours of operation will be limited to Monday to Friday 7.30am to 5pm. In all cases the hours of operation are limited to within daytime hours. These hours of operation of the winery area are considered appropriate for a rural environment. Traffic generation and odour generated by the winery have been discussed in the Zone assessment. The proposal accords with PDC 6.

PDCs 11 and 12 are largely a repeat of Zone provisions relating to winery and other similar industries. As mentioned, the winery is 50 metres from watercourses, located on a single allotment and should not necessitate the upgrading of public infrastructure, including roads and other utilities. The proposal does not utilise existing buildings on the site, but it is understood that these buildings are used as horticultural buildings related to the operation of the vineyard. The proposal seeks to

minimise adverse impacts on adjoining uses in relation to hours of operation, traffic, noise, material and colour selection or other harmful or nuisance-creating impacts. The proposal is sufficiently consistent with PDCs 11 and 12.

#### Interface Between Land Uses

Objectives: 1

PDCs: 1, 7, 8, 9 & 10

As mentioned, the development has been designed and located to minimise adverse impact and conflict between land uses. The siting of the winery is at least 265 metres from the nearest dwelling. It is noted that some representors have suggested the north-east corner of the site as a more appropriate site for the development. This would place the winery and cellar door in much closer proximity to two other dwellings. Other potential sites would be too close to natural resources (i.e., watercourse and/or native vegetation). Given this is rural area, the uses are envisaged within this environment provided amenity and environmental impacts are managed.

The development should not detrimentally affect the amenity of the locality or cause unreasonable interference through any of the following:

#### *Odour*

As detailed in the Zone assessment, the wastewater is to be held within a sealed holding tank and provided the aerator is properly maintained any odour should be managed. The marc will be spread over a large vineyard area and therefore any odour would be minimal. The domestic wastewater irrigation area should not result in odour issues to adjacent residences.

#### *Noise*

Noise impact has largely been assessed in the Zone assessment for the winery use. The cellar door proposed very modest hours of operation, namely Thursday to Sunday 11am to 4pm. The proposal includes 10 ancillary special events per year which will cease at midnight. Given the infrequent nature of these events it is not considered that noise impact from these events is unreasonable. Whilst the nature or type of entertainment and whether it will be restricted to indoors has not been specified, the noise levels will still be required to comply with the Environment Protection (Noise) Policy as conditioned. Without an acoustic report the proposal's consistency with PDCs 7, 8 and 10 relating to noise levels above the level of background noise for existing residential properties and whether there is a need for noise attenuation measure cannot be categorically determined. However, due to the separation distance between the proposed uses and the adjacent dwellings, the levels detailed in the Environment Protection (Noise) Policy should not be exceeded. The proposal is considered to be sufficiently consistent with PDC 9.

#### *Glare*

The material selections of all the buildings are pre-colour treated and therefore the buildings should not be reflective or result in glare impact to adjacent dwellings. Once the landscaping and trees around the site are established this will assist in softening the metallic Colorbond cladding on the cellar door.

### *Hours of operation*

As detailed above, the hours of operation are considered to be appropriate.

### *Traffic impacts*

As detailed above, the proposal will not result in significant increases in traffic generation that would result in a change to the nature of Woodlands Road. This low increase will not detrimentally affect the amenity or character of this locality.

### *Stormwater drainage or runoff*

Stormwater is appropriately managed for the proposal. There are a series of sumps proposed within the car park and manoeuvring area and roof stormwater runoff will be directed to tanks with any overflows directed to a swale of significant length (approximately 170m) before reaching the watercourse.

The proposal is considered to be consistent with Objective 1 and PDC 1.

### Natural Resources

Objectives: 1, 5, 6, 8, 10, 13 & 14

PDCs: 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 21, 22, 23, 24, 35 & 38

The proposal includes the capture and re-use of stormwater within the winery. The proposed winery will not use bore or dam water and therefore will not result in the unsustainable use of surface or underground water resources. As mentioned, the proposal is adequately setback from watercourses.

The bunded winery buildings will create a sealed system to capture any spills and will ensure water quality is not compromised. Also, the domestic wastewater system has been designed with the irrigation area on a mild slope. The car park will be a permeable surface that will minimise runoff. The swale will assist in treating the stormwater runoff before this water enters the watercourse on the site.

The proposal is located away from native vegetation and will not result in the removal of native vegetation. As previously assessed, the proposal will sufficiently protect scenic qualities and conserve the character and scenic amenity of an area.

The proposal is considered to be sufficiently consistent with the pertinent Natural Resources Objectives and PDCs.

### Orderly and Sustainable Development

Objectives: 1 & 4

PDCs: 1, 2, 3 & 16

The proposal is considered to be an orderly and economic development and is not a form of development that will prejudice the achievement of the provisions of the Watershed (Primary Production) Zone and the Development Plan Council Wide provisions. The proposal is for development that is envisaged within the Zone as associated uses that value add to primary production. The proposal will contribute to the expansion of the economic base of the region in a sustainable manner. The proposal is considered to be sufficiently consistent with Objectives 1 & 4 and PDCs 1, 2, 3 & 16.

### Siting and Visibility

Objectives: 1

PDCs: 1, 2, 3, 4, 5, 6, 7, 8, 9 & 10

The siting and visibility is largely a repeat of the Zone provisions relating to these matters. The buildings have been sited high up on a ridgeline, not within a valley and will not be below the road level, but should not skyline from most views within the locality. The benched area is also predominantly an excavated site rather than a filled site to reduce the vertical profile of the buildings. The material and colour selections are also considered to be appropriate for the landscape. The proposal is sufficiently consistent with PDCs 1 and 2 and partly consistent with PDC 3.

Excavation and fill will be in excess of 1.5 metres, but these earthworks will create a levelled benched area for the buildings to be clustered and the excavation will reduce the visual impact of these buildings. The slopes of the filled area will be stabilised within landscaping, which will also reduce the visual impact of this filled area once established. The proposal is partly consistent with PDC 4, and will achieve consistency with PDC 5 once the landscaping on the scree/filled slopes are established. As mentioned earlier in the report, the proposal design and location will not detract from the rural character of the landscape, in accord with PDCs 6, 7 and 8.

### Sloping land

Objectives: 1

PDCs: 1, 2, 3, 4, 5, 6 & 7

The slope of the site does not exceed 1 in 4. The large benched area does not integrate with the topography, but is not greater than what is necessary, allows for the buildings to be clustered and achieves the practical needs of the winery. It will be softened with the addition of landscaping. Refer recommended condition 2 which requires a landscaping plan to be prepared and submitted prior to building rules consent being granted. The driveway into the site follows the natural contours of the land. The effluent irrigation area is to be located on a modified/filled grassed area that will have a mild slope. The proposal is not consistent with PDC 1, but is considered to be sufficiently consistent with Objective 1 and PDCs 2, 4, 5, 6 and 7.

### Transportation and access

Objectives: 2

PDCs: 8, 15, 25, 26, 32, 35 & 36

It is considered that the proposal provides for safe and convenient access for all vehicles that would visit the site. The design of the new crossover, car parking and manoeuvring areas has been assessed by a traffic engineer and compliance with the Australian Standard 2890 has been confirmed. The car park, manoeuvring and driveway areas are all weather and the permanent car parks (not overflow parks) will be required to be delineated. Council Engineering support the new access point proposed and as mentioned the traffic engineering report supplied confirms appropriate sightlines for this access point. The car park will be at the same level as the cellar door and therefore the development achieves convenient pedestrian

linkages and will achieve appropriate disability access (note, this will be considered as a building rules assessment matter).

As the cellar door will have a capacity of 75 persons, the highest case car parking demand/requirement for licensed premises (1 per 3 seats/persons) is considered to be 25 spaces. Noting the Development Plan considers a cellar door and shop to be similar in nature, the only difference being if there is a winery on the site, a shop rate could also be applied. Based on the nature of this cellar door (capacity and hours of operation) this rate is considered to be more suitable. For a shop the rate is significantly less (5.5 per 100m<sup>2</sup>), resulting in a need for 13 spaces. The winery use would also generate a theoretical car parking demand of 9 spaces. Therefore, the proposed car park with 26 spaces and the bus bay for the 10 special events per year is considered appropriate. Even though the special events have also been proposed to be restricted to 75 persons, an overflow car parking area has also been designated. The proposal is considered to be sufficiently consistent with Objective 1 and PDCs 8, 15, 25, 26, 32, 35 and 36.

#### Waste

Objectives: 1 & 2

PDCs: 1, 2, 3, 4, 5, 7, 11, 12, 13 & 18

Development assessment can have very little control of waste production and to ensure it is minimised. However, the effluent management is controlled and any waste will need to be storage in waste bins in a secure and screened located until collected and taken off-site (see recommended condition 17). Trade waste and domestic wastewater will be appropriately managed and complying with the public and environmental health legislation. As mentioned, the EPA supports the trade waste system and pre-approval has been achieved for the on-site waste control systems.

## **7. SUMMARY & CONCLUSION**

The proposal is for cellar door and small-scale winery, both envisaged uses within the Watershed (Primary Production) Zone. The development will value add to the primary production activities that already occur on the site and increase the economic base of the region.

The natural resources on the site, adjacent land and the region will not be compromised by the proposed development. The trade and domestic wastewater systems comply with the public and environmental health legislation and have support of the EPA and the Council Environmental Health Team. The winery buildings have also been designed to ensure any liquid spills are captured and directed to the holding tank.

Whilst the proposed development is located high up on a ridge line, the subject site allows these buildings to be grouped together, allows existing sheds to be retained for horticultural storage, minimises loss of vineyard area and achieves appropriate setbacks from natural features. The proposed buildings are also sited predominantly on an excavated site, setback appropriately from the roadway and the material selections are acceptable.

The proposed site also allows the winery and cellar door to be well setback from adjacent dwellings therefore minimising amenity impacts to adjacent residential properties. The potential external and amenity impacts relating to odour, wastewater generation, glare, stormwater runoff and noise have been appropriately managed. The hours of operation are also considered modest and the number of ancillary events with extended hours is considered appropriate. The proposed

development features sufficient on-site car parking and will not result in significant increases to traffic generation on Woodlands Road.

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 18/310/473 by Steven Hooper for Mixed use development comprising a cellar door (75 person capacity), including ancillary special events (maximum of 10 per calendar year), winery (50 tonne crush per annum) consisting of two winery buildings with an attached canopy, in association with existing vineyard, water storage tanks (3 x 22,500 litre), car park, retaining wall (maximum height 750mm) and earthworks at 11 Woodlands Road Kenton Valley 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:

- Plans prepared by Skein Architects for Nova Vita Wines (Project No 18001NOVA) received by Council 26 September 2018:
- Location Plan(Dwg No SK00 Rev 3, dated September 2018)
- Site Plan(Dwg No SK01 Rev 3, dated September 2018)
- Cellar Door Ground Floor Plan & Shed Ground Floor Plan(Dwg No SK02 Rev 3, dated September 2018)
- Roof Plan(Dwg No SK03 Rev 3, dated September 2018)
- Elevation Plans (Dwg No SK04 Rev 3, dated September 2018)
- Site Plan (Dwg No SK01 Rev 3, dated September 2018)
- Landscape Site Sections Plan (Dwg No SK0 Rev 2, dated May 2018)
- Site Plan(Dwg No SK01 Rev 3, dated September 2018)
- Concept Design Plans and Information (May 2018 Rev C) received by Council 26 September 2018

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

### (2) Prior to Building Rules Consent Being Granted - Requirement For Landscaping Plan

Prior to Building Rules Consent being granted, a detailed landscaping plan prepared by a suitably qualified professional, shall be prepared to Council's satisfaction.

Landscaping detailed in the plan shall be of suitable species.

**REASON:** To maintain and enhance the visual amenity of the locality in which the subject land is situated. To soften the appearance of the metallic reddish-brown cellar door building, the car park, battered slopes and generally the site of the development.

**(3) Timeframe For Landscaping To Be Planted**

**Landscaping detailed in the Landscaping Plan required by Condition 2 shall be planted in the planting season following occupation of the development and maintained in good health and condition at all times . Any such vegetation shall be replaced if and when it dies or becomes seriously diseased in the next planting season.**

**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 and comply with the requirements of Section 42(4) of the Development Act 1993.**

**(4) External Finishes**

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

**Winery Buildings:**

**WALLS: Colorbond Woodland Grey or similar**

**ROOF: Colorbond Woodland Grey or similar**

**Cellar door:**

**WALLS & ROOF: Colorbond Metallic Aries or similar**

**Water storage tanks: Colorbond Woodland Grey 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) Restriction On Number Of Special Events**

**The number of special events held in a calendar year shall not exceed ten (10). A register shall be kept of all special events held and made available to the Council on request.**

**Note that any increase in the number of functions will require a separate development approval.**

**REASON: To ensure the proposed development is undertaken in accordance with the approved plans, to minimise the developments impact on residential amenity and to ensure that water quality impacts are minimised.**

**(6) Restriction On Entertainment**

**Entertainment (live or amplified) associated with special events shall be restricted to within the cellar door after 7.00pm.**

**REASON: To minimise the amenity impacts resulting from noise to residential properties within the locality.**

**(7) Restriction of Capacity of the Cellar Door & Special Events**

The Cellar Door and the associated special events shall have a maximum capacity of 75 persons.

Note that any increase in the capacity of the cellar door or special events will require a separate development approval.

REASON: To ensure the proposed development is undertaken in accordance with the approved plans and to ensure the capacity of the of waste control system and car park areas is not exceeded.

**(8) Ancillary Food at the Cellar Door & Special Events**

Food may be provided at pre-booked special events. Individual meals may not be offered to patrons at other times, with the exception of light snacks, wood fired pizza and platters.

REASON: To ensure the development is consistent with the hereby approved application documents.

**(9) Opening Hours**

The hours of operation shall be:

- Cellar door - Thursday to Sunday 11.00am to 4.00pm
- Special events - Thursday to Sunday 11.00am to 12.00am
- Winery - Monday to Friday 7.30am to 5.00pm, and during vintage 7.30am to 7.30pm (any day of the week)

REASON: To ensure the development operates in accordance with the approval.

**(10) Restriction On Display/Sale Non-Beverage/Food Items**

A maximum area of 25m<sup>2</sup> shall be used for the display and sale of any non-beverage or non-food item within the cellar door.

REASON: To ensure the tasting of wine and retail sale of wine are the predominant activities of the cellar door.

**(11) Noise Protection**

Noise within the habitable rooms (windows closed) of the adjacent residential properties shall not exceed 57 dB(A) between the 'day' hours of 10am to 10pm and 50 dB(A) between the 'night' hours of 10pm to 12am (midnight).

REASON: Noise emission that results from the development should not detrimentally affect the amenity of the adjacent residential properties and be in accordance with the Environment Protection (Noise) Policy 2007.

**(12) Car Parking Designed In Accordance With Australian Standard AS 2890.1:2004.**

All car parking spaces, driveways and manoeuvring areas shall be designed, constructed, and line-marked or delineated in accordance with Australian Standard AS 2890.1:2004. Line marking or delineation and directional arrows shall be clearly visible and maintained in good condition at all times. Driveways, vehicle manoeuvring and parking areas shall be constructed of compacted gravel or a similar all-weather surface prior to occupation of the Cellar Door and shall be maintained in good condition at all times to the reasonable satisfaction of the Council.

**REASON:** To provide adequate, safe and efficient off-street parking for users of the development.

**(13) Car Parking and Manoeuvring Area Drainage**

The car parking and manoeuvring area of service vehicles shall be constructed in accordance with the updated civil plan.

The car park surface shall be graded to ensure surface water drains to the grated sumps.

The sumps, pipework, swale and other stormwater infrastructure of surface water management shall be installed within one (1) month of the car park surface being installed.

**REASON:** To ensure stormwater runoff is appropriately managed and water quality is maintained.

**(14) EPA Holding Tank Requirements**

- The winery holding tank must be minimum 9000L and wastewater grade product.
- The holding tank must be situated to enable pump out vehicle ease of access and connection to the tank.
- The holding tank must be fitted with audible and visual alarm with muting facility in a conspicuous position at the site to warn the holding tank requires pumping out within 24 hours.
- The contents of the holding tank must be collected by a licensed wastewater transported under Environment Protection Act 1993 and disposed of at a waste disposal facility in accordance with the waste transporter's license conditions.

**REASON:** To ensure the winery/trade waste control system does not fail and to ensure water quality impacts are minimised.

**(15) Installation of Waste Control System**

The trade and domestic waste control systems shall be installed prior to occupation and operation of the both the winery and cellar door.

**REASON:** To ensure the waste control system does not fail and water quality impacts are minimised.

**(16) Winery Bund**

Prior to the commencement of the winery operations, the bunds, drains, sumps and pipework must be constructed/installed and connected up to the winery holding tank.

**REASON:** To ensure the proposed development does not detrimentally impact the environment.

**(17) Capacity of Bund**

The winery buildings shall be banded with an impervious material that has a total storage capacity equivalent to at least 120% of the largest container within the banded areas.

**REASON:** Development should minimise the risk of pollution of water catchment areas.

**(18) Commercial Lighting**

Flood lighting shall be restricted to that necessary for security purposes only and shall be directed and shielded in such a manner as to not cause nuisance to adjacent properties.

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

**(19) Unloading And Storage Of Materials And Goods**

All materials and goods for the winery shall at all times be unloaded and loaded under the winery building canopy. All materials and goods for the cellar door shall at all times be loaded and unloaded within the confines of the subject land. Materials and goods shall not be stored on the land in areas delineated for use as car parking.

**REASON:** To provide safe and efficient movement of people and goods.

**(20) Storage And Removal Of Solid Waste**

All waste shall be stored in a secure and screened location to not be highly visible from Woodlands Road. All general waste shall be collected at least weekly.

**REASON:** To maintain the amenity of the locality and minimise water quality impacts from solid waste.

**(21) Winery Waste- Marc & Grape Stalks**

Marc and grape stalks shall be stored in sealed containers or on an impervious surface within the winery building with drainage into the waste control system until completely drained and dried out. Once dried out, this solid waste can be spread over the vineyard or in the case of the stalks could be used as stock feed.

**REASON:** To reduce the risk of off-site odour and maintain the amenity of the locality.

**(22) Treatment To Excavations And Fill**

All exposed excavations and fill as shown on the approved civil plan shall be:

- a) rounded off and battered to match and blend with the natural contours of the land;
- b) covered with approximately 100mm of topsoil;
- c) seeded to avoid erosion and visual concerns ; and
- d) screened with trees, shrubs and ground covers

prior to occupation of the approved development to the reasonable satisfaction of Council.

**REASON:** To maintain the visual amenity of the locality in which the subject land is located.

**(23) 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.

**(24) Prior to Building Rules Consent Being Granted - Requirement for Soil Erosion And Drainage Management Plan (SEDMP)**

Prior to Building Rules Consent being granted the applicant shall prepare and submit to Council a Soil Erosion and Drainage Management Plan (SEDMP) for the site for Council's approval. The SEDMP shall comprise:-

- a major drainage plan
- a site plan
- supporting report
- calculations
- design sketches with details of erosion control methods that will prevent:
  - a) soil moving off the site during periods of rainfall and detail installation of sediment collection devices to prevent the export and sediment from the site; and
  - b) erosion and deposition of soil moving into the remaining native vegetation below the house site; and
  - c) soil moving into watercourses during periods of rainfall; and
  - d) soil transfer onto roadways by vehicles and machinery

The works contained in the approved SEDMP shall be implemented prior to construction commencing and maintained to the reasonable satisfaction of Council during the construction period.

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

**(25) Prior To Building Rules Consent - Civil Plan To Be Updated**

Prior to Building Rules Consent being granted, the civil and stormwater plan prepared by Triaxial Consulting shall be amended for Council's review and approval. The amended plan shall address the following:

- The submitted civil plan does not show the unsealed pavement (gravel surface) over the whole of the car park and driveway. The whole car park and driveway is required to be an all-weather surface

- **The civil plan will need to be updated to be consistent with the amendments made to the architectural plans**

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

**(26) 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 and in accordance with the approved civil and stormwater plan prepared by Triaxial Consulting.

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

**(27) 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 or as surfaced crossover with a drainage depression to the satisfaction of Council within 3 months of occupation/use of the development.

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

**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) 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.

**(4) DEWNR 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) Works On Boundary**

The development herein approved involves work near 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.

**(6) Compliance with Food Act SA 2001**

This approval under the Development Act 1993 does not in any way imply compliance with the Food Act SA 2001 and/or Food Safety Standards. It is the responsibility of the owner of other person operating the food business from the building to ensure compliance with the relevant legislation before opening the food business on the site.

**(7) Food Handling Notification**

Food business notification must be provided prior to commencing any food (or consumable product) handling activities. This may be provided on-line at [www.fbn.sa.gov.au](http://www.fbn.sa.gov.au) or by obtaining a notification form from Adelaide Hills Council.

**9. ATTACHMENTS**

Locality Plan  
Proposal Plans  
Application Information  
Applicant's Professional Reports  
Referral Responses  
Representations  
Applicant's response to representations  
Publically Notified Plans

Respectfully submitted

Concurrence

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**Sam Clements**  
Team Leader Statutory Planning

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**Deryn Atkinson**  
Manager Development Services

**COUNCIL ASSESSMENT PANEL MEETING**  
**10 October 2018**  
**AGENDA – ITEM 8.3**

<b>Applicant:</b> Shire Homes	<b>Landowner:</b> S G Seppelt
<b>Agent:</b> N/A	<b>Ward:</b> Onkaparinga Valley Ward
<b>Development Application:</b> 18/6/473	<b>Originating Officer:</b> Susan Hadley
<b>Application Description:</b> Two storey dwelling, attached deck (maximum height 2.4m), carport (freestanding) & associated earthworks	
<b>Subject Land:</b> Lot:4 Sec: P4208 CP:40917 CT:6192/178	<b>General Location:</b> 4/ 11 Junction Road Balhannah  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 24 October 2017 <b>Map</b> AdHi/20 & AdHi/61	<b>Zone/Policy Area:</b> Township Zone - Township (Balhannah) Policy Area
<b>Form of Development:</b> Merit	<b>Site Area:</b> 689m <sup>2</sup>
<b>Public Notice Category:</b> Category 2 Merit	<b>Representations Received:</b> 9  <b>Representations to be Heard:</b> 7

**1. EXECUTIVE SUMMARY**

This application seeks Development Plan Consent for a two storey dwelling with a deck, a freestanding carport and associated earthworks.

The subject land is located within the Township Zone - Township (Balhannah) Policy Area and the proposal is a merit form of development. Nine representations were received during the Category 2 public notification period. Of the representations received two were in support and the other representations were conditional support should their concerns be overcome.

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

The main issues relating to the proposal are overshadowing of the dwellings on the property to the south due to the proposed height of the dwelling and setbacks from the adjoining boundaries.

Council sought amendments to the proposal to reduce the overall impact of the development and whilst the amended plans address some of the concerns raised by planning staff, it is considered that the overshadowing impact created by the proposal on the private open space of the dwellings to the south is significant.

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 in its current form be **REFUSED**:

**2. DESCRIPTION OF THE PROPOSAL**

The proposal is for the following:

- a two storey dwelling with an attached deck and alfresco (maximum height 2.4 metres)
- a freestanding carport
- associated earthworks

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Attachment – Application Information**.

### 3. BACKGROUND AND HISTORY

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
February 22, 2016	15/C43/473	Council approved community title land division (1 into 4)

Council raised concerns with the applicant when the proposal was initially lodged citing elements of the proposal that were at variance with the Development Plan. Those concerns primarily included the following:

- Impacts on the amenity of adjoining dwellings as a result of reduced setbacks from side boundaries.
- General scale of the proposal resulting in a finished floor level approximately 900 millimetres above the finished floor level of the adjacent dwelling to the north and 1.9 metres above the finished floor level of the adjacent dwellings to the south.
- The potential amenity impacts to retirement village units located on adjoining land to the south from overshadowing due to the height of the proposed dwelling.

During the assessment process and prior to public notification, the applicant provided amended plans detailing fixed horizontal screens to the outdoor alfresco area on the northern side of the proposed dwelling and also to the courtyard on the southern side of the dwelling and the southern end of the verandah at the rear of the dwelling. The garage along the adjoining northern boundary was deleted from the proposal with a freestanding carport proposed in the south western corner of the allotment. The amendments to the design reduced the extent of the dwelling along the northern boundary but with the alfresco area and access ramp from the deck extending to the boundary.

The applicant also provided shadow diagrams in response to concerns regarding overshadowing and these are provided in **Attachment – Proposal Plans and Information**.

The original plans are included in the attachments for reference as *Attachment – Original Proposal Plans and information*.

### 4. REFERRAL RESPONSES

No referrals were required for this application.

### 5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with procedural matters for the Zone requiring formal public notification to the neighbours due to the combined height of the retaining wall and fence as well as the height of the deck, located on the northern boundary, which exceeds 1 metre above natural ground level.

Nine (9) representations were received during the public notification period. Of these representations two (2) are in support of the proposal and seven (8) are conditional support if their concerns can be overcome. All were from adjoining properties.

As Council is the owner of the retirement village adjoining the subject land to the south, Council's Property Manager also consulted with the tenants of the retirement village units regarding the proposal. Those tenants have signed the public notification pro-forma from Council supporting Council's Property Services submission. The tenants have nominated to be heard in support of their concerns by Natalie Westover, Manager of Council's Property Services Section.

During the period of public notification, the landowner of the subject land also consulted the owners/occupiers of adjacent land, providing them with a pre-written submission in support of their proposal for signing. These submissions were lodged with Council during the public notification period by the owner of the subject land and not directly from neighbouring owners or occupiers. However four of these submissions were from representors who also made direct submissions to the Council, and one was from an additional neighbour who did not make a direct submission to the Council. Thus there are a combined total of nine representations.

The following representors wish to be heard:

<b>Name of Representor</b>	<b>Representor's Property Address</b>	<b>Nominated Speaker</b>
Adelaide Hills Council	13 Junction Road, Balhannah	Natalie Westover
Dorothy Stone	1/13 Junction Road, Balhannah	Natalie Westover
Margaret Jackson	2/13 Junction Road, Balhannah	Natalie Westover
Dawn Bradbrook	3/13 Junction Road, Balhannah	Natalie Westover
Barbara Hughes	4/13 Junction Road, Balhannah	Natalie Westover
Jean Barnes	5/13 Junction Road, Balhannah	Natalie Westover
James Hasketh	6/13 Junction Road, Balhannah	Natalie Westover

The applicant and the landowners will be in attendance.

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

- Impacts on the amenity of the adjacent retirement village units as a result of overshadowing of private open spaces and internal living areas
- Setback distances from side boundaries
- Amenity impacts from noise projected from outdoor spaces in close proximity to adjoining private open spaces of adjacent dwellings
- Potential overlooking issues due to the finished floor level of the proposed dwelling being elevated above those of the neighbouring properties

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:

i. The Site’s Physical Characteristics

The subject land is a vacant allotment of 706m<sup>2</sup> in area within a community title development. The allotment is a conventional rectangular shape with a depth of approximately 46 metres and a width of approximately 15.30 metres. The topography of the subject land drops approximately 3 metres across the length of the allotment falling towards the east. Access to the allotment is via a common property driveway from Junction Road that is shared with three other dwellings which have recently been constructed within the development.

ii. The Surrounding Area

The subject land is located in Balhannah on the eastern side of Junction Road within an area that is predominantly residential, only a short walk north of the town centre of Balhannah. Junction Road is a primary arterial road.

For purposes of this assessment a locality has been defined which is included in the Attachments as Defined Locality.

The locality is one which is undergoing a change in density with smaller allotments being created through land division. Allotments within the locality range in size from approximately 500m<sup>2</sup> up to 2400m<sup>2</sup> and support land uses comprising detached dwellings, group dwellings and residential flat buildings. Land adjacent on the western side of Junction Road comprises detached dwellings, a church and associated cemetery whilst, the land to the rear of the subject land is a Council reserve which provides open space to support the local area. Junction Creek traverses through the reserve in a northerly direction.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

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

- *A zone primarily accommodating residential development with an increased mix in the range of dwellings to accommodate the changing demographics with smaller household sizes and supported accommodation.*
- *Development that contributes to the desired character of the policy area.*

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

*Objectives: 1 and 2*

*PDCs: 1 and 2*

The Policy Area generally comprises low density residential land uses with medium density residential development occurring where it is compatible in scale and design with the surrounding development located on smaller allotments. Balhannah East contains generally modern residential development with predominantly single storey, detached dwellings. The proposal is for an elevated dwelling with under floor storage, giving the building a two storey form at the rear. Whilst the proposal accords with Objective 1, due to the height of the dwelling at the rear, the proposal is not consistent with surrounding single storey development and therefore at variance with Objective 2 of the Policy Area.

The subject land is the last remaining allotment to be developed within the community title development where a consistent style of development has occurred on each of the established allotments. Each of the dwellings developed on those allotments are single storey dwellings with brick veneer or rendered walls and a Colorbond roof. The proposed dwelling varies in style from existing development in terms of the proposed external wall materials and colours. Whilst the proposal is not consistent with the character of dwellings in the immediate locality, it is recognised that the subject land is well setback behind other dwellings and not directly visible from within the public realm and for this reason, the variation to the external cladding material is unlikely to have a negative impact on the desired character for the Policy Area. However, the proposed roof material is the lightest colour within the Colorbond® range and likely to result in glare. Given the close proximity to other dwellings within the locality, it was suggested that a lighter shade of grey may have less impact. However, the applicant did not wish to change the proposed colour. Notwithstanding this observation, the proposal is considered to be somewhat inconsistent with the desired character for the policy area and not designed in sympathy with existing development. It is therefore considered to be at variance with PDC 1 and 2 of the Policy Area.

The following are considered to be the relevant Zone provisions:

*Objectives: 1, 3 and 5*

*PDCs: 1, 3, 4, 5, 6, 7, 9(a), (c), (d) and (e)*

#### *Desired Character*

The desired character for the Township Zone recognises that dwellings will vary in style and design whilst establishing a reasonably consistent pattern of built form. Smaller allotments may be considered appropriate where the existing character of the locality is retained and external impacts are managed effectively. As previously discussed the proposed dwelling is a different style and design to the existing dwellings in the immediate locality which accords with the above statement '*that dwellings will vary in style and design*'. However, it could not be considered to conform to represent a reasonably consistent pattern of built form. The proposed built form is an elevated style that will result in the dwelling being significantly prominent at the rear, in comparison with adjacent dwellings to the immediate north and south. The development proposes a finished floor level which would sit 2.5 metres above natural ground level at the rear and approximately 680 mm above the natural ground level at the front façade. Managing the external impacts as a result of the height difference is a complex issue as it is likely to create potential amenity

issues for adjacent dwellings particularly by overshadowing and overlooking from the rear balcony.

The policy of the zone seeks to retain the residential character and cites that two storey dwellings will only be developed where design solutions are implemented to reduce their visual impact and to address issues of solar access, overlooking and overshadowing. The proposed dwelling will present as a single storey dwelling within the front western elevation and a two storey dwelling within the rear eastern elevation. The floor layout comprises all living areas within the upper level with an enclosed room in the lower level at the rear of the dwelling. The elevated style of the dwelling will be visually prominent from the north and south. The wall height of 5.6m at a setback of 1.2m is likely to create issues for solar access into the private open space and internal living areas for two of the adjacent dwellings to the south from the impacts of overshadowing. This is particularly significant for unit 1/13 Junction Road which will have less than 2 hours of sunlight to the sole private open space of the unit during the winter solstice.

Council's Development Plan refers to reducing the issue of solar access and overshadowing. However, no standards of acceptable levels of overshadowing are specified. In the absence of prescriptive requirements within the Development Plan the publication Good Residential Design SA was reviewed to determine what is considered to be an unreasonable impairment of access to sunlight and significant overshadowing. It was found that the siting of a building is crucial to protecting neighbouring amenity and ensuring adequate daylight to dwellings and sunlight to private open space.

Element 4.4 makes reference to daylight standards for habitable rooms, citing *the levels of available daylight in this element are based on amenity and the ability to carry out activities inside habitable rooms of dwellings without the constant need for artificial light*. Performance Criteria contained in item 6 of 4.4 of Good Residential Design SA states that adequate daylight should be available within habitable rooms located adjacent to neighbouring properties with design techniques measuring those habitable rooms with a horizontal distance between any facing building and the face of the window, to have 0.9m between eaves. The proposed development achieves this design element by proposing a 1.2 metre setback from the southern boundary. The adjacent dwelling comprises a setback of approximately 2.9 metres from the same boundary. In consideration of the proposed and existing setbacks, the shadow diagrams provided and the performance criteria referred to, the proposal does not unreasonably prevent adequate daylight from entering the adjoining dwellings.

The other matter to be considered is whether adequate sunlight to private open space. Element 4.4 also refers to sunlight standards for private open space citing *In temperate and cooler climates a substantial proportion of dwellings in a subdivision should be designed to have good access to sunlight to private open space in the cooler months*. It is acknowledged that this may be difficult to achieve in some instances.

Performance Criteria contained in item 7 of 4.4 of Good Residential Design SA states buildings located in temperate and cool-temperate climatic zones should be sited and designed to ensure adequate winter sunlight is available to ground level private open space of adjacent existing dwellings. Design parameters suggest *sunlight to at least*

*50% (or 35m<sup>2</sup> with minimum dimension 2.5m, whichever is the lesser area) of the ground level private open space of existing adjacent properties is not reduced to less than two hours between 9.00am and 3.00pm on 21 June.*

In consideration of the shadow diagrams provided for 9.00am and 11.00am during the winter solstice it is apparent that the rear courtyard of unit 1/13 Junction Road will be impacted. Noting that this is the only private open space available for this property with approximate dimensions of 2.9 metres x 7.8 metres (less than 30m<sup>2</sup> in area), the time and degree of shadow cast upon the space suggest that the amount of sunlight lost as a result of the proposal will not meet the above parameters. In this regard the proposal is unreasonable and therefore considered to be significantly at variance with Council Wide provisions Design and Appearance PDC 2(b), 7(a) and (b) and 17(b).

The applicant has sought to address the potential for overlooking with the inclusion of a privacy screen adjacent the proposed outdoor living areas on both the northern and southern sides of the dwelling. While this shows intent to prevent overlooking the potential still exists for overlooking from the rear deck of the proposed dwelling directly into the adjacent private open space of unit 2 and unit 3/13 Junction Road which is immediately adjacent the rear of the proposed dwelling. Screening the entire rear verandah of the dwelling is not an ideal solution. However, partial screening along the rear of the verandah in the eastern elevation may assist to alleviate potential overlooking. If this is not an agreeable screening measure for the applicant, then perhaps landscape screening along the southern boundary may be possible where it will not result in loss of sunlight to the private open space of those adjacent dwellings.

Further to this, the desired character for the Zone seeks residential development in keeping with the form, scale, siting, materials and colours of existing buildings. As previously mentioned, the proposed dwelling is considered to be somewhat at variance with the Policy Area as it is not considered to have been designed in sympathy with existing development in regard to form, siting materials and colours. The above discussion highlights elements of the proposed design which are considered to be at variance with the desired character for the Zone. Whilst the proposed materials and colours are considered to suit the style of the proposed dwelling, they are not considered to be in keeping with existing buildings in the locality. The walls are proposed to be clad with 14mm BCG Nuline® painted white with a Surfmist Colorbond® roof being of a light colour scheme. A light colour scheme may be considered appropriate within the context of an urban environment. However, given the visual prominence and siting of the proposed development it may potentially further impact on the amenity of nearby adjacent dwellings through glare nuisance.

In consideration of the inconsistencies with the desired character statement discussed above, the proposed development is at variance with Zone Objective 5 .

#### Form of Development

The proposal is for a dwelling which is an envisaged form of development within the Township Zone and therefore it accords with Zone PDC 1.

Referring to previous discussion, the proposal is not considered to be consistent with the desired character for the Zone due to the two storey form, siting, overshadowing and overlooking created and the proposal is therefore at variance with PDC 3.

Zone PDC 5 prescribes parameters for development of dwellings which address boundary setbacks, site coverage, building height and on-site parking. It is noted that two storey dwellings are contemplated in certain circumstances within the zone. Whilst the dwelling is considered to be two storeys it is unlike a typical two storey building. However, it presents as two storey form with the storage room beneath the dwelling and in the proposed height at the rear.

The subject land is located within a community title development where the access road is private land that provides access only for the dwellings within the development. The allotment is located at the end of the access driveway and does not have public road frontage therefore the primary and secondary setback distances are not applied in this instance. A minimum of 2 on site car parking spaces are required which has been met with the inclusion of a double carport located adjacent the south western corner of the allotment. The carport is sited on the western boundary with a graduated setback from the southern boundary and considered to accord with zone PDC 7.

Side boundary setback parameters for dwellings are dependent upon the proposed wall height of the dwelling and being 1 metre for walls with a maximum height of 3 metres and 2 metres for walls with a maximum height of 6 metres. The proposed dwelling comprises 2.7 metre walls in the front elevation with the rear of the dwelling comprising an overall 5.6 metre wall height. A setback of 1.2 metres is proposed from the southern boundary with varying setbacks proposed from the northern boundary. The development proposes a 1.06 metres setback from the northern boundary for the front half of the dwelling. The aforementioned setbacks are considered to be acceptable. However, the remainder of the dwelling comprises an alfresco area and access ramp which extends entirely to the northern boundary for a length of 11.4 metres and thus is at variance with the setback provisions in this regard. Whilst a 1.7 metre high privacy screen is proposed along the northern boundary fence to assist screening the northern end of the verandah and deck, development to the boundary is at variance with Zone PDC5 and is likely to have amenity impacts from potential noise transfer.

#### *Appropriateness of Proposal in Locality*

Zone PDC 6 seeks development to maintain the present scale of buildings. The elevated rear of the proposed dwelling is not considered to accord with this provision. This is primarily due to the proposal comprising a finished floor level 900 millimetres above the adjacent dwelling to the north and 1.9 metres above the adjacent dwellings to the south despite lowering the finished floor level by 200 millimetres.

Medium density development is envisaged within the Township Zone where development is in keeping with the desired character of the Policy Area, the scale of the development is consistent with adjacent development and the design of the development is compatible with that of adjacent dwellings. Referring to previous discussions regarding the desired character for the Policy Area, and the compatibility

of the proposed development with adjacent dwellings, the proposal is considered to be at variance with PDC 9(a)(d).

Appearance of Land and Buildings

Zone PDC 4 seeks that residential development should complement the existing character of built form within the zone through design features such as pitched gable or hipped roofs with verandahs, porches and eaves and the use of cladding materials such as brick, rendered masonry, stone, timber and iron. The proposed design comprises a pitched gable roof with verandahs and eaves, weatherboard external cladding and a Colorbond® roof which are design features that provide good articulation and gives the dwelling a sense of character in its own right. The proposed cladding is somewhat different to the existing character that has developed within the locality and it is considered that it does not complement the existing character of the locality. At the rear, the cladding will be quite visually prominent from adjacent land. However, it will not be visually prominent from the public realm. In this instance, the proposal generally accords with Zone PDC 4.

*b) Council Wide provisions*

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

- *Development of a high design standard and appearance that responds to and reinforces positive aspects of the local environment and built form.*
- *A diverse range of dwelling types and sizes to cater for the changing demographics.*

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

Design and Appearance

*Objectives: 1*

*PDCs: 1, 2, 3, 6, 7, 9, 17, 18, 19*

PDC 1 seeks development that reflects the desired character of the locality whilst incorporating contemporary design techniques to address the bulk and scale, external materials and articulation of buildings. The proposed dwelling is considered to have good articulation in its design with a pitched gable roof, verandahs, eaves and façade articulation. However, the proposal is at variance with Council Wide PDC 1 in regard to building height, materials and colours. As mentioned previously in the zone section, there are aspects of the proposed dwelling that do not reflect the desired character of the zone and policy area.

Council wide PDC 2 seeks that where a building is sited on or close to a side boundary, the boundary wall should minimise the visual impact of the building as viewed from adjoining properties and allow adequate sunlight access to neighbouring buildings on adjoining properties to minimise overshadowing. Development should not cause unreasonable loss of sunlight or adverse conditions and should achieve access to direct winter sunlight into adjacent dwellings and private open space and minimising overshadowing is further discussed in PDCs 7(a) and (b) and 17. The applicant has provided shadow diagrams based on the azimuth and altitude of the sun during the winter solstice from 9am to 3pm on 21<sup>st</sup> June 2018. Those diagrams demonstrate that due to the design and siting of the proposed building, the private open space for

adjacent dwellings on the adjoining southern property will be significantly affected from 9.00am onwards during the winter solstice. The proposal is therefore considered at variance with council wide PDCs 2(b), 7(a) and (b) and 17(b).

PDC 3 addresses the colour and finishes of external materials with the intention of minimising potential glare nuisance to neighbouring properties. As previously mentioned, the proposed materials and colours are considered to suit the style of the proposed dwelling. However, the light colour scheme of white walls and Surfmist coloured roof may further impact on the amenity of nearby adjacent dwellings through causing glare nuisance, given the close proximity to side boundaries of the dwelling, and therefore the proposal is considered at variance with PDC 3.

As discussed previously, the proposed design is elevated and the underfloor area is proposed to be enclosed with the same materials as the cladding for the walls of the dwelling. Therefore, the proposal is considered to accord with Council Wide PDC 6.

The proposed lightweight elevated design of the dwelling will ensure that there is minimal alteration to the existing land form which is considered to accord with PDC 9.

PDC 18 addresses the visual privacy for private open spaces of dwellings. It states that development should minimise direct overlooking of the main internal living areas and private open spaces of dwellings and suggests the following design techniques:

- a) *off-setting the location of balconies and windows of habitable rooms with those of other buildings so that views are oblique rather than direct*
- b) *building setbacks from boundaries (including building boundary to boundary where appropriate) that interrupt views or that provide a spatial separation between balconies or windows of habitable rooms*
- c) *permanent screening devices (including fencing, obscure glazing, screens, external ventilation blinds, window hoods and shutters) that are integrated into the building design and have minimal negative effect on residents' or neighbours' amenity.*

The proposal comprises an elevated deck along the northern side and for the entire length of the rear elevation of the dwelling. The applicant has included fixed horizontal screening to a height of 1.7 metres on the northern side of the alfresco and deck as well as to the side of the southern courtyard and southern end of the rear deck of the dwelling. This demonstrates a clear intent to address overlooking issues. However, the potential still remains for overlooking into the private open space areas for units 2/13 and 3/13 Junction Road and therefore the proposal is still considered at variance with PDC 18, whilst it somewhat accords with PDC 19 in regards to the privacy screens that have been included.

#### Residential Development

*Objectives: 1 and 2*

*PDCs: 5, 9, 13, 15, 27*

The proposed development has the ability to connect to mains water and sewer facilities and therefore the proposal accords with Council Wide PDC 5.

Living rooms should be designed to have an external outlook as stated in PDC 9 therefore the proposed development is considered to be consistent with this provision as the main internal living area provides direct access to outdoor living areas.

PDC 27 states that buildings with upper level windows, balconies, terraces and decks that overlook habitable rooms or private open spaces of other dwellings should maximise visual privacy through the use of measures such as sill heights of not less than 1.5 metres or permanent screens having a height of 1.5 metres above the finished floor level.

The proposal includes fixed screens with a height 1.7m above the finished floor level within the northern and southern elevations of the deck. However, there is still potential for overlooking into the private open spaces of adjacent dwellings to the south from the rear deck area, as previously mentioned. The proposal is therefore considered to be at variance with PDC 27 due to the potential overlooking issues that still exist.

## 7. SUMMARY & CONCLUSION

The proposal seeks planning consent for construction of a dwelling located within the Township Zone and the Balhannah Township Policy Area where residential development is an envisaged form of land use. The subject land is the last vacant allotment contained within an area recently re-developed to create smaller allotments within a community title land division. The allotment is adjacent an existing retirement village to the south and a recently constructed dwelling to the north.

The proposed dwelling reflects an attractive design with good articulation and will be constructed to a high standard of design however the two storey form and elements of the proposal are inconsistent with the character of the area that has already been developed.

Whilst it is acknowledged that amendments have been made to the original design in an attempt to reduce the amenity impacts, the proposal does not sufficiently meet the desired character for the Zone and Policy Area with the two storey built form and wall height of 5.6m in close proximity to the private open spaces of adjoining dwellings to the south. The overshadowing cast upon the private open space of Unit 1/13 Junction Road is significant as the sole outdoor space for this dwelling. The shadow diagrams provided demonstrate that there will be less than two hours of sunlight access during the winter solstice to this private open space, which is the minimum desired by good residential guidelines. The elevated rear deck will create overlooking into the private open space of the adjoining dwellings to the south (Units 2/13 Junction Road and 3/13 Junction Road), although it is acknowledged that the proposed screen on the southern side of the balcony has mitigated the overlooking impact for the front unit. The external light colour selection combined with the siting of the dwelling in close proximity to the boundary is also likely to create glare nuisance and further impact on the amenity of the adjoining properties.

Therefore, with all the points in mind, it is considered the development in its current form has not been designed in sympathy with existing development and is at variance with the Development Plan provisions relating to amenity, overshadowing and overlooking.

Given all of the above, on balance it is the opinion of staff that the proposal as presented does not have sufficient merit to warrant consent.

Staff therefore recommend that the Council Assessment Panel does not support the proposal and Development Plan Consent be **REFUSED**.

## **8. RECOMMENDATION**

**That the Council Assessment Panel considers that the proposal is at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and it is recommended that the Council Assessment Panel REFUSE Development Plan Consent for Development Application 18/6/473 by Shire Homes for a Two storey dwelling, attached deck (maximum height 2.4m), carport (freestanding) & associated earthworks at 4/11 Junction Road Balhannah for the following reasons:**

**The proposal is inconsistent with:**

- **Balhannah Township Policy Area Objective 2 due to the proposed height and form of the dwelling which is incompatible with surrounding development and therefore at variance with this Objective.**
- **Balhannah Township Policy Area PDCs 1 and 2 as the development is not considered to be consistent with the desired character for the Policy Area and has not been designed in sympathy with existing development, particularly the adjacent older dwellings to the south.**
- **Township Zone Objective 5 and PDC 3 as it does not contribute to the desired character of the Zone.**
- **Township Zone PDC 5 as it does not meet the prescribed side boundary building setbacks and has potential to impact on the amenity of adjacent dwellings.**
- **Township Zone PDC 6 and 9(a), (c) and (d) as the proposal does not maintain the present scale of buildings and is therefore inconsistent with the desired character of the Policy Area and due to the combination of siting, wall height and external colour scheme it is incompatible with adjacent development.**
- **Council Wide PDCs 1 and 3 as the proposal does not reflect the desired character of the locality due to the building height, siting and external colour scheme.**
- **Council Wide PDCs 2(b), 7(a) and (b) and 17 as the proposal is sited such that it will cause loss of sunlight from adjacent dwellings and have adverse impacts on the amenity of the occupants of the adjacent dwellings.**

## **9. ATTACHMENTS**

Locality Plan  
Proposal Plans and information  
Original Proposal Plans  
Public Notification Documents  
Representations  
Applicant's response to representations

Respectfully submitted

Concurrence

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**Susan Hadley**  
**Statutory Planner**

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**Deryn Atkinson**  
**Manager Development Services**

**COUNCIL ASSESSMENT PANEL MEETING**  
**10 October 2018**  
**AGENDA – ITEM 8.4**

<b>Applicant:</b> David Beltrame	<b>Landowner:</b> P L Beltrame
<b>Agent:</b> Ekistics	<b>Ward:</b> Manoah
<b>Development Application:</b> 17/1126/473	<b>Originating Officer:</b> Sam Clements Author: Brendan Fewster
<b>Application Description:</b> Filling and excavation of land, construction of gabion retaining walls (maximum height of 6m) and associated landscaping	
<b>Subject Land:</b> Lot:14 Sec: P19 DP:74804 CT:6005/472	<b>General Location:</b> 26 Waverley Ridge Road Crafrers West  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 24 October 2017 <b>Map</b> AdHi/22	<b>Zone/Policy Area:</b> Country Living Zone
<b>Form of Development:</b> Merit	<b>Site Area:</b> 8600m <sup>2</sup> approx.
<b>Public Notice Category:</b> Category 2 Merit	<b>Representations Received:</b> Two  <b>Representations to be Heard:</b> Two

**1. EXECUTIVE SUMMARY**

The purpose of this application is for the filling and excavation of land, the construction of gabion retaining walls and the landscaping of the retaining wall and filled areas.

The subject land is located within the Country Living Zone and is a merit form of development. Two representations in opposition of the proposed development were received during the Category 2 public notification period who wish to be heard in support of their representations.

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

While the development is largely retrospective and the natural contours of land have been altered and the retaining walls would be a dominant feature within the surrounding landscape, the proposal to reduce and reshape some areas of fill would ensure that the area's character is not significantly eroded. The proposed landscaping would also provide much needed amenity and stabilisation benefits for the development and adjacent land.

The main issues relating to the proposal include the need or purpose for the development, the visual impacts upon the surrounding area, environmental impacts and the stability of the land.

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:

- Filling of land toward the southern end of the allotment to form a large benched area (referred to as the 'main bench') that is to be terraced and battered away in a north, south and westerly direction. The fill would be approximately 1.8 metres above 'natural' ground level at its highest point, with most of the fill having a height of less than 1.5 metres
- Filling of land toward the middle of the subject land to form a 'step' or terrace down to a secondary benched area to the north. The height of the step is approximately 1.5 metres above natural ground level
- Filling of a natural gully on the northern side of the allotment to form a large linear benched area (referred to as the 'secondary bench') between the eastern and western property boundaries. The fill is up to 6 metres in height above natural ground level
- Construction of a series of stone basket (gabion) retaining walls adjacent to the north-western corner of the site. The retaining walls are approximately 6 metres above natural ground level at their highest point and 54 metres in total length and are arranged from north to south. The area immediate behind the wall has been backfilled
- Excavation of land adjacent to the south-eastern corner of the allotment to form a benched area (referred to as the 'excavated bench'). The excavation is up to 4 metres below natural ground level, and
- Landscaping of the gabion retaining walls and exposed earthen areas for stabilisation and screening.

It is important to note that the gabion retaining walls and a considerable amount of the earthworks were undertaken by the applicant some time ago without Council approval. The completed development works being assessed are therefore largely retrospective. The 'Cross Sections' Plan prepared by Tonkin Consulting provides detail of the natural ground levels, the altered (unauthorised) ground levels and the final proposed ground levels.

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
Withdrawn – 12 April, 2018	15/839/473	Dwelling, outbuilding, earthworks and retaining walls

Council advised the owner of the subject land in writing on 1 September 2015 that the earthworks carried out on the site were undertaken without approval. The owner subsequently lodged a development application (15/839/472) through Proske Architects for the construction of a dwelling and outbuilding and associated earthworks and retaining walls. This application was withdrawn and a new application lodged for the earthworks and retaining walls only. Council understands that this approach has been adopted by the land owners in order resolve the enforcement proceedings for the unlawful earthworks and to assist with a future dwelling design.

In response to concerns raised by Council staff during the assessment of the application, the applicant has made several changes to the proposed development after public notification. These changes are summarised as follows:

- A reduction in fill of the 'main bench' with existing fill to be removed from the south and west sides of the bench and batters provided
- A new step measuring between 4 to 6 metres in width to be cut into the existing fill on the southern and western sides of the 'main bench'
- The existing terrace on the northern side of the 'main bench' is to be trimmed and shaped
- Landscaping of the existing gabion wall to include a mix of shrubs, climbing plants and ground covers, and
- Landscaping of the exposed earthworks to include hydro-seeding.

#### 4. REFERRAL RESPONSE

No internal or government agency referrals were required for this application.

#### 5. CONSULTATION

The application is a Category 2 form of development in accordance with the procedural matters for the Country Living Zone as the proposal involves *"excavation and/or filling of land not incidental to building work but which constitutes development"*.

Two (2) representations were received in opposition to the proposed development from adjacent landowners.

The following representors wish to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Michael & Nancy Detmold	9 Atkinson Road, Crafers West	Michael & Nancy Detmold
Peter Weir & Julie Connor	32 Waverley Ridge Road, Crafers West	Peter Weir & Julie Connor

The applicant and/or their representative – Ekistics may be in attendance.

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

- No justification for the earthworks as no dwelling proposal has been submitted
- Earthworks undertaken without approval
- Significant visual impact of large retaining walls and excessive filling of land
- Loss of visual outlook from garden
- Filling of natural gully, and
- Environmental impacts.

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**. A copy of the plans which were provided for notification is included as **Attachment – Publically Notified Plans**

## 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 a vacant allotment of approximately 8,600m<sup>2</sup> in area with frontage to Waverley Ridge Road. The allotment is located on the western side of the road and is approximately 200 metres south of the South Eastern Freeway which traverses the centre of Crafers.

The land has a natural cross-fall from the southern end of the road frontage to the bottom of a gully that is adjacent to the north-western boundary. The natural gradient to the lowest point of the gully is approximately 1 in 4.5. On the northern side of the gully, the land rises some 10 metres toward the northern side boundary.

The natural contours of the land have been altered extensively by earthworks that were carried out by the property owners. The most significant earthworks have occurred at the northern and southern ends of the subject land, where the filling of the natural gully and the benching of land near the southern boundary has taken place.

ii. The Surrounding Area

The subject land is situated near the edge of a natural gully that passes through the rear of several adjacent allotments and densely vegetated land to the west.

To the north of the subject land is the freeway interchange and residential land in Atkinson Road and Hillcrest Avenue, while land to the east, south and north-west comprises low density residential development. Allotments on the western side of Waverley Ridge Road are typically large (3,500m<sup>2</sup> or more in area) and well vegetated. The allotment immediate south of the subject land contains a dwelling that is listed as a Local Heritage Place. Land to the west falls away considerably and is densely vegetated.

The amenity value of the surrounding area is considered to be high, particularly to the south and west, which is derived from large spacious allotments, natural land undulations, dense vegetation and landscaped gardens.

iii. Development Plan Policy considerations

a) Policy Area/Zone Provisions

The subject land is situated within the Country Living Zone. The zone provisions seek:

- Residential development primarily comprising of detached dwellings at very low densities; and
- Residential development that is sensitive to the topography of the area and undertaken with minimal visual and environmental impacts.

The following are considered to be the relevant Zone provisions:

Objectives: 1, 2, 3

PDCs: 1, 2, 6, 7, 10

Accordance with the Zone Objectives and Desired Character

As already highlighted, the earthworks and associated retaining walls that are the subject of this application were carried out some time ago by the land owners without development approval. While it would be appropriate for the retrospective earthworks to be considered with a built form proposal (i.e. dwelling), as the earthworks would ultimately affect the design and siting of future development on the land, the applicant however is not obligated to include details of future building work at this time. This has been confirmed in the advice provided by the applicant's legal representative, Hilditch Lawyers, which is not disputed.

While it is clearly the intention of the applicant to construct a dwelling on the site in the future, this current application is only seeking approval for the retrospective earthworks and retaining walls (with some alterations to the work already undertaken). As such the appropriateness of the earthworks and retaining walls needs to be considered in isolation and with regard for the Objectives and Desired Character for the Zone.

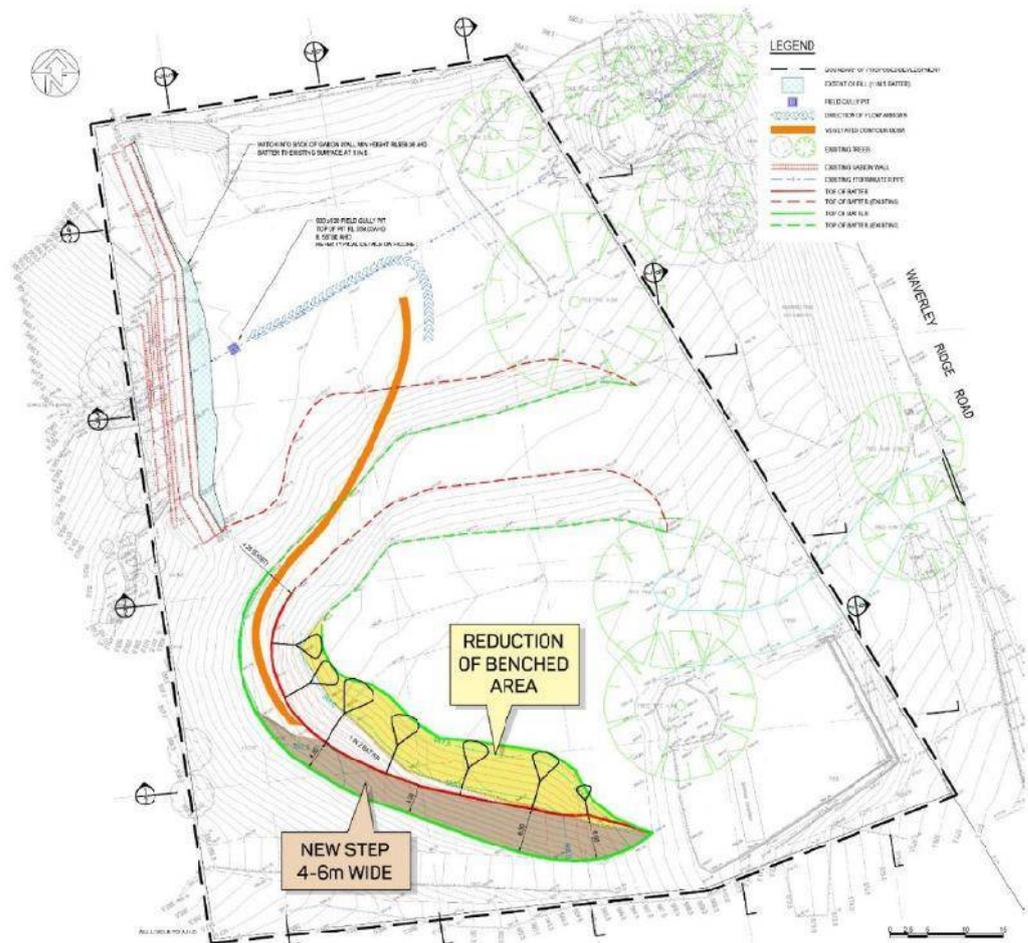
The Objectives of the Country Living Zone envisage residential development at low densities. In particular, Objective 2 and Principle of Development Control 7 seek to ensure that new development is "*sensitive to the particular topography of the area and which has minimal visual and environmental impacts*".

The earthworks that have been carried out on the site are considered significant in the context of the land's natural topography. It is acknowledged that the main bench area originally had a natural knoll however this area has been filled and enlarged to form a relatively flat bench. In response to Council concerns regarding the amount of fill in this area and the steepness of the 'exposed' southern and western sides, the applicant has agreed to remove some fill and reshape and batter the bench. The changes to the earthworks are illustrated in **Figure 1** below.

The proposed alterations to the retrospective earthworks would result in the 'main bench' positioned approximately 1.8 metres above 'natural' ground level at its highest point, with most of the filled bench being at a height of less than 1.5 metres. The reduced amount of fill and the reshaping and battering would improve the general appearance of the land and ensure the earthworks are reasonably sensitive to the natural topography.

The 'excavated bench' adjacent to the south-eastern corner of the subject land, while quite deep at up to 4 metres below natural ground level, is not considered to

significantly detract from the surrounding area as the exposed areas of cut would not be visible from Waverley Ridge Road and similarly would not be readily visible from the adjacent residential properties to the north and south.



**Figure 1: Extract from the Response to Representations prepared by Ekistics**

The series of stone basket (gabion) retaining walls adjacent to the north-western corner of the site are substantial structures. At approximately 6 metres above natural ground level and 54 metres in total length, the walls are visually imposing. While not readily visible from the neighbouring property to the north as the walls face due west, and the tops of the walls are set much lower than the adjoining land, some oblique views of the walls are evident from the terraced gardens of the adjacent property at 32 Waverley Ridge Road.

The scale of the gabion walls and the associated filling of the gully are such that the natural contours and visual appearance of the land has been altered in a manner that is not particularly sensitive to the natural character of the area. The impacts associated with the filling of the gully are less evident as the new ground level is some 5 metres lower than the adjoining land to the north and sits behind the 'main bench'

when viewed from the south. The gabion walls however are far more problematic from a visual and environmental perspective.

It is reasonable to expect that if the gabion walls were to be removed, the land would become permanently scarred and become unstable which is not a preferred outcome. The construction of the walls using a series of stone filled baskets is therefore a preferred construction method as the stones are somewhat earthy and can therefore blend reasonably well with the surrounding environment, particularly over time. To accelerate the natural softening of the walls, the proposal includes landscaping of the walls with a mix of shrubs, climbing plants and ground covers. The landscaping is expected to visually soften walls and provide further stabilisation. Recommended condition 4 includes a requirement to have the wall densely planted to achieve full coverage of the gabion wall face.

Although finely balanced, the amendments to the proposal and the subsequent changes to the retrospective earthworks, including the provision of landscaping, are considered to be sufficient to minimise the visual and environmental impacts associated with the development. Accordingly, the proposal would not undermine the intent of the Country Living Zone.

*b) Council Wide provisions*

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

- *orderly and economic development*
- *retention of existing character*
- *development that does not undermine the objectives of the zone*
- *development that minimises environmental and visual impacts, and*
- *maintenance of the natural environment in areas susceptible to natural hazard risk.*

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

*Design and Appearance*

*Objectives: 1, 2*

*PDCs: 1, 2, 7, 9, 12, 17, 18, 22*

As considered above, the proposed retaining walls are visually prominent given their size and scale and the filling of the 'main bench' is also readily visible from nearby land. While the natural contours of land have been altered and the retaining walls would be a dominant feature within the surrounding landscape, the reduction and reshaping of some areas of fill and the provision of landscaping for screening and softening would ensure that the area's character is not significantly eroded. It is considered that the above Development Plan provisions are satisfied.

The retaining walls are also well removed from, and orientated away from the adjoining properties to the north and south so as not to cause any overshadowing impacts in accordance with Council Wide PDC 17.

*Hazards*

*Objectives: 1, 2*

*PDCs: 1, 2, 25, 26, 27*

Council Wide PDCs 25 and 27 (Hazards) seek to ensure that when land is excavated and filled that it is retained with appropriately engineered retaining walls and earthen batters.

The applicant has provided a structural analysis of the gabion walls prepared by Tonkin Consulting dated 16 August 2016 following the construction of the walls. As the analysis was undertaken retrospectively, simulation modelling was used to determine the loading and compaction of the backfill and wall foundations. Although the hazard risk is determined to be low based on a desktop analysis, the Tonkin report recommends that a structural adequacy assessment be conducted on the existing walls as part of the building rules assessment process. A reserved matter has been recommended that would require the applicant to provide a Geotechnical Report from a suitably qualified engineer (refer recommended condition 1) in order to address this matter.

Further compaction and stability assessments would be required for any future building proposals to determine whether the filled areas are capable of supporting building foundations.

In consideration of the Tonkin Consulting report, the proposed retaining walls and filled areas are considered to pose minimal risk of land-slip. However, the applicant will be required to undertake a more detailed structural adequacy assessment at the building rules assessment stage.

#### *Landscaping, Fences and Walls*

*Objectives: 1, 2*

*PDCs: 1, 2, 3, 4*

The application has been amended to include landscaping of the existing gabion walls and along the battered slopes.

As detailed on the landscape plan, the gabion walls will be planted with a mix of shrubs, climbing plants and ground covers at all terraced levels. As sought by Council wide Objective 1 and PDC 1, the proposed plantings assist in reducing the visual impact of the gabion walls and also may assist with stabilising the earthworks over time. For exposed batters around the benched areas and the filled gully, hydro-seeding is proposed to soften and stabilise these areas.

The proposed landscaping would provide amenity and stabilisation benefits for the development and would enhance the overall appearance of the land when viewed from adjacent properties.

#### *Siting and Visibility*

*Objectives: 1*

*PDCs: 1, 2, 3, 4, 5, 6, 7, 10*

Council Wide PDC 4 recommends that excavation and filling of land be limited to no greater than 1.5 metres in height so as to preserve the natural form of the land. The section diagrams prepared by Tonkin Consulting indicate that the proposed fill, with the exception of the backfilling behind the retaining walls, would marginally exceed 1.5 metres at its highest point, which is on the edges of the 'main bench'. The backfilling of the gully is concealed by the retaining walls and sits on the low side of the property, thus having minimal visual impact.

As considered above, the proposed stone retaining walls and landscaping would ensure the areas of excavation and fill are stabilised and blend reasonably with the natural character of the area. The proposal is therefore considered to satisfy Council Wide PDC 4.

*Sloping Land*

*Objectives:* 1

*PDCs:* 1, 2, 3, 5, 6, 7

Council Wide PDC 6 seeks to ensure that drainage systems are incorporated into development on steep land to minimise erosion and impacts on land stability. A stormwater pipe has been constructed from a stormwater collection point at the road boundary and extends beneath the filled gully and through the retaining wall. The stormwater from this pipe is discharged to a dam on the neighbouring property. This is generally consistent with the previous system, although stormwater was previously discharged via overland flows. It is considered that the drainage system would adequately maintain the stability of the land.

## 7. SUMMARY & CONCLUSION

The earthworks and gabion retaining walls that have been undertaken on the site are considered significant in the context of the land's natural topography. While the natural contours of the land have been altered and the retaining walls will be a dominant feature within the surrounding landscape, the proposal to reduce and reshape some areas of fill would ensure that the area's character is not significantly eroded.

The proposed landscaping would also provide amenity and stabilisation benefits for the development and would enhance the overall appearance of the land when viewed from adjacent properties.

It is considered that the proposed retaining walls and filled areas pose minimal risk of landslip. However, the applicant will be required to undertake a more detailed structural adequacy assessment at the building rules assessment stage to address this matter.

Although finely balanced, the proposal is sufficiently consistent with the relevant provisions of the Development Plan and is therefore not considered to be 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 17/1126/473 by David Beltrame for Filling and excavation of land, construction of gabion retaining walls (maximum height of 6m) and associated landscaping at 26 Waverley Ridge Road Crafers West subject to the following conditions:

(1) Reserved Matter

The following matter is reserved pursuant to Section 33(3) of the Development Act 1993 and to be addressed to the reasonable satisfaction of Council staff:

- The applicant shall provide a Geotechnical Report from a suitably qualified engineer for the retaining wall to demonstrate the structural adequacy of the wall.

(2) 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:

- Detail & Level Survey Detail Plan by Alexander Symons, drawing no. A046313 DET Rev (0)
- Detail & Level Survey Detail Plan by Alexander Symons, drawing no. A046313 DETAIL Rev (G) dated 23.05.2013
- Figures 1 & 2 2018-09-04.DWG, REV 8 by Tonkins Consulting, dated 7 September 2018
- Landscape concept design, Revision A dated 10 September 2018

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

(3) Timeframe For Reducing Fill Batters

The reduction to the fill batters as detailed in Figures 1 & 2 2018-09-04.DWG, revision 8 by Tonkins Consulting, dated 7 September 2018 shall be completed in the next available season following Development Approval to the reasonable satisfaction of Council.

REASON: To maintain and enhance the visual amenity of the locality in which the subject land is situated.

(4) Timeframe For Landscaping To Be Planted & Landscaping of the Gabion Retaining Wall

Landscaping detailed in the landscaping concept design, Revision A dated 10 September 2018 shall be planted in the next available planting season following the reduction in the filling on the land. The gabion wall shall be densely planted with the species nominated in the landscaping concept design to achieve full coverage of the gabion wall face to the reasonable satisfaction of Council. Any such vegetation shall be replaced if and when it dies or becomes seriously diseased in the next planting season.

**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 and comply with the requirements of Section 42(4) of the Development Act 1993.

**(5) Prior to Building Rules Consent Being Granted - Requirement for Soil Erosion And Drainage Management Plan (SEDMP)**

Prior to Building Rules Consent being granted the applicant shall prepare and submit to Council a Soil Erosion and Drainage Management Plan (SEDMP) for the site for Council's approval. The SEDMP shall comprise:

- a major drainage plan
- a site plan
- supporting report
- calculations
- design sketches with details of erosion control methods that will prevent:
  - a. soil moving off the site during periods of rainfall and detail installation of sediment collection devices to prevent the export and sediment from the site; and
  - b. erosion and deposition of soil moving into the dam below the benched area; and
  - c. soil moving into watercourses during periods of rainfall; and
  - d. soil transfer onto roadways by vehicles and machinery

The works contained in the approved SEDMP shall be implemented prior to alterations of the batters commencing and shall be maintained to the reasonable satisfaction of Council until the alterations are complete.

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

**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) 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.

**(4) DEWNR 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.

**9. ATTACHMENTS**

Locality Plan  
Proposal Plans  
Application Information  
Applicant's Professional Reports  
Representations  
Applicant's response to representations  
Publically Notified Plans

Respectfully submitted

Concurrence

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**Brendan Fewster**  
**Consultant Planner**

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**Deryn Atkinson**  
**Manager Development Services**

**COUNCIL ASSESSMENT PANEL MEETING  
10 October 2018  
AGENDA – ITEM 8.5**

<b>Applicant:</b> Briony Rogers	<b>Landowner:</b> B L Rogers
<b>Agent:</b> Briony Rogers	<b>Ward:</b> Mt Lofty Ward
<b>Development Application:</b> 18/332/473	<b>Originating Officer:</b> Susan Hadley
<b>Application Description:</b> Two storey dwelling alterations & additions, decks (maximum height 5.7m) landscaping & associated earthworks	
<b>Subject Land:</b> Lot:1 Sec: P93 FP:105247 CT:5157/735	<b>General Location:</b> 24 Edgeware Road Aldgate  <i>Attachment – Locality Plan</i>
<b>Development Plan Consolidated :</b> 24 October 2017 <b>Map</b> AdHi/29	<b>Zone/Policy Area:</b> Country Living Zone - Country Living (Stirling and Aldgate) Policy Area
<b>Form of Development:</b> Merit	<b>Site Area:</b> 2288m <sup>2</sup>
<b>Public Notice Category:</b> Category 2 Merit	<b>Representations Received:</b> 1  <b>Representations to be Heard:</b> 1

**1. EXECUTIVE SUMMARY**

This application seeks Development Plan Consent for two storey dwelling alterations & additions with decks (maximum height 5.7m), landscaping and associated earthworks.

The subject land is located within the Country Living Zone - Country Living (Stirling and Aldgate) Policy Area and the proposal is a merit form of development. One representation in opposition to the proposal was received during the Category 2 public notification period.

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

The main issues relating to the proposal are neighbour concerns regarding privacy protection and potential overlooking from the development. Initial objection was raised with regard to privacy and potential overlooking concerns through north facing windows and an upper level rear deck. As a result of this the applicant amended the plans to change the deck to an enclosed sunroom. The representor was further consulted in regards to the changes and then sought to raise issues with the additional mass of the roof and the colour. The representor advised that they would withdraw the representation if the applicant changed the roof colour to green. The applicant intends to retain the existing proposed colour scheme.

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:

- The conversion and alteration of a single storey dwelling into a two storey dwelling.
- The design comprises upper and lower level decks (maximum height 5.7 metres) within the front eastern elevation.
- Landscaping and associated earthworks.

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Attachment – Application Information**.

## 3. BACKGROUND AND HISTORY

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
March 29, 2018	18/131/473	Council approved demolition of the existing dwelling
January 30, 1979	12307	Council approved dwelling additions
February 2, 1976	10220	Council approved dwelling

In response to concerns raised by the representation, the applicant provided amended plans and a landscape screening plan. Those amendments replaced the rear deck with an enclosed sunroom comprising windows with obscured glazing to both the northern and southern elevations and stairway access from the rear of the dwelling. The amended elevation plans and landscape plan were provided to the representor who then advised of concerns regarding the mass of roof and proposed colour.

## 4. REFERRAL RESPONSES

No referrals were required for this application.

## 5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with Zone Procedural Matters requiring formal public notification. One (1) representation opposing the proposal was received from an adjacent property.

The following representor wishes to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Sandra Goslin	22 Edgeware Road, Aldgate	Sandra Goslin

The applicant may be in attendance.

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

- Loss of privacy due to potential overlooking from upper level windows in the northern elevation and upper level decks
- Roof colour

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**. Copies of the plans which were provided for notification are included as **Attachment – Publically Notified Plans**

## 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 a long narrow allotment of 2288m<sup>2</sup> comprising a 1970’s single storey dwelling and ancillary outbuildings which are set amongst a mature garden. The allotment has a 20.52 metre frontage to Edgware Road with an existing connection to SA Water Sewer. The allotment exhibits an east west orientation with residential properties adjacent the side and rear boundaries. The topography of the allotment rises to the rear of the allotment with a depth of 111 metres. The existing dwelling has a front setback of approximately 35 metres with side setbacks of 1 metre from the northern side boundary and 500mm from the southern side boundary. Dwellings on adjacent allotments to the north and south are significantly further setback being approximately 74 metres and 72 metres respectively.

ii. The Surrounding Area

The locality comprises detached dwellings on large allotments of varying sizes, ranging from 2000m<sup>2</sup> to approximately 5000m<sup>2</sup> with adjacent allotments to the north and south being almost identical in size and shape. The subject land is located amongst a densely vegetated residential area with mature gardens and just a short distance to the Neighbourhood Centre of Aldgate to the east. The locality comprises examples of similar sized development consistent with the proposal.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Country Living Zone - Country Living (Stirling and Aldgate) Policy Area and these provisions seek:

- *Low density residential development.*
- *Development that contributes to the desired character of the locality.*
- *Residential development sensitive to the topography of the area designed with minimal visual and environmental impacts.*

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

*Objectives:* 1

*PDCs:* 1

The policy area predominantly comprises detached dwellings at low densities with the majority of dwellings being single storey dwellings and a scattering of two storey dwellings throughout the area. The design of buildings varies quite considerably throughout the policy area featuring a range of building styles, materials and designs.

The proposed development comprises rendered walls with a neutral coloured Colorbond® roof. The design of the proposed dwelling is considered to display good articulation in each elevation through the use of gable rooflines, windows and balustrading which assist to break up the visual mass and bulk of the dwelling.

The proposal is considered to be consistent with the policy intent for the area as the design contributes to the desired character rather than detracting from the visual amenity of the locality.

Front setbacks are generous and vary throughout the area depending on the topography and vegetation on the allotment. Whilst the existing dwelling comprises a front setback of 35 metres, the re-development proposes a setback of 27.25 metres which is still considered to be a generous setback and therefore the proposal accords with the desired character of the policy area in this regard.

The policy area seeks to retain a sense of space and openness by retaining vegetation within the landscape through development designed to suit the topography of the land. The proposed development generally utilises the developed area surrounding the existing dwelling, therefore minimising extensive earthworks. A maximum cut of 1.6 metres is proposed to site the garage beneath the dwelling within the front elevation.

The proposed development is considered to be consistent with the desired character for the policy area and therefore accords with Policy Area Objective 1 and PDC 1.

The following are considered to be the relevant Zone provisions:

*Objectives:* 1, 2, 3

*PDCs:* 1, 6, 7(a) and (b), 8, 9, 10, 11

*Accordance with Zone*

Detached dwellings and dwelling additions are an envisaged form of development within the zone. The proposal is for dwelling alterations and additions, therefore the development is consistent with envisaged development within the zone and accords with Objective 1 and PDC 1 of the zone.

The desired character for the locality supports the development of new dwellings with a modern design which responds to the topography and vegetation in a sensitive manner and uses building materials that are energy efficient.

The proposal seeks to develop a large two-storey dwelling with undercroft car parking by proposing alterations and additions to an existing single-storey dwelling. The footprint of the existing dwelling is proposed to be retained, with the proposed dwelling extending the footprint of the dwelling to the east and west. Due to the topography and narrow width of the allotment the garage is set below the front portion of the dwelling where it extends forward of the existing building.

Two-storey buildings are anticipated throughout the zone with varying front setbacks and designs that seek to reduce the extent of earthworks. Garages should be visually subservient to the main dwelling ensuring they do not dominate from within the streetscape.

The proposed development is considered to be consistent with the desired character for the zone and therefore accords with Objective 3 of the zone.

#### Form and Character

As previously discussed the proposed development has been designed to utilise the existing dwelling and the developed area surrounding the dwelling. The subject land is a sloping allotment therefore a maximum cut of 1.6 metres is proposed to site the garage beneath the dwelling. As a result of the design, earthworks have been kept to a minimum. Due to the topography of the allotment the dwelling will generally exhibit similar characteristics to a single-storey dwelling within the western elevation with a maximum height of 4.7 metres from the roof apex to natural ground level.

A portion of the eastern elevation will appear to be three-storeys in height due to the proposed undercroft garage, cellar and store. PDC 8 states that garages should be a maximum width of 6 metres or 50 percent of the allotment or building site frontage width, whichever is the lesser distance. The garage is 6.4 metres in width, proposed forward of the existing dwelling footprint and forms the foundation for the ground floor of the dwelling with the upper floor level of the additions extending above that section. Due to the existing dwelling footprint and width of the allotment there is no ability to site a garage behind or adjacent to the dwelling. The proposal is therefore considered to generally accord with zone PDC 8 as the garage width is less than 50 percent of the allotment width.

The setback of the existing dwelling to the adjoining northern boundary is being maintained at 1 metre with the ground floor section extending from the existing front façade to within 2.85 metres of the same boundary. Setbacks for the upper level are proposed to be a minimum of 3.93 metres from the southern boundary and 6.58 metres from the northern boundary providing a stepped appearance from within the streetscape, being the eastern elevation.

The maximum building height proposed to the roof apex is 8.5 metres from natural ground level. The parameters within Zone PDC 9 provide a maximum building height of two storeys and 9 metres. Whilst the proposed development could be argued to be three-storeys from within the front elevation due to the undercroft garage, the majority of the building is two storeys and the maximum height is within the parameters of this principle. The proposal is therefore considered to generally accord with zone PDC 9.

The development proposes a generous front setback of 27.25 metres with retention of the existing mature vegetation. These elements will assist to minimise visual intrusion of the proposed dwelling within the streetscape, therefore in this regard the proposal accords with zone PDC 10.

PDC 11 contemplates the height and bulk of development relative to adjoining dwellings where development is proposed to be more than one storey in height. Design techniques such as stepping the design to accord with the slope of land and setting back upper storey levels of dwellings from front and side boundaries are elements of design that have been included within this proposal. Refer to the above discussion regarding upper floor level setbacks and extent of earthworks. The proposed development has adequately considered these design techniques and therefore accords with PDCs 7(a) and (b) and 11.

*b) Council Wide provisions*

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

- *Development of a high design standard and appearance that responds to and reinforces positive aspects of the local environment and built form.*
- *The amenity of land and development enhanced with appropriate planting and other landscaping works.*
- *A diverse range of dwelling types and sizes to cater for the changing demographics.*

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

*Design and Appearance*

*Objectives: 1*

*PDCs: 1, 2, 3, 5, 7, 8, 9, 18, 19, 28*

The proposal seeks to retain the existing land use with re-development of the existing dwelling. As previously discussed, the additions and alterations propose to develop a two-storey dwelling.

PDC 1 seeks development that reflects the desired character of the locality whilst incorporating contemporary design techniques to address the bulk and scale, external materials and articulation of buildings. PDC 3 addresses the colour and finishes of external materials with the intention of minimising potential glare nuisance to neighbouring properties.

The locality predominantly contains detached dwellings of varying styles, on allotments of a similar size. The existing dwelling on the subject land has been retained as a method of minimising alteration to the contours of the land. The existing dwelling is single storey and cut into the allotment at the rear with an existing 1 metre high retaining wall. The additions propose an upper floor level that extends forward of the existing dwelling and to the rear of the existing dwelling footprint. The two storey design minimises earthworks by retaining the existing footprint and extending upwards to achieve a dwelling with a greater floor area. PDC 9 states that

development should take place in a manner which will minimise alteration to the existing land form, therefore the proposal is considered to accord with this principle.

The 2.4m high deck at the front of the dwelling has been designed to wrap around to the northern side of the dwelling and will be accessible from the ground floor dining area of the dwelling as well as via the master bedroom. A second deck at the front of the dwelling is proposed above the ground floor deck with a finished floor level of 5.3 metres and will be accessible from a media room on the upper floor level. These elements within the front façade of the dwelling design provide good articulation and detailing to reduce the overall mass of the building and provide opportunities for street surveillance. The proposal is therefore considered to be reasonably consistent with PDCs 1 and 5(a) and (b).

The external finishes to the dwelling will comprise commercial glazing, stainless steel wire balustrading with rendered lightweight walls finished in Solver Magnolia which is a light cream colour. The roof is proposed to be Basalt Colorbond®, being a mid-grey colour that will complement the natural landscape. The proposed materials and finishes are unlikely to result in glare to neighbouring properties. The proposal is therefore consistent with PDC 3.

One of the concerns raised by the representor relates to overlooking. PDC 18 states that development should minimise direct overlooking of the main internal living areas and private open spaces of dwellings and suggests the following design techniques:

- a) *off-setting the location of balconies and windows of habitable rooms with those of other buildings so that views are oblique rather than direct*
- b) *building setbacks from boundaries (including building boundary to boundary where appropriate) that interrupt views or that provide a spatial separation between balconies or windows of habitable rooms*
- c) *permanent screening devices (including fencing, obscure glazing, screens, external ventilation blinds, window hoods and shutters) that are integrated into the building design and have minimal negative effect on residents' or neighbours' amenity.*

The initial proposal which was placed on public notification also comprised an upper level deck at the rear of the dwelling. The applicant has provided amended plans that have changed the deck to an enclosed sunroom with obscured glazing in the northern elevation. It is noted that the windows in the rear western elevation of the sunroom are not obscured glazing. However the application has a large garden and the intent of providing a living area at the rear of the dwelling was to be able to look out onto the garden. The applicant has also provided a landscape plan that includes additional planting along the common boundary which demonstrates a clear intent to address potential overlooking concerns.

During a site inspection it was also noted that while the representor's dwelling has a greater setback from the front of the allotment, it is also in an elevated position which creates reciprocal overlooking issues. This could be addressed with the inclusion of a boundary fence of a suitable height which may provide additional privacy. It is understood from conversations with the applicant that this was suggested to the adjoining neighbour as a way of addressing the reciprocal

overlooking issue and that the neighbour was not in favour of a solid fence along that section of the boundary.

Given the elevation and the topography of the land it is not possible to eliminate all of the overlooking from the proposed dwelling, the proposal does go some way in meeting the above design requirements. The decks at the front of the dwelling are set in 6.5m from the northern side boundary and are approximately 47m away from the dwelling at 22 Edgeware Road, being the representor's property. Whilst some overlooking into this area may occur, given the separation distance, the views are not considered to be direct intimate views. As previously mentioned the area behind the proposed dwelling is also considered to have existing reciprocal overlooking from the subject land. Whilst it is possible to see into the area forward of neighbour's dwelling, it is impractical from a privacy perspective to protect an entire garden of a large property. Noting that the applicant has significantly amended the design at the rear of the dwelling and proposes additional landscaping to ensure the garden adjacent the adjoining northern boundary is densely vegetated, and windows in the northern elevation are high level windows or have obscured glazing, overlooking to the north is not considered to unreasonably impact on this adjacent property's privacy. No fixed screen is proposed along the northern side of the front deck as the building itself aids to screen any view back towards the representor's dwelling to the north-west. The proposal is therefore considered to sufficiently accord with PDC 18.

#### Orderly and Sustainable Development

*Objectives: 1*

*PDCs: 1 and 9*

The locality is characterised by its very low density and mature vegetation with a variety of dwelling designs and sizes. The proposed development is for alterations and additions to an existing dwelling including two deck areas and an undercroft garage on an existing residential property. The site is considered to be suitable for such development. The proposal is therefore considered orderly and sustainable and in accordance with Objective 1 and PDC 1 and 9.

#### Residential Development

*Objectives: 1 and 2*

*PDCs: 5, 9, 27*

The development is proposed on a large residential allotment in the Country Living Zone. The zoning anticipates dwellings and dwelling additions which would facilitate a better living environment and provide for diversity of housing design. The proposal is therefore considered to be consistent with Objectives 1 and 2.

Living rooms should be designed to have an external outlook as stated in PDC 9 therefore the proposed development is considered to be consistent with this provision as each living area has been designed with windows that look onto the garden.

PDC 27 states that buildings with upper level windows, balconies, terraces and decks that overlook habitable rooms or private open space of other dwellings should maximise visual privacy through the use of measures such as sill heights of not less than 1.5 metres or permanent screens having a height of 1.5 metres above the finished floor level. The proposed additions include windows with a sill height of not less than 1.5m above the finished floor level within the northern elevation with obscured glazing in the sunroom windows that face north. As previously discussed, the proposed decks at the front of the dwelling are forward of the existing dwelling footprint which will provide some screening from the deck to the north-west. The upper level balcony is approximately 47 metres from the adjacent dwelling to the north with potential for direct overlooking further reduced by existing vegetation.

As previously mentioned in the report, there will be a degree of overlooking into the front yard of 22 Edgeware Road. However, whilst it is possible to see into this area, it is impractical from a privacy perspective to protect the entire garden, especially in the circumstances where the dwelling is located on a large allotment which provides multiple areas as private open space and existing reciprocal overlooking occurs. Given the existing fencing along the boundary, the difference in levels between the two properties, existing vegetation and the setback of the proposed deck, the overlooking is not considered to create an unreasonable impact to privacy within the neighbouring property. As such, it is considered that the proposal has adequately addressed PDC 27.

#### Sitting and Visibility

*Objectives: 1*

*PDCs: 4, 5, 6, 7 & 10*

The subject land is a sloping allotment orientated east-west. The overall vertical height of the additions is higher than the existing dwelling however the zone guidelines support a maximum building height of 9 metres from natural ground level. The proposal has been designed to minimise the extent of earthworks by designing a second storey rather than building entirely at ground level which would require additional cut and fill. The proposal is therefore considered to accord with Objective 1 and PDCs 4 and 6. The external finishes will comprise window glazing and rendered lightweight walls and a Colorbond® roof which are of neutral colours and considered acceptable within the amenity of a semi-urban environment. The external finishes are considered acceptable for this natural garden setting and are not of a reflective nature. The proposal is therefore consistent with PDC 7.

The earthworks proposed with the development are relatively minor in nature. The earthworks will include some excavation for the garage addition to the front of the dwelling. These earthworks will not alter the land form to any significant degree and will not be visible from surrounding localities. The proposal is therefore considered to be consistent with PDCs 4 and 5.

The applicant has provided a landscape plan to increase the amount of vegetation along the northern boundary and effectively provide a natural visual screen between the adjoining properties therefore the proposal is considered to be consistent with PDC 10

Stormwater Management

*Objectives: 1*

*PDC: 1(i)*

Development should be located and designed without detrimental effect on the amenity of the locality or causing adverse impacts within the locality. The proposed development includes 5,000 litres of on-site water storage to capture roof stormwater. The subject land is considered to be capable of managing onsite disposal for the overflow without impact upon buildings and adjoining properties. The proposal is considered to accord with Objective 1 and PDC 1(i) and has been reinforced through conditions 9 and 10.

Natural Resources

*Objectives: 5 and 7*

*PDC: 13*

Council Wide Objectives seek that development is consistent with the principles of water sensitive urban design with the storage and re-use of stormwater. As discussed above the proposal includes on-site stormwater for re-use therefore the proposal is consistent with Council Wide Objectives 5 and 7 and PDC 13.

## 7. SUMMARY & CONCLUSION

The proposal is for alterations and additions which extend the front and rear of the dwelling as well as extending upwards to provide an upper level. Two decks are proposed at the front of the dwelling. The design and the profile of the additions and alterations are considered to be an improvement on the existing dwelling which was constructed in the 1970's and is in a state of disrepair. The proposed materials and external finishes are considered suitable in this semi-urban landscape. Stormwater will be connected into the existing system and will be controlled on site, which has also been enforced by way of a condition. The earthworks associated with the development are considered to be relatively minor, will have minimal impact on the land form and are consistent with other dwellings in the locality.

Concerns were raised about overlooking from the subject land from the proposed decks and windows into the neighbouring property to the north. Plans were amended with the rear deck being the nearest to the adjoining property replaced with a sunroom that has obscured glazing in the northern elevation. However, due to the topography of the land and the design and location of the dwellings some level of reciprocal overlooking is anticipated and unavoidable. The northern windows comprise obscured glazing or are designed to be 1.5 metres from finished floor level. The overlooking towards the north-west within a 15m arc would be to the front yard of the neighbouring property and for the reasons highlighted above, this is not considered to result in an unreasonable impact on privacy of this adjacent property.

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 18/332/473 by Briony Rogers for Two storey dwelling alterations & additions, decks (maximum height 5.7m) & associated earthworks at 24 Edgeware Road Aldgate 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 plans (dated 04/09/2018, sheet numbers 1-9) prepared by CLB Design:
  - Cover
  - Site Survey
  - Existing site/Floor plan and Elevations
  - Site Layout
  - Proposed Elevations East & West
  - Proposed Elevations North & South
  - Ground Floor Plan View
  - Upper Floor Plan View
- Contour survey site detail plan prepared by Mattsson & Martyn dated received 26/04/18
- Landscape plan dated received 10/09/18

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

### (2) Timeframe For Landscaping To Be Planted

Landscaping detailed in plan dated received by Council 10/09/18 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 if and when it dies or becomes seriously diseased in the next planting season.

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 and comply with the requirements of Section 42(4) of the Development Act 1993.

### (3) Retention Of Screening Trees

The screen of trees and shrubs as shown on the landscape plan dated received 10/09/18 referred to in Condition 1, shall be retained and maintained in good health and condition at all times with any dead or diseased plants being replaced if and when it dies or becomes seriously diseased in the next planting season.

REASON: To maintain and enhance the visual amenity of the locality in which the subject land is situated.

**(4) Firefighting Water Supply - Mains Water Supply Available**

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

- a minimum supply of 2,000 (two thousand) litres of water shall be available for fighting purposes at all times; and
- the water supply shall be located such that it provides the required water; and
- the water supply shall be fitted with domestic fittings (standard household taps that enable an occupier to access a supply of water with domestic hoses or buckets for extinguishing minor fires); and
- the water supply outlet shall be located at least 400mm above ground level for a distance of 200mm either side of the outlet; and
- a water storage facility connected to mains water shall have an automatic float switch to maintain full capacity; and
- where the water storage facility is an above-ground water tank, the tank (including any support structure) shall be constructed of non-combustible material.

**REASON:** To minimise the threat and impact of fire on life and property as your property is located in a MEDIUM Bushfire Prone Area.

**(5) Vehicle Turning Area**

A vehicle turning area shall be provided within the surveyed property boundaries, to facilitate the forward entry and exit of vehicles to and from the land. This turning area shall be substantially completed prior to occupation of the development.

**REASON:** To reduce interference with the free flow of traffic on adjoining roads.

**(6) 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.

**(7) External Finishes**

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

**WALLS:** Texture coat in Solver® Magnolia or similar

**ROOF:** Basalt Colorbond® 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.

**(8) Obscure Glazing To Windows**

The north & south facing upper level windows of the craft room and sunroom shall be glazed with fixed obscure glass to a minimum height of 1.5 metres above finished floor level. The glazing in these windows shall be maintained in good condition at all times.

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

**(9) Stormwater Roof Runoff To Be Dealt With On-Site**

All roof runoff generated by the development hereby approved shall be managed on-site and connected to the existing stormwater system to the reasonable satisfaction of Council, 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.

**(10) 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.

**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) 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.

**(4) DEWNR 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.**

**9. ATTACHMENTS**

- Locality Plan
- Proposal Plans
- Representation
- Applicant's response to representations
- Publically Notified Plans

Respectfully submitted

Concurrence

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**Susan Hadley**  
**Statutory Planner**

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**Deryn Atkinson**  
**Manager Development Services**

**COUNCIL ASSESSMENT PANEL MEETING**  
**10 October 2018**  
**AGENDA – ITEM 8.6**

<b>Applicant:</b> Thomas Playford	<b>Landowner:</b> T Playford & AE McDonald
<b>Agent:</b> John Outhred	<b>Ward:</b> Marble Hill (Ranges Ward)
<b>Development Application:</b> 18/168/473	<b>Originating Officer:</b> Susan Hadley (Author James Szabo)
<b>Application Description:</b> Land division (Boundary realignment 2 into 2) - Non Complying	
<b>Subject Land:</b> Lot:25 Sec: P1065 FP:130279 CT:5809/514 Pce: 24 & 25 Sec: P1065 FP:130278 CT:5246/903	<b>General Location:</b> 467A & 467B Old Norton Summit Road, Norton Summit  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 24 October 2017 <b>Map:</b> AdHi/15	<b>Zone:</b> Hills Face Zone <b>Policy Area:</b> N/A
<b>Form of Development:</b> Non-complying	<b>Site Area:</b> 4.31ha
<b>Public Notice Category:</b> Category 1 Non-Complying	<b>Representations Received:</b> N/A  <b>Representations to be Heard:</b> N/A

**1. EXECUTIVE SUMMARY**

The purpose of this application is to realign the property boundaries between two (2) adjoining allotments, with the primary aim to accommodate an existing dwelling including its curtilage wholly within one allotment. The realignment has also been prepared with regard to the location of the driveway access, water storage tanks and a wastewater system, all associated with the dwelling, to ensure these critical elements can also be accommodated within the new allotment. Currently the abovementioned elements encroach into the adjoining allotment to varying degrees.

The subject land is located entirely within the Hills Face Zone and the proposal is a non-complying form of development. The proposal was deemed to accord with Part 1 Clause 3(c) of Schedule 9 of the Development Regulations 2008, and subsequently was determined to be Category 1 for public notifications purposes.

The proposal will resolve long standing anomalies with the existing boundaries and not change any built assets or propose any new built assets, other than a new wastewater system. On this basis the proposal is considered to have merit.

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

The main issues relating to the proposal are ensuring the development is:

- orderly and economic,
- the proposed allotments are suitable for their intended use,
- the allotments do not result in a loss of the natural character, and
- the proposal does not pose a burden on the community through infrastructure provision or create increased risk from natural hazards.

With consideration to all of the information presented and 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 (SCAP) be sought to **GRANT** Development Plan Consent and Land Division Consent.

## 2. DESCRIPTION OF THE PROPOSAL

The proposal is for of a boundary realignment involving two (2) existing allotments. No additional allotments are proposed to be created as part of the proposal.

### Existing Allotments

Allotment	Area (ha)	Containing
Allotment 25	902m <sup>2</sup>	Existing dwelling located primarily on Lot 25, with a corner portion of the dwelling encroaching across the adjoining boundary of Piece 24
Allotment Comprising pieces 24 & 25	4.222ha	A number of outbuildings are located on piece 24, with the balance of the land included in piece 25 being largely vacant and defined by steep terrain, native vegetation and orchards

### Proposed Allotments

Allotment	Area (ha)	Containing
Allotment 52	2,724m <sup>2</sup>	The dwelling and curtilage to accommodate driveway access, a water tank, usable land around the dwelling and a new wastewater system
Allotment Comprising pieces 50 & 51	4.04ha	No significant changes

The plan of division includes:

- An adjustment of boundaries between proposed allotment 52 and proposed piece 50
- Proposed allotment 52 will be increased in size
- Proposed piece 50 will be decreased in size
- No changes to the existing access to proposed allotment 52, and
- No changes to the existing built form or existing land uses on any of the allotments.

In addition, details of the new waste water solution are provided.

The proposed plans are included as **Attachment – Plan of Division** with other information included as **Attachment – Application Information** and **Attachment – Statement of Support**.

## 3. BACKGROUND AND HISTORY

There is a dwelling located primarily on existing allotment 25, with a corner of the dwelling encroaching across the boundary of piece 24.

DATE OF APPROVAL	DA NUMBER	DESCRIPTION OF PROPOSAL
October 2, 1962	Permit number 36	Council approved a dwelling

The allotment consisting of pieces 24 & 25 contains no dwelling, however, a series of outbuildings are located on piece 24 in close proximity to the dwelling on lot 25

#### 4. REFERRAL RESPONSES

- **Department Planning Transport & Infrastructure (DPTI)**  
DPTI have no objection to the proposal, provided all vehicles enter and exit Old Norton Summit Road in a forward direction. DPTI have recommended that a group of standard conditions to support their position be included with any subsequent approval (refer recommended condition 2).
- **AHC EHU**  
Council's Environmental Health Officer is currently in receipt of a wastewater application 18/W088/473 lodged in association with this proposal. The wastewater approval in this instance is contingent on the approval of the boundary realignment. Notwithstanding, Council's Environmental Health Officer has confirmed that in principle the proposed system is capable of meeting compliance requirements.

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

#### 5. PLANNING & TECHNICAL CONSIDERATIONS

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

- The Site's Physical Characteristics  
The subject land has a total area of 4.31 hectares and currently exists as two (2) allotments varying in size and form. The allotment consisting of pieces 24 and 25 is separated by Norton Summit Road but considered one allotment. The size and use of each existing allotment is provided in the first table in Section 2 of this report. In summary, the land appears to provide a 'rural residential' function, characterised by residential and natural qualities. The land is steep and falls approximately 96 metres from the eastern edge of piece 25 to the western edge of piece 24.
- The Surrounding Area  
The surrounding area has similar variations in allotment sizes and is steep in nature. The settlement of Norton Summit is located on either side of Old Norton Summit Road approximately 100 metres north of the subject land.  
  
Generally residential uses are contained on the smallest allotments adjacent to the subject land and within the Norton Summit settlement. On the larger allotments uses vary and include horticulture, mining (quarry), recreation and rural residential.

iii. Development Plan Policy considerations

a) Zone Provisions

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

Zone

- I. A zone in which the natural character is preserved and enhanced or in which a natural character is re-established in order to; provide a natural backdrop to the Adelaide Plains; preserve and regenerate native vegetation and fauna habitats; provide for passive recreation; provide natural character; and provide a buffer between urban and rural land use.
- II. A zone accommodating low intensity agricultural activities and public/private open space and one where structures are located and designed in such a way as to; preserve and enhance the natural character; limit the visual intrusion of development; not create a demand for the provision of services at a cost to the community; and prevent the loss of life and property from bushfires.

The following are considered to be the relevant Zone provisions:

*Objectives:* 1 & 2

*PDC's:* 1, 3, 10, 22 & 26

Accordance with Zone

The proposal is anticipated to meet Zone Objectives 1 and 2 as it does not change the essential nature of how the land is currently used, nor pose any significant physical changes to the land.

As such the natural character will be preserved and there is no removal of native vegetation which ensures that the proposal will not impact upon the natural backdrop of the Hills Face when viewed from the Adelaide Plains.

A large portion of the subject land contains an orchard. While the applicant has confirmed that this is no longer in commercial use, its presence is consistent with a low intensity agricultural activity, which is accommodated by the Zone provisions.

In terms of the threat from bushfire, the boundary realignment will not directly increase the number of habitable buildings. Notwithstanding, it is highlighted that there is potential for a future dwelling on Piece 50/51, but it is difficult to anticipate whether the boundary realignment will materially increase this potential. Consideration of any future dwelling proposal is outside the scope of this assessment.

The proposal is largely consistent with PDC 1, in that the following uses, envisaged in the Zone, are retained on the land:

- Low intensity agricultural activity
- Private use of an open character, and
- An existing single storey detached dwelling

The physical changes caused by the wastewater system are largely at grade and are not anticipated to cause significant disruption to the existing natural character, which along Norton Summit Road, is largely contributed to by a thick band of vegetation within the road reserve. This vegetation serves to screen the subject land (containing the dwelling and wastewater system) from public view.

The land division will not cause any contravention to the principles under PDC 3, as it is not anticipated to cause:

- Any pollution or exploitation of underground or surface water resources
- Any loss of native vegetation
- Any denudation, erosion, dust or nuisance
- Any increased bushfire hazard, or
- Any loss of amenity to adjoining properties.

*b) Council Wide provisions*

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

- i. Orderly and economic development
- ii. Development to be undertaken on land that is suitable for the intended purpose, whilst also having regard for the zoning of the land
- iii. Minimisation of interface conflicts
- iv. Retention of the natural character, and
- v. Protection of property from the risk of Bushfire.

The following Council Wide (CW) provisions are considered to be the most relevant with respect to the proposal:

Hazards

*Objectives: 1, 2 & 5*

*PDCs: 1, 2, 6, 8, 9, 13 & 14*

The land is located within the 'High Bushfire Risk' area as depicted by *Figure AdHi(BPA)/1* in the Development Plan.

It is anticipated that the boundary realignment will facilitate improved management of the land, which will likely contribute to improved bushfire protection for the existing dwelling. In particular the following is noted with respect to the proposal:

- The boundary realignment will increase the curtilage around the dwelling to allow land occupiers to establish a fire protection zone within the same allotment as the dwelling. Currently, particularly to the north and west of the dwelling this protection zone is located on the adjoining allotment.
- The boundary realignment has been designed to ensure that access provided to the allotment containing the dwelling (Proposed Allotment 52), does not encroach within the adjoining allotment, as is the case now. This ensures that management and vehicle access, including for CFS, is under the full control of the land occupiers, and

- The boundary realignment will accommodate a dedicated water supply on the same allotment as the dwelling. Currently the concrete water storage tank on the adjoining allotment.

In addition the following is noted:

- The dwelling is reasonably separated from any significant areas of native vegetation
- The access is in good condition and contains a large turnaround area.

#### Infrastructure

*Objectives: 1, 2 & 3*

*Principles of Development Control: 1 & 7*

The existing dwelling is serviced by existing power mains and an all-weather road. In addition to the proposal facilitating the location of the water storage tank on the same allotment as the dwelling, a new on-site wastewater system is also proposed on the new allotment. The proposal thus improves management of infrastructure associated with the dwelling by locating all services on the same allotment as the dwelling.

The land division will therefore have a limited material impact on the capacity of essential services as promoted by Objective 1-3 and satisfies the provisions of PDCs 1 and 7.

#### Interface Between Land Uses

*Objectives: 1, 2, 3*

*PDCs: 2 & 4*

As there is no significant changes proposed to the buildings and uses on the subject land, the proposal is not anticipated to have any negative impacts on existing and future land uses in the locality, in accordance with PDC 2.

In addition, the proposed increase in the size of proposed allotment 52 offers an increased buffer from potential land use conflicts on the adjoining allotment in accordance with PDC 4.

#### Land Division

*Objectives: 2, 4, 5*

*PDCs: 1, 2, 6, 7, 11, 15, 19 & 21, 22, 23*

The proposal is considered to meet all three objectives listed above, by virtue of the realignment consolidating critical elements, including access and water associated with the existing dwelling, within one allotment. The proposal also ensures sufficient area is set aside on adjoining allotments for use in low intensity agricultural activities or to retain the natural character as desired by the Zone objectives.

The proposal is consistent with the PDCs listed above for the following reasons:

- Stormwater runoff from buildings is captured and stored on site
- The allotments are suitable for their intended use

- Safe and convenient access is provided for the allotment containing the dwelling
- Other than for a new wastewater system (300mm wide earth bund) the proposal requires no earthworks
- No native vegetation is proposed to be removed
- Sufficient onsite parking is provided, and
- The proposal will not limit the balance of the land to be used for agricultural purposes.

In summary the proposal corrects anomalies between the location of existing buildings on the land and their relationship to the parcel/cadastral arrangements. By addressing these anomalies, namely encroachments, the land occupiers will have appropriate means to improve the function of key elements associated directly with the dwelling, which will aid in improving management of the subject land.

Metropolitan Open Space System (MOSS)

*Objectives: 1 & 2*

*PDCs: 1*

The subject land is private land and contributes to the aims of the MOSS, with the boundary change proposed as part of the boundary realignment anticipated to have little to no impact upon the natural landscape character in the locality.

Natural Resources

*Objectives: 1, 2, 6, 7, 8, 10, 13 & 14*

*PDCs: 1, 2, 6, 8, 9, 38 & 45*

The proposal ensures a continuation of the ability for each lot to be managed as a part of the whole or individually in accordance with best practice with regards to conservation, weed management and native vegetation as envisaged in PDC 45.

Orderly and Sustainable Development

*Objectives: 1, 2, 3, 4 & 10*

*PDCs: 1, 2 & 9*

The proposal does not present any change in the way the subject land is viewed from the public domain and is considered to have minimal impact on adjoining properties.

The proposal does not change the intended use of the land or prejudice the development of land in the zone.

Further, by correcting anomalies the proposal enables the continuation of the existing uses which are envisaged in the Zone and supports better management of critical elements associated with each use. For these reasons the proposal is considered to be orderly and economic in accordance with PDCs 1, 2 & 9.

Transportation and Access

*Objectives: 1 & 2*

*PDCs: 8, 25, 26, 28, 30, 32 & 34*

The generation of traffic is not anticipated to increase as a result of the proposal.

The existing access point will connect Norton Summit Road to proposed allotment 52 and proposed piece 51. The boundary realignment will allow the dwelling to have direct access from the driveway on the public road reserve, rather than through the adjoining allotment, as is the case now.

The existing dwelling and its proposed allotment will provide for adequate car parking in accordance with *Table AdHi/4*. However, this is contingent on the proposed boundary realignment.

Waste

*Objectives: 1 & 2*

*PDCs: 1, 2, 3, 11 & 12*

The existing dwelling is serviced by an outdated septic and soakage system and it is proposed that this be replaced by a new system.

Stormwater Management

No changes to existing stormwater arrangements are proposed and the boundary realignment ensures infrastructure related to the dwelling is contained on the same allotment.

**6. SUMMARY & CONCLUSION**

The proposal is for a rearrangement of boundaries of two (2) allotments and no additional allotments are proposed. There is no change to buildings or access arrangements and the existing uses currently undertaken on the land will continue.

The increase of proposed allotment 52 is considered an orderly proposition with respect to the existing buildings and associated infrastructure. It is fundamentally an improvement to the current arrangement of encroachment, and it is likely to facilitate the better management of the land.

As demonstrated above, the proposal is sufficiently consistent with the relevant provisions of the Development Plan, despite its non-complying nature, and it is considered the proposal is not seriously at variance with the relevant provisions of 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 and Land Division 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 18/168/473 (473/D12/18) by Thomas Playford for Land division (boundary realignment) (Non Complying) at 467A and 467B Old Norton Summit Road, Norton Summit 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 Olden & van Senden Pty Ltd (Ref 4383da V1, dated 15/2/2018)
- Access Location Plan provided by Thomas Playford (Ref 4383da V2 Access Rd dated 11/7/2018)

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

### Department Planning Transport and Infrastructure conditions

- (2)** The allotments yielded from this plan of division shall have a single, shared vehicular access only to/from Old Norton Summit Road.
- (3)** All vehicles shall enter and exit Old Norton Summit Road in a forward direction.
- (4)** Stormwater run-off shall be collected on-site and discharged without jeopardising the integrity and safety of the adjacent road. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's cost.

### Planning 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.

### Council Land Division Statement of Requirements

Nil

### Council Land Division Notes

#### **(1) Property Identifiers**

The property identifiers for this property are now:

Proposed Pieces 50 & 51 – remain 467A Old Norton Summit Road  
Proposed Lot 52 – remains 467B Old Norton Summit Road

**SCAP Land Division Statement of Requirements**

**(1) 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 State Commission Assessment Panel for Land Division Certificate purposes.

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

**SCAP Land Division Notes**

Nil

**8. ATTACHMENTS**

Locality Plan  
Proposal Plans  
Application Information  
Applicant's Professional Reports  
Referral Responses

Respectfully submitted

Concurrence

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**Susan Hadley**  
**Statutory Planner**

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**Deryn Atkinson**  
**Manager Development Services**

**COUNCIL ASSESSMENT PANEL MEETING**  
**10 October 2018**  
**AGENDA – ITEM 8.7**

<b>Applicant:</b> Uraidla Bowling Club Inc.	<b>Landowner:</b> Uraidla Bowling Club Inc
<b>Agent:</b> N/A	<b>Ward:</b> Marble Hill Ward
<b>Development Application:</b> 18/319/473	<b>Originating Officer:</b> Doug Samardzija
<b>Application Description:</b> Removal of two existing light poles & construction of four (4) light poles (maximum height 9.5m) in association with existing bowling green	
<b>Subject Land:</b> Lots:93 & 94 Sec: P8 FP:129447 CT:5602/679	<b>General Location:</b> 1188 Greenhill Road Uraidla  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 24 October 2017 <b>Map</b> AdHi/1, 15 and 17	<b>Zone/Policy Area:</b> Local Centre Zone - Local Centre (Uraidla) Policy Area
<b>Form of Development:</b> Merit	<b>Site Area:</b> 3216m <sup>2</sup>
<b>Public Notice Category:</b> Category 2 Merit	<b>Representations Received:</b> 2  <b>Representations to be Heard:</b> 1

**1. EXECUTIVE SUMMARY**

The purpose of this application is to seek approval to remove two existing light poles at the existing bowling green and replace these with four 9.5m high light poles with attached lighting.

The subject land is located within the Local Centre Zone - Local Centre (Uraidla) Policy Area and the proposal is a merit form of development. One representation in opposition and one representation in support of the proposal were received during the Category 2 public notification period.

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 potential for the new lights to increase operating hours, noise and light spill.

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:

- Removal of two existing light poles at the existing bowling green
- Construction of four new 9.5m high light poles
- Lighting on top of the new light poles

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Attachment – Application Information**.

### 3. BACKGROUND AND HISTORY

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
August 23, 2013	13/130/473	Council approved a variation to DA 473/871/2011 to increase the size of Stage 2 (clubroom, office and kitchen) additions to bowling club
September 04, 2011	11/871/473	Council approved alterations and additions to existing clubroom and improvements to bowling club to be undertaken in stages: Stage 1- toilet block addition, Stage 2-storage shed, masonry fence, signage, associated earthworks, landscaping, removal of existing light poles and demolition of existing storage shed Stage 3- office, clubroom and bar area additions and attached verandah
October 10, 1999	99/823/473	Council approved a shed

### 4. REFERRAL RESPONSES

No referrals were required for this application.

### 5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with Section 38(2)(a) of the *Development Act (1993)* and Schedule 9 of the *Development Regulations (2008)* requiring formal public notification. Two (2) representations were received and of these, one (1) representation was opposing the proposal, and one (1) was in support of the proposal. Both of the representations were from adjacent properties.

The following representor wishes to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Mark Stevenson	96 Swamp Road, Uraidla	Mark Stevenson

The applicant or their representative may be in attendance.

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

- Regular high levels of noise
- Lack of privacy
- Unorderly behaviour by the patrons using the venue
- Light spill

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:

- i. The Site’s Physical Characteristics  
The subject land is 3216m<sup>2</sup> in area spread across two rectangular shaped allotments fronting directly onto Greenhill Road. Current site improvements include the clubrooms and associated structures located at the rear of the allotments, two bowling greens directly in front of the clubrooms and four existing light poles and lights.
- ii. The Surrounding Area  
The locality is characterised by a mixture of allotment sizes and land uses ranging from residential to commercial and community use. Immediately to the south of the subject land is the Uraidla Oval with associated clubrooms, with the properties on either side of the Uraidla Bowling club being utilised for residential, commercial and community use.
- iii. Development Plan Policy considerations
  - a) *Local Centre (Uraidla) Policy Area*

The subject land lies within the Local Centre Zone - Local Centre (Uraidla) Policy Area and these provisions seek:

- *Accommodation of a limited range of small to medium scale retail and service facilities catering for the day to day needs of the local community*
- *Development that contributes to the desired character of the Policy Area*

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

*Objectives: 1 and 3*

The Desired Character for the local centre policy area envisages single and two storey brick buildings either side of Greenhill Road between Elborough Avenue and Swamp Road which comprise a range of day to day retail, community and commercial services. This proposal is a form of development which is proposed to improve the community services provided by the club by upgrading the existing facilities. The proposal is therefore considered to be consistent with the desired character statement and Objectives 1 and 3 of the Policy Area.

The following are considered to be the relevant Local Centre Zone provisions:

*Objectives: 1 and 4*

*PDCs: 1, 3, 4 and 8*

Objective 1 of the zone envisages a centre with small scales community facilities to serve the local community. This vision is further enforced by PDC 1 which lists community facilities as envisaged forms of development in the zone. This proposal is for the removal of the two existing light poles and construction of 4 new light poles on an allotment currently utilised for recreational use in the form of a bowling green and clubrooms, and the proposal is therefore considered to accord with Objective 1 and PDC 1 of the zone.

The desired character statement seeks that any development within the zone ensures that any adverse impacts on adjacent residential area in terms of noise, traffic movement and hours of operation is minimized. The representor's property immediately to the west is located in a residential area and concerns were raised by the neighbour in his representation relating to noise, disorderly behaviour, and extension of operating hours as well as light spill. Some of the concerns raised by the neighbour such as disorderly behaviour cannot be considered or assessed as part of this application for lighting. Instead this issue would need to be managed and controlled by the club through internal measures. In the response to the representation, the Club has outlined some ways through which this issue would be controlled. Further it is unlikely that the installation of the lights would exacerbate any existing noise issues to any significant degree particularly given there are currently existing lights which allow for the activities to occur in the evenings. The proposed finishing time for the use of the bowling greens is 10pm. Notwithstanding this, recommended condition 2 seeks to ensure any noise levels emanating from the property accord with relevant EPA guidelines.

The issues of hours of operation and light spill have been considered in this application. It is generally accepted that today any form of outdoor recreational space associated with the club would have or seek to have suitable lights to allow for extended training and playing hours. Whilst there are no conditions on previous approvals in regard to the hours of operation for the clubrooms, limitation on the hours of operation of the lights can be enforced. In the submission documents the club were seeking that the hours of operation be until 10:30pm 7 days a week. To address the noise and light spill concern, staff seek to restrict the hours of operation to 10pm on any night of the week (refer to condition 3). This is being done so that the hours of operation are brought in line with the Environmental Protection (Noise) Policy 2007 where the hours between 7am to 10pm are defined as day and 10pm to 7am as night. The operation hours of the lights is reinforced by condition 3.

Whilst it is recognised there would be some light spill, this would appear to be an unavoidable situation due to the existing layout of the site, with the bowling green and associated clubrooms taking up most of the area of the allotment, thus requiring the lighting to be placed in close proximity to the boundary of the allotment. It is however anticipated that given the angle of the lights and the height that this light spill would be minimal. In addition given the location of neighbours dwelling which is partly screened by the clubrooms, it is expected that only a small portion of the dwelling would be exposed to any light spill. The applicant in the report has also stipulated that the light spill will be limited to 10 lux in order to comply with Australian Standard AS 2560.2.8—2007 Sports lighting Part 2.8: Specific applications—Outdoor bowling greens. Notwithstanding this, the Australian Standards are guidelines and not mandatory rules. The following excerpt is considered important in this regard:

With any outdoor lighting it will rarely be possible to contain all light within the boundaries of the property on which the lighting system is installed. Some light will inevitably be spilled outside the property boundaries, either directly or by reflection. The determination of when the spill light becomes obtrusive to others is difficult since both physiological and psychological effects are involved.

Local government plays an important role in controlling the obtrusive effects of outdoor lighting through the development approvals process, and in resolving neighbourhood disputes involving residents who experience discomfort or annoyance from nearby outdoor lighting installations. Some local government authorities have applied restrictions on the frequency of use and hours of operation of outdoor lighting, and on the levels of light spilled beyond the boundaries of the subject site.

The objective of this Standard is to provide a common basis for assessment of the likely effects of developments that involve the provision of outdoor lighting. However, it should be noted that the potentially obtrusive effects of the lighting will normally be only one of a number of environmental considerations that will need to be addressed. Compliance with this Standard, i.e. with the recommended limits for the various light technical parameters, will therefore not usually be the sole basis for the approval of particular development proposals.

The proposal is therefore considered to be relatively consistent with the desired character of the area. The applicant has however agreed to a condition being put on the approval which requires compliance with the Australian Standards - refer recommended condition 4.

PDC 8 states that development should be a maximum height of 8 metres to maintain the scale of buildings. Given that the proposal is for four 9.5m high light poles with attached lighting it therefore clearly fails to meet PDC 8. Whilst this might be the case it is considered that this PDC was introduced to manage the bulk and scale of building rather than light poles which are normally designed to be of certain height in order to provide suitable light cover for recreation areas. As such the failure to meet PDC 8 is not considered to be detrimental to this proposal.

*b) Council Wide provisions*

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

- *Development of a high design standard and appearance*
- *Orderly and economic development*
- *Community facilities integrated with business and shopping facilities in defined centres*

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

*Community Facilities*

*Objectives: 1 & 3*

*PDCs: 1, 2 and 6*

Objective 1 and 3 as well as PDCs 1, 2 and 6 seek community facilities being located where they are conveniently accessible, integrated with business and shopping facilities within defined centres and of scale, layout and activities which minimize disturbance of the amenity of nearby residents. Whilst this application is not for a change of land use, as mentioned earlier in the report the existing use is consistent with the zone and policy area requirements and therefore consistent the proposal is

considered in accord with Objectives 1 and 3 and PDCs 1 and 2. Whilst the proposed works do not minimise the disturbance of the amenity of nearby residents, it is not considered that they will exacerbate the disturbance any more than what currently exists and as such, the lighting proposal is considered to accord with the intent of the PDC 6.

*Design and Appearance*

*Objectives: 1*

*PDCs: 1 & 9*

The proposal is for four new 9.5m high light poles with associated lights. The structure is of such a nature which does not allow for a lot of flexibility in terms of design and appearance and there is very little policy guidance within the Design and Appearance section of Development Plan that refers to the light poles. As such it is considered that the proposal does not offend any of the relevant Objectives or PDCs relating to the design and appearance.

*Interface Between Land Uses*

*Objectives: 1, 2 & 3*

*PDCs: 1, 2, 6 & 7*

Uraidla is one of the oldest settlements within the Adelaide Hills Council area with the majority of land uses located along Greenhill Road. These were established prior to the implementation of the planning system and controls, and therefore have existing use rights. This is evident with this proposal where the immediate locality is divided into a mixture of community, residential and commercial uses and as such the potential opportunity for conflicts between land uses is present. Relevant Objectives and PDCs in the interface between land uses section of the Development Plan refer to the development managing the impacts of light spill and noise. To minimise noise and manage light spill from the proposed development conditions have been recommended (refer conditions 2 to 4). The proposal is therefore considered to be consistent with Objectives 1, 2 and 3 as well as PDCs 1, 2, 6 and 7.

*Orderly and Sustainable Development*

*Objectives: 1*

*PDCs: 1 & 9*

The proposal is considered to be orderly and economic as it would enable the existing bowling activities at the club to be undertaken in a more economic manner than they currently are. The club and the associated facility have existed for 70 years and thus are considered to have well established existing use rights. The lighting is considered orderly in terms of adding to existing infrastructure on the established site, rather than an alternative option of relocation and displacing such activities. The proposal is therefore considered to be consistent with Objective 1 and PDC 1 and 9.

## 7. SUMMARY & CONCLUSION

Light poles and associated lighting has become a common feature of outdoor recreational areas to allow for greater participation and increased flexibility in operating hours. Currently there are existing light poles on the subject land which are being replaced with four new light poles. Whilst the poles are 9.5m high, the poles are comparable in height to a stobie pole, which are prominent through the locality. As such, the poles should not have a significant impact on the visual amenity of the area.

It is acknowledged that the activity on the site would have impacts on adjoining property but the site has existing use rights and has operated as a bowling club in one form or another for 70 years. There is to be an expected level of noise impact for any residential use in a local centre zone and limiting the operating hours to 10pm are considered to be reasonable to minimise any potential noise impact. Behaviour management of patrons which was also outlined as a concern by the neighbour, are really an internal matter for the club to control.

The guidelines outlined in Australian Standards should be met at the relevant boundary to the nearest residential property. Whilst it is accepted that some light spill will occur it is not considered that it will of a significant nature that will result in an unreasonable impact on the adjoining property.

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 18/319/473 by Uraidla Bowling Club Inc. for Removal of two existing light poles & construction of four (4) light poles (maximum height 9.5m) in association with existing bowling green at 1188 Greenhill Road Uraidla 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 site plan date stamped by Council 19/07/18
- Amended LUX plan date stamped as Council 19/07/2018
- Amended report prepared by Malcolm Story date stamped by Council 24/09/2018
- Elevation drawings date stamped as received by Council 19 April 2018
- Flood light fitting date stamped as received by Council 19 April 2018
- E-mail correspondence with Malcolm Story date 24 September 2018

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

(2) **Adherence to EPA Noise Guidelines**

Noise levels emanating from the property shall not exceed the guidelines set in the Environmental Protection (Noise) Policy 2007, or its legislated equivalent, at any given time.

REASON: To ensure that residential amenity in the locality is not adversely impacted.

(3) **Hours of Use - Light Poles**

The lights herein approved shall not operate between 10pm and 7am Monday through to Sunday.

REASON: To ensure the residential amenity of the area is maintained.

(4) **Lights Installed In Accordance With Australian Standard AS 2560.2.8—2007**

The lights shall be installed and angled in accordance with Australian Standard AS 2560.2.8—2007 Sports Lighting Part 2.8: Specific applications—Outdoor bowling greens. The lights shall be maintained in good condition at all times.

Light spill shall not exceed 10 LUX at 1.5m above ground level in order to comply with the Australian Standards.

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

**NOTES**

(1) **Neighbour Consultation During Light Installation**

It is recommended that residents of the dwelling in close proximity to the site be consulted during the installation/testing of the lights regarding the angle to ensure that light spill impacts can be minimised where possible on neighbouring dwellings.

(2) **Works Within Close Proximity to Boundary**

The development herein approved involves work within close proximity to 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.

(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  
Representations  
Applicant's response to representations

Respectfully submitted

Concurrence

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**Doug Samardzija**  
**Statutory Planner**

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**Deryn Atkinson**  
**Manager Development Services**

**COUNCIL ASSESSMENT PANEL MEETING**  
**10 October 2018**  
**AGENDA – ITEM 8.8**

<b>Applicant:</b> The Manor BR Pty Ltd	<b>Landowner:</b> Australian Fengsheng Pty Ltd
<b>Agent:</b> Marcus Dewar	<b>Ward:</b> Marble Hill Ward
<b>Development Application:</b> 18/606/473	<b>Originating Officer:</b> Doug Samardzija
<b>Application Description:</b> Change of use to include cellar door (40 persons capacity)	
<b>Subject Land:</b> Lot:52 Sec: P135 DP:30305 CT:5262/392	<b>General Location:</b> 762 Lobethal Road Basket Range  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 24 October 2017 <b>Map</b> AdHi/1	<b>Zone/Policy Area:</b> Watershed (Primary Production) Zone - Water Protection (Marble Hill) Policy Area
<b>Form of Development:</b> Merit	<b>Site Area:</b> 1.17 hectares
<b>Public Notice Category:</b> Category 2 Merit	<b>Representations Received:</b> 1  <b>Representations to be Heard:</b> 1

**1. EXECUTIVE SUMMARY**

The purpose of this application is for a change of use of portion of the building to include a cellar door with the maximum capacity of 40 persons.

The subject land is located within the Watershed (Primary Production) Zone - Water Protection (Marble Hill) Policy Area and the proposal is a merit form of development. One (1) representation in opposition was received during the Category 2 public notification period.

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

The main issues relating to the proposal are noise , car parking, the use of the outdoor area and the capacity of the existing on-site waste system to accommodate the patrons of the cellar door.

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:

- Change of use of portion of the existing building into a cellar door for the tasting of wines produced in the region
- Utilisation of part of the existing lawn area as an outdoor seating area which will form part of the new outdoor license area
- Maximum capacity of 40 persons
- Hours of operation between 10am to 5pm Monday to Sunday.

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

DATE OF APPROVAL	DA NUMBER	DESCRIPTION OF PROPOSAL
February 16, 2018	18/45/473	Council approved water storage tank (194,500L), pump shed, retaining walls (maximum height 1.2m), associated earthworks and internal refurbishments to existing motel and restaurant
July 26, 2017	17/93/473	Council approved alterations to existing motel & restaurant, change of use to include shop (cellar door), two freestanding verandahs (pavilions), water storage tanks (194,500L), pump shed, retaining walls (maximum height 1.2m), in ground swimming pool & associated earthworks
May 04, 2017	15/1019/473	Council approved water storage tank
July 18, 2006	05/772/473	Council approved building work for compliance with fire safety audit. Essential safety provision schedule
July 11, 2002	01/1082/473	Council approved a carport
November 27, 2000	00/99/473	Council approved restaurant additions
June 11, 1997	96/122/030	Council approved upper floor dining facility
June 26, 1987	87/067/030	Council approved office and managers unit
April 13, 1982	Permit number 3023	Council approved an extension
October 20, 1981	-	Council approved restaurant additions
July 13, 1977	Permit number 1879	Council approved motel addition
August 5, 1976	Permit number 1635	Council approved alterations and extensions
March 16, 1976	Permit number 1825	Council approved Motel alterations

March 6, 1975	Permit number 1287	Council approved extensions to ten rooms
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#### 4. REFERRAL RESPONSES

- **AHC EHU and SA HEALTH**

Council's Environmental Health Officer has reviewed the proposed cellar door application and determined that it needs to be referred to SA Health as the relevant authority given that the wastewater system is designed for greater than 40 effective persons (EP). SA Health is currently reviewing the proposal to determine the increase of biochemical oxygen demand (BOD) loading as a result of the inclusion of a cellar door and also the current operational status of the system.

An interim response is provided in **Attachment – Referral Responses** and the final response is anticipated to be provided to the Panel at meeting on 10 October 2018.

#### 5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with Watershed (Primary Production) Zone PDC 72 requiring formal public notification. One (1) representation from an adjacent property was received opposing the proposal.

The following representor wishes to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Eberhard Frank	12 Hunters Rd, Basket Range	Eberhard Frank

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

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

- Noise
- Car parking
- The use of the outdoor space

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**. A copy of the plans which were provided for notification is included as **Attachment – Publically Notified Plans**

#### 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 1.17 hectares in area and irregular in shape with a frontage to Lobethal Road. The main access to the site is located on the western side of the property whilst the second access point along the eastern side is only utilised as a fire track. With the exemption of vegetation along the rear and the front of the property

the allotment is predominantly developed. The main building incorporating a restaurant/function area and accommodation units and a chapel building take up the majority of the allotment site. Other site improvements include associated car parking and retaining walls as well as recent building fire safety improvements which included a 194,500 litre water storage tank with associated pump shed.

ii. The Surrounding Area

The topography of the locality is one of undulating landscape which is also evident by the winding nature of Lobethal Road within the immediate locality. The locality is also characterised by a mixture of irregular shaped allotments of varying sizes predominantly used for either rural residential or primary production purposes. The opposing representor's property is located to the north on the opposite side of Lobethal Road and is used for residential and grazing purposes. The property immediately across the road and west of the representor's site is being used for horticultural purposes.

iii. Development Plan Policy considerations

a) *Water protection (Marble Hill) Policy Area*

The subject land lies within the Watershed (Primary Production) Zone - Water Protection (Marble Hill) Policy Area and these provisions seek:

- *Retention of agricultural activities which have low pollution potential*
- *Protection of the surrounds of the township of Summertown and Uraidla to enhance the country town atmosphere*

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

*PDCs: 7 & 9*

There is little guidance within the Marble Hill Policy Area provisions relating to the proposed development. However, PDC 7 states that development should be of scale and intensity which is unlikely to have detrimental impacts on the locality and PDC 9 states that non-residential buildings should be located at least 20m from side and rear boundaries of the allotment. The proposal is for a change of use of a small area of the existing commercial premises to a cellar door for a maximum capacity of 40 persons. The applicant also wishes to utilise a small section of the lawn area immediately in front of the buildings to allow the patrons to sit and consume alcohol outside. Given the small scale of the proposed cellar door, the fact that any entertainment and music is going to be contained inside the building, existing outdoor licensed areas and taking into account the separation distance between the area and neighbouring properties it is considered that the proposal is not going to unreasonably impact on the locality. The proposal is therefore considered to accord with PDC 7. Apart from internal alterations there is no other building work proposed and the proposal is therefore considered to be consistent with PDC 9.

The following are considered to be the relevant Watershed (Primary Production) Zone provisions:

Objectives: 1, 2, 5 & 6

PDCs: 14, 15, 16, 31, 67 & 69

The proposal is considered to be relatively consistent with most of the objectives and PDCs of the zone as it does not change the essential nature of the allotment being used for commercial purposes. Objectives 1 and 2 of the zone seek enhancement of Mount Lofty Ranges and protection of the high quality waters. The existing facility is considered to operate satisfactorily and within the scope of the on-site waste system capacity. The applicant has also indicated that the cellar door will operate in conjunction with the existing accommodation and function facility and be an avenue to promote the existing business and local wine/produce. The proposal is therefore considered to comply with Objectives 1 and 2.

Objective 5 of the zone seeks that development enhances the amenity and the landscape of the Mount Lofty Ranges for the enjoyment of residents and visitors, whilst Objective 6 envisages development of sustainable tourism industry with facilities which relate to and interpret the natural and cultural resources of Mount Lofty Ranges. In recent years cellar doors have become a popular means of attracting tourists into the area and as a way of showcasing local produce. Whilst PDC 67(a) states that cellar doors should be established on the same allotment as a winery, in recent times there has been a trend to move away from this and the word should implies that there is a degree of flexibility in applying this guideline. As such it has become a common practice for cellar doors not to be established on the same allotment as the winery so long as they demonstrate that the product sold is still of the local region. In the submission documents the applicant has indicated a list of local wines that will be on sale and that the cellar door will be used for local, interstate as well as international tourists to promote both the region and the existing venue and the use of land. The proposal is therefore considered to be consistent with Objectives 5 and 6.

The zone seeks that development does not detract from the natural and rural landscape and that this landscape be preserved by careful siting, design and landscaping of intensive land uses as stated in PDCs 14 and 15. The proposal is considered to accord with these PDCs given the small scale of the proposal and the existing approved use of the land. Apart from internal works required there are no extensions proposed. With the exception of the use of the lawn area the cellar door will operate within the existing footprint of the building. The additional activity on land in the form of a cellar door which will operate in conjunction with the existing activities on land is not considered to be detrimental to the natural and rural landscape. The neighbour has raised concerns about noise and has requested that cellar door activities be confined to the building only with no outdoor area. Outdoor sampling areas have become a common practice with cellar doors, whether through a form of a deck or a lawn area. In addition the cellar door will only operate within the core day hours of 10am to 5pm and the applicant has indicated that there will be no amplified music and that the only noise generated will be the voices of patrons and staff. In consideration of this and the other existing licensed area, the creation of an additional seating area is considered appropriate in the context of the use and the distance from neighbouring properties.

As mentioned earlier in the report, the proposal does not meet PDC 67(a) because it is not proposed on the same allotment as the winery. In saying this, the application does satisfy every other component of the PDC. The Applicant has confirmed that the cellar door will predominantly sell product produced within the Mount Lofty Ranges and the floor area will not result in a gross leasable floor area greater than 250m<sup>2</sup>. The proposal is also considered to be consistent with relevant sections of PDC 69 in that the cellar door is not going to be established on an allotment subject to inundation by a 100 year flood period, on a land with a slope of more than 20 percent and it will be set at least 25m away from the closest bore. The proposal fails to meet the minimum setback requirement of 50 metres from the road, however the shortfall is of minor nature and therefore not considered detrimental to the proposal.

*b) Council Wide provisions*

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

- *Orderly and economic development*
- *Development located and designed to minimise adverse impact and conflict between land uses*
- *Retention, protection and restoration of the natural resources and environment*
- *Tourist development that sustains or enhances the local character, visual amenity and appeal of the area*

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

*Infrastructure*

*Objectives: 1 & 3*

*PDCs: 1 & 20*

The proposal is for a change of use for a section of the existing building to a cellar door with associated outdoor lawn area. As mentioned earlier in the report, apart from internal alterations there are no additional building works required to accommodate the proposed development which will utilise all of the existing infrastructure and essential services. The proposal is therefore considered to accord with Objectives 1 and 3 as well as PDCs 1 and 20. SA Health is currently reviewing the proposal to determine the increase of biochemical oxygen demand (BOD) loading as a result of the inclusion of a cellar door and also to review the current operational status of the waste system. The existing waste system was given approval on 8 April 1997.

*Interface Between Land Uses*

*Objectives: 1, 2 & 3*

*PDCs: 1, 2, 7 & 9*

The neighbour in his representation raised concerns relating to the outdoor area proposed to be used in association with the cellar door and the potential noise impacts on his property. Objectives 1, 2 and 3 seek development to be located in manner that will protect the amenity of the area by minimising the impact of the conflicting land uses. This is further enforced by PDC 1 which seeks that developments do not detrimentally affect the amenity of the locality though noise generation, whilst PDC 7 states that development should include noise attenuation

measures compliant with Environment Protection (Noise) Policy. It is anticipated that there will be some noise generated by the proposed development. Applicant has confirmed that there will be no amplified music and that the only noise generated will be the voices of patrons and staff. Additionally the hours of operation of the cellar door are going to be between core business hours of 10am to 5pm, as such the noise impacts from proposed development would be considered as minimal. Notwithstanding this, condition 5 has been recommended requiring compliance with the Environment Protection (Noise) Policy 2007. Additionally, condition 4 relating to entertainment and amplified music, has been recommended. The proposal is therefore considered to be in accordance with Objectives 1, 2 and 3 as well as PDCs 1, 2 and 7. Objective 9 states that any outdoor area associated with licensed premises should be designed and sited to minimise adverse noise impacts on adjacent existing or future noise sensitive uses. The Representor's dwelling is located approximately 141m away from the proposed cellar door and across Lobethal Road and the closest dwelling is approximately 51 metres away, on the property to the east. As such it is considered that the use of outdoor area is appropriate due to the fact that there will be no amplified music and this is unlikely to have a significant impact given the distance from neighbouring residences. The proposal is therefore considered to comply with PDC 9.

*Natural Resources*

*Objectives: 1, 2, 10 & 14*

*PDCs: 1, 2, 6 & 37*

As mentioned earlier in the report, the proposal is for a change of use only and does not involve any building work apart from the internal alterations. Existing infrastructure will be utilised for the cellar door, there will be no need to create additional car parking spaces. As such it is considered that the proposed development is not going to have any impacts on the natural environment, with no need to alter the land form or remove any native vegetation required. As such the proposal is considered to be consistent with Objectives 1, 2, 10 and 14 as well as PDCs 1, 2, 6 and 37.

*Orderly And Sustainable Development*

*Objectives: 1, 3, 11 & 12*

*PDCs: 1, 2, 9 & 16*

The proposal is considered to be orderly and economic as it is seeking to establish a small scale cellar door which will be used in association with the existing commercial use of the land. The proposal is therefore considered to be in accordance with Objectives 1 and 11 as well as PDCs 1 and 9.

Whilst the nature of the locality is predominantly rural and rural residential, given the existing use of the land it is considered that the proposal is not going to prejudice the development of the zone for its intended purposes nor would it have any impacts on the continuance of adjoining land uses as envisaged by Objective 3 and PDC 2. Whilst Objective 12 seeks that commercial developments are suitably located in reasonable proximity to business, shopping and transport facilities, consideration must be given to the existing uses of land as a commercial property and additionally to the fact that cellar door developments are envisaged in the zone. Such developments are generally

located away from business and shopping precincts and generally the impacts can be managed appropriately. As such whilst the proposal is not entirely consistent with Objective 12, it is considered to adequately satisfy PDC 16.

*Siting And Visibility*

*Objectives: 1*

*PDCs: 1*

Objective 1 and PDC 1 seek scenically attractive areas and development which is sited and designed to minimise visual impacts. The proposal is utilising the existing infrastructure of the site and will not result in clearance of any native vegetation or alteration to the land forms and as such is considered consistent with Objective 1 and PDC 1.

*Tourism Development*

*Objectives: 1, 3 & 5*

*PDCs: 1, 3, 7, 12, 14 & 21*

As mentioned earlier in the report, cellar door developments are generally envisaged in the Zone so long as all of the environmental and amenity issues can be managed accordingly. Cellar doors are also seen as a way to promote the produce and offerings of the region and contribute towards tourism in the area. Objectives 1 and 3 as well as PDCs 1 and 7 seek tourism development which enhances the local character and which is environmentally sustainable and has a functional link with the natural, cultural and historical setting. Given that the proposal seeks to utilise existing infrastructure of the land and would not result any loss of native vegetation nor would it have any environmental impacts due to demand for a bigger onsite waste system it is considered that that the proposal is environmentally sustainable. The applicant has also confirmed in the supporting documentation that the products sold will be from the Mount Lofty Ranges region. As such the proposal is considered to be consistent with Objectives 1 and 3 as well as PDCs 1 and 7.

PDC 14 seeks tourist development in rural areas to be developed in association with agricultural, horticultural, viticulture or winery development. As discussed earlier in the report the proposed cellar door is not in association with a winery as generally anticipated in the Watershed (Primary Production) Zone PDC 67(a). Notwithstanding this it is not uncommon for cellar doors to be established independently of a winery where it is demonstrated that they would be promoting and selling wine produced in the Mount Lofty Ranges Region. As the cellar door proposes to sell wine from the region it can still be argued that this is form of tourist development which has a link with viticulture and wineries in the region and the proposal is therefore not inconsistent with PDC 14. Recommended Condition 8 seeks to ensure that wine sold is limited predominantly to the licensee's own product or product from Mount Lofty Ranges Region. Additionally PDC 12 seeks that tourist development in rural areas be established on allotments of lower agricultural value and given the existing commercial nature of the allotment it is considered that the proposal sufficiently satisfies this requirement.

Transportation And Access

Objectives: 2

PDCs: 8, 25, 34, 36, 39 & 41

Objective 2 and PDC 8 seek that developments provide safe and efficient movement for all transport modes. The allotment is currently being utilised for a number of different purposes including restaurant, functions and accommodation. It is anticipated that the modes of transport for the proposed cellar door are not going to be any different to those currently accommodated by the site. Existing access, car parking and on site manoeuvring areas will be utilised. The proposal is therefore considered to accord with Objective 2 and PDC 8.

The neighbour in his representation has expressed concerns in relation to car parking and preventing roadside parking. In accordance with the 1996 approval there was a requirement to have 52 onsite car parking spaces. Since then there have been no other applications requiring additional car parking spaces. Based on Table AdHi/4 in the Development Plan, the off-street vehicle parking requirements require a maximum of 6 car parking spaces per 100 square metres of floor area. As such given that the cellar door proposed is 40 square metres there would be a requirement for an additional 2.5 on-site car parking spaces to be provided. The site plan provided indicates a total of 55 car parking spaces which satisfies the minimum on site car parking requirements. The proposal is therefore considered to be consistent with PDCs 34, 35, 39 and 41. The Applicant has also advised that any group attendances will require pre-booking given the space available.

## 7. SUMMARY & CONCLUSION

The proposal for a change of land use to include a small scale cellar door is considered to generally conform to the relevant provisions of the Development Plan. The representor has raised concerns relating to car parking which has been determined to comply with Table AdiHi/4 of Adelaide Hills Council Development Plan. The issue relating to possible noise impacts has also been addressed by conditions relating to compliance with the Environment Protection (Noise) Policy and entertainment restrictions. It is considered that the noise impacts generated would be minimal and therefore it is not considered appropriate to restrict the cellar door activities to within the walls of the building.

Whilst the cellar door is not in association with the winery it will be operating in association with the existing commercial use of the land and will be promoting and selling products from Mount Lofty Ranges Region.

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 18/606/473 by The Manor BR Pty Ltd for Change of use to include cellar door (40 persons capacity) at 762 Lobethal Road Basket Range subject to the following conditions and waste system approval:

(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 proposal letter prepared by Marcus Dewar dated 24 September 2018 and date stamped by Council 24/09/18
- Full site plan prepared by Raven Design Concepts, drawing number PD-01, dated 21/08/18 and date stamped as received by Council 21/08/2018
- Close up site plan prepared by Raven Design Concepts, drawing number PD-02, dated 21/08/18 and date stamped as received by Council 21/08/2018
- Floor plan prepared by Raven Design Concepts, drawing number PD-03, dated 21/08/18 and date stamped as received by Council 21/08/2018

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

(2) **Restriction On Display/Sale Non-Beverage/Food Items**

A maximum area of 25m<sup>2</sup> shall be used for the display and sale of any non-beverage or non-food item within the cellar door.

REASON: To ensure the tasting of wine and retail sale of wine are the predominant activities of the cellar door.

(3) **Overall Capacity**

At any one time, the capacity of the cellar door and associated outdoor licensed area shall be limited to a maximum of 40 persons and the overall capacity of the licensed premises at any one time shall not exceed the capacity of the on-site waste system (number to be confirmed prior to, or at the CAP meeting).

REASON: To ensure the proposed development is undertaken in accordance with the approved plans, to ensure that neighbouring properties are not impacted on negatively by this development and to ensure the waste control system is adequate.

(4) **Entertainment (Amplified Music)**

Entertainment in the form of a range of music such as quiet jazz to soft rock type music shall be contained within the cellar door building during operating hours of the cellar door to maintain the amenity of the rural area to the reasonable satisfaction of Council.

REASON: To maintain and enhance the rural amenity of the locality.

(5) **Noise Levels**

The noise from the cellar door is not to exceed 57dB(A) between 10am and 10pm within nearby dwellings.

**REASON:** To maintain the amenity of the locality and to ensure compliance with Environmental Protection (Noise) Policy 2007.

(6) **Opening Hours Cellar Door**

The opening hours of the cellar door sales shall be between 10:00am and 5:00pm Monday to Sunday.

**REASON:** To ensure the development operates in accordance with the approval.

(7) **Sale of Wine Restricted to Licensee's Own Product And Product from the Mount Lofty Ranges Region**

The sale of wine is limited to that which is the licensee's own product or product from the Mount Lofty Ranges Region.

**REASON:** To ensure the tasting and retail sale of Mount Lofty Ranges Region wine are the predominant activities of the cellar door.

**NOTES**

(1) **Development Approval Expiry**

This development approval is valid for a period of twelve months commencing from the date of the decision notification. However if the development hereby approved is substantially commenced within the twelve (12) month period then it shall be completed within three (3) years of the date of such 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.

(2) **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.

**9. ATTACHMENTS**

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

Respectfully submitted

Concurrence

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**Doug Samardzija**  
**Statutory Planner**

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**Deryn Atkinson**  
**Manager Development Services**

**COUNCIL ASSESSMENT PANEL MEETING**  
**10 October 2018**  
**AGENDA – ITEM 8.9**

<b>Applicant:</b> Woodforde JV Pty Ltd	<b>Landowner:</b> Minister For Families & Communities
<b>Agent:</b> Starfish	<b>Ward:</b> Marble Hill
<b>Development Application:</b> 15/1007/473 (15/D049/473)	<b>Originating Officer:</b> Sam Clements
<p><b>Application Description:</b> Land Division (2 into 281) in four stages with associated roads and other civil infrastructure and creation of reserves (SCAP relevant authority)</p> <p>Variation description: Variation to development authorisation 473/D049/15 - to re-align MacIntosh Crescent &amp; to reconfigure approved allotments &amp; increase the number of additional allotments overall from 281 to 296, namely to reconfigure approved allotments 203 to 208 and to increase the number of allotments on southern side of Abercrombie Avenue from 4 to 8 lots (lots 901 to 904) (Stage 2B) &amp; reconfigure approved lots 209 to 219 &amp; increase the number of allotments in the southern section of MacIntosh Crescent from 11 to 22 lots (lots 818 to 828) (Stage 3A)</p>	
<p><b>Subject Land:</b>  Lot:101 Sec: P626 DP:84323 CT:6064/319  Lot:304 Sec: P679 DP:43868 CT:5301/258</p>	<p><b>General Location:</b> 23-63 Glen Stuart Road, Woodforde SA 5072</p> <p><b>Attachment – Locality Plan</b></p>
<p><b>Development Plan Consolidated :</b> 24 October 2017  <b>Map</b> AdHi/11 &amp; AdHi/96</p>	<p><b>Zone/Policy Area:</b> Residential Zone &amp; Glen Stuart Road Policy Area</p>
<p><b>Form of Development:</b>  Merit</p>	<p><b>Site Area:</b> 6.1 hectares</p>
<p><b>Public Notice Category:</b> 1</p>	<p><b>Representations Received:</b> N/A</p> <p><b>Representations to be Heard:</b> N/A</p>

**1. EXECUTIVE SUMMARY**

The purpose of this application is to vary a previously authorised land division to reconfigure the approved allotments (not yet created) and increase the number of allotments by 15 allotments from 281 to 296 overall re-align MacIntosh Crescent and reduce the size of the reserve with Stage 3A. The variations relate to Stages 2B and 3A of the Hamilton Hill development in Woodforde.

The subject land is located within the Residential Zone and the Glen Stuart Road Policy Area and is a Category 1 merit form of development. The State Commission Assessment Panel (SCAP) is the relevant authority on the variation proposal as they were the authority on the original proposal.

The subject land is being developed in an efficient and co-ordinated manner and this will not be altered by this variation proposal. The proposed variations are consistent with the Desired Character Statement of the Zone, but further information is required to determine the proposal consistency with some of the pertinent Policy Area provisions and the Council-wide land division provisions.

As per the CAP delegations, the CAP is the relevant authority to make comment to the SCAP in this instance, as the proposal involves the creation of 10 of more additional allotments.

The main issues relating to the proposal are density, affordable housing provision, stormwater management, car parking, allotment size and configuration, and preservation of the natural land form.

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 Council Assessment Panel **SUPPORT** this application subject to comments and advise the State Commission Assessment Panel accordingly.

## 2. DESCRIPTION OF THE PROPOSAL

- The proposal is for a variation to a previously authorised land division, namely to increase the number of allotments overall from 281 to 296
- Similar to other smaller allotments within the estate these reconfigured and additional allotments are intended to feature detached dwellings built to the side boundaries

### Stage 2B

- To reconfigure approved allotments 203 to 208 by reducing the allotment width and area
- To increase the number of allotments on the southern side of Abercrombie Avenue from 4 to 8 allotments
- The proposed reconfigured and new allotments are 7.75m in width and 29.96 to 33.87m in depth. These allotments have areas between 232m<sup>2</sup> and 255m<sup>2</sup>

### Stage 3A

- To re-align MacIntosh Crescent by moving the road reserve approximately 16.5 metres to the west. The road reserve is still proposed to be 15 metres in width
- The open space reserve is proposed to be reduced in area from 1271m<sup>2</sup> to 1023m<sup>2</sup> The existing SA Water easement has been removed
- To reconfigure approved allotments 209 to 219
- The approved development lot 219 which was one of the four designated residential flat building sites has been removed
- Increase the number of allotments on southern section of MacIntosh Crescent from 11 to 22 allotments
- The proposed reconfigured and new allotments are 9.5m in width and 16.5m in depth and have areas between 157m<sup>2</sup> and 184m<sup>2</sup>

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Attachment – Application Information**.

### 3. BACKGROUND AND HISTORY

#### Background

An amended land division plan dated 16 August 2018 was uploaded onto EDALA on 23 August 2018. The allocated DPTI planner advised the applicant that the amended plan represents a significant enough variation to warrant further assessment and therefore the amendment could not be dealt with as a minor variation pursuant to Regulation 47A.

On 17 September 2018, the applicant lodged another amended land division plan revision dated 14 September 2018 onto EDALA. This variation was also not accepted as a minor variation pursuant to Regulation 47A.

Given the latest revised plan dated 14 September 2018 details both variation proposals, Council staff requested its comments back to the SCAP be combined into the one response for both variation proposals. This was accepted by the allocated planner.

#### Development application history (land division only):

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
June 11, 2015	15/D49/473 (15/1007/473)	SCAP approved a land division to create 286 additional allotments. There have been 10 revisions of the approved land division plan since this original plan was approved by SCAP. The number of additional allotments was reduced to 280 due to the creation of another development superlot within Stage 3C (lot 817)
January 16, 2017-March 22, 2018		Nine revisions to the land division plan proposed after the approval of the amended land division plan dated 8 August 2016. These 9 revisions that were accepted were granted approval under Regulation 47A
July 16, 2018	15/D49/473 V1 R2	Development Approval granted for a variation to the land division plan (revised plan dated 17 June 2018). This variation to the land division plan was provided informally (via email) onto the CAP members for comments on 31 January 2018

### 4. REFERRAL RESPONSES

- **AHC Open Space**

Open space raised no issue with the slight reduction of the open space area within Stage 3A.

Planning comment- the open space on the site still well exceeds the prescribed 12.5 percent.

- **AHC ENGINEERING DEPARTMENT**

Council's Engineering Department have provided the following comments:

Stage 2B

- Council Engineering has already approved the Stormwater Management Plan for the whole of Stage 2 and therefore this plan is to be reviewed and confirmation provided that there is adequate capacity in the stormwater system to service the allotments within this stage. Specifically, the current stormwater design is to be reviewed in considering additional impervious areas and connections points created with the revised hydraulic grade line analysis to be submitted to Council for approval prior to Section 51 Clearance.

Stage 3A

- Council Engineering has already accepted the Stormwater Master Plan (13-908-SK-103 rev D) for the whole development. The Master Plan will need to be reviewed/updated to take into account these proposed variations and be submitted back to Council for approval.

Planning Comment - It is to be confirmed that the post-development flows will still not exceed pre-development flows and therefore the downstream infrastructure within Campbelltown City Council is not overburdened by the increased runoff.

## 5. **CONSULTATION**

The application was categorised as a Category 1 form of development not requiring formal public notification.

## 6. **PLANNING & TECHNICAL CONSIDERATIONS**

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

i. The Site's Physical Characteristics

The subject land overall is 19 hectares in area and is bordered by Glen Stuart, Kintyre and Norton Summit Roads. It is however noted that the majority of the development area is to be generally confined to the western half of the site as well as a strip of land running along the entire the Kintyre Road frontage of the subject land. The site is moderately undulating and generally slopes from the east down to the west, dropping some 50m in height from the eastern boundary down to the western boundary at Glen Stuart Road.

The immediate site of the development (the variations to original land division) is the superlots which include stages 2B and 3A. These are superlot 2222 (Stage 2A) and superlot comprising pieces Q5031, Q5032 and Q5033 (the remaining stages). The allotment for Stage 2B is in the southern part of the overall site and the allotment for stage 3A is in the northern part of the overall site. The superlot for Stage 2B is approximately 1.5 hectares and the pieced superlot is approximately 5.6 hectares.

ii. The Surrounding Area

The development lot 2222 is Stage 2B of the land division on the southern end of the site, close to Norton Summit Road, but approximately 75m from Glen Stuart Road to the west. The site borders the reserve within Stage 3C on the eastern side and the Council reserve on the northern side (Stage 4). Stage 3A is a pieced superlot including the remaining stages as the other pieces. This piece borders Stage 2A to the south, Stage 4 to the east, Kintyre Road to the north and the Yertabirriti Womma Sports Oval to the west.

To the north of the overall estate along Kintyre Road is the Yertabirriti Womma Sports Oval, Rostrevor College, two large SA Water storage tanks and the Rostrevor College Early Learning Centre. To the north-east (east of Heather Avenue) is the low density residential area of Woodforde which generally consists of detached dwellings on allotments of around 1000m<sup>2</sup>.

To the east of the estate is a very large rural living allotment with the Council owned Windmill Reserve to the south-east.

To the south of the estate on the opposite side of Norton Summit Road is the Council owned Horse Paddock Reserve and detached dwellings in Teringie. These dwellings are located on large allotments of around 2000m<sup>2</sup>, with the exception of a medium density residential community title subdivision to the south-west (at the corner of Norton Summit Road and Glen Stuart Road).

To the western side of the estate (on the opposite side of Glen Stuart Road) are generally low to medium density residential uses, within the City of Campbelltown.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Residential Zone and Glen Stuart Road Policy Area and these provisions seek:

- *A range of medium density dwellings*
- *Development that contributes to the desired character of the policy area*

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

*Objectives: 1-4*

*Desired Character Statement and Concept Plan Figure R/1*

*PDCs: 1, 2, 4, 5, 6, 12, 15, 16 & 17*

**DESIRED CHARACTER** (note – relevant parts have been addressed in specific sections below with the Desired Character Statement in italics)

*Development in the policy area will comprise a range of dwelling types at medium and low densities which respond to the topography of the area. Small-scale, non-residential land-uses such as convenience shops, cafes, offices, consulting rooms and child care centres will also be developed in proximity to the Yertabirriti Womma Oval to create a community hub, or other suitable locations, where they do not negatively impact on residential amenity.*

Whilst the proposal will result in a loss of the one of the residential flat building (apartment) sites (Stage 3A) and therefore some loss to the diversity of housing, the overall estate still provides a range of allotment/dwelling types. The proposal also reduces the number of larger detached dwelling low density sites creating more narrow medium density dwelling (townhouse) sites in stage 2B. Noting the steep nature of the Stage 2B area, it will likely be more difficult to respond to the topography of the site with a townhouse (detached dwelling with an air gap) or row dwelling design. Specifically, the development of allotments 203 to 206 and 901 to 904 may result in more significant modification of the land form for this type of dwelling.

*Water Sensitive Urban Design (WSUD) principles will be incorporated into the layout and design of the Policy Area.*

Decreasing the allotment sizes in Stage 2B reduces the potential for stormwater harvesting due to insufficient allotment area. The small allotments proposed within Stage 3A will also not have sufficient room for such but this is no different to the circumstances for approved allotments 209 to 218.

Other than the minimum 1000L water storage tank per dwelling to meet Building Code requirements, additional stormwater harvesting for re-use is unlikely to be provided. The overall stormwater management plan for the estate includes water quality and detention mechanisms to ensure post-development stormwater flows do not exceed pre-development flows from the discharge point of the overall estate and that the EPA water quality targets are achieved. The overall stormwater master plan will need to be updated to factor in these additional allotments and the increase to impervious surfaces.

*Stormwater discharge will also be minimised through on-site stormwater capture for individual buildings and capture and harvesting within the road network where practical.*

As mentioned above, the stormwater network for the overall land division includes measures to treat and detain stormwater. No water harvesting techniques have been implemented in the approved engineering designs. Whilst MacIntosh Crescent in stage 3A is being re-aligned, there is little scope to request stormwater harvesting within the road network and any major changes to the overall stormwater master plan, which has already been approved.

*Laneways will allow sufficient space for vehicle clearances, services and rubbish bin pads.*

The variation proposal does not create any new laneways or alter any of the laneways not yet created.

*A diverse range of dwellings will be developed on a variety of allotment sizes. Development in the western portion of the policy area, on flatter land, will feature higher residential densities than the eastern portion and near Kintyre Road and Norton Summit Road where steeper gradients will require larger allotments.*

As discussed above, the proposal will reduce some of the opportunities for housing diversity that the previous land division plan achieved. However, overall it is still considered to provide a variety of allotment sizes and housing types. The variation proposal is contrary to the desire for larger allotments near Norton Summit Road, but the allotments directly abutting and more visible from Norton Summit Road remain as larger allotments (Lots 199-202).

*Allotment sizes, dwelling forms and heights will establish a transition from higher density development near the centre of the policy area to the existing low-rise dwellings outside the policy area. To achieve this, higher density development will be centrally located and in close proximity to open space to ensure that residents with smaller areas of private open space have easy access to public reserves and that passive surveillance of public open space is promoted.*

The variation proposal does not create any additional high density sites, but actually removes one high density apartment site. Whilst superlot 219 had some constraints, such as being located adjacent to the early learning centre site, it was well located adjacent to open space on the eastern side and to an oval on the western side. This site was on the northern side of the estate. The additional narrower allotments within Stage 2B will be in the locality of the 54 townhouses approved in Stage 1 and now constructed.

*Buildings of up to three-storeys in height will be developed within the policy area where potential impacts on adjoining properties such as overlooking, overshadowing and traffic movements have been appropriately addressed.*

Whilst the number of additional allotments is proposed to increase as a result of the proposed variation, the number of dwellings would be reduced (i.e. loss of an apartment site). There is likely to be a decrease in the traffic movements as a consequence. Other matters mentioned would be addressed at the land use stage.

*The visual impact of garaging and driveway crossovers on the streetscape will also be minimised.*

The proposal will increase the number of allotments that have garaging facing the street frontage contrary to this desire.

*The site will be assessed and remediated as necessary to ensure that it is suitable and safe for any proposed use.*

The required remediation works as detailed in the Remediation Management Plan have occurred on the site for Stages 1 and 2. The State Contamination Audit Statement has been accepted by the EPA.

### ***Policy Area Provisions***

#### ***Objectives***

The varied proposal will still provide medium density development as envisaged in the Policy Area. It is not clear if by removing superlot 219 and therefore one apartment site, whether the 15 percent affordable housing will no longer be provided on the site. It should be noted that the apartment buildings were providing all the affordable housing on the site (specifically the one bedroom apartments). The developer has entered into a legal agreement to provide assurance that this will occur and therefore this would need to be clarified by the relevant authority (i.e., SCAP). The proposal is consistent with Objective 1 of the Policy Area. The proposal does not minimise the visual impact of garaging on the character of the Policy Area as the proposal creates more standard dwelling sites (15 additional allotments). However, on balance the overall land division does feature a number of laneways to achieve this desire. Given only the elements within the variation can be assessed, the proposal does not accord with Objective 2 of the Policy Area. The proposed allotments and future dwellings will support community services and businesses in the area. The necessary physical infrastructure to support these allotments and future dwellings will be supplied as part of the land division civil construction works. The proposal accords with Objective 3 of the Policy Area. The varied land division proposal will still achieve a medium density compact urban area, mostly consistent with Objective 4 of the Policy Area.

#### ***Principles of Development Control***

The varied and additional allotments will be able to house either a detached, semi-detached or row dwelling. It is not clear if any of these allotments (once developed with a dwelling) would be affordable housing. The proposal is consistent with PDC 1 of the Policy Area. The proposal is consistent with Figure R/1 and therefore accords with PDC 2 of the Policy Area. As detailed above, the proposal is still sufficiently consistent with the desired character statement and therefore PDC 4 of the Policy Area.

As discussed, the proposal reduces housing diversity as it removes some of the large low density sites and the apartment site and creates more medium density row or semi-detached dwelling (townhouse) sites. The proposal still creates allotment size diversity in the overall land division. The proposal sufficiently accords with PDC 5 of the Policy Area. It was highlighted in the earlier proposals that the apartment site was critical in reaching the desired density sought by the Policy Area. The original master plan envisaged 397 dwellings on the overall site. The early proposal calculated the net density of the 'developable' area (12.9 hectares of 19 hectares) within the overall allotment to be 30.8 dwellings per hectare. Over the total residential area of approximately 9.38 hectares, the proposal achieved a net density of 42.3 dwellings

per hectare. Superlot 219 was intended to accommodate a residential flat building comprising approximately 34 dwellings. The variation to Stage 3A will result in 22 less dwellings within the estate. The variation to Stage 2A will increase the number of dwellings by 4 (18 less overall). The proposal will likely reduce the gross densities across the site, but this is difficult to determine without knowing the number of dwellings that may be accommodated within Stage 3C (PDC 6). The number of dwellings within Stage 3C may be significantly greater than what was provided on the original approved plan.

The proposal allotments range from 157m<sup>2</sup> to 255m<sup>2</sup>. Allotments proposed for detached dwellings are recommended to be a minimum of 180m<sup>2</sup> with a frontage width of 8 metres. It is noted from the proposal documents that the allotments within Stage 3A are proposed to accommodate small detached dwellings that will be built side boundary to side boundary (boundary builds, with an air gap). These dwellings will meet setback, site coverage and private open space requirements and visually look like row dwellings. The only difference with the other detached dwelling sites within the land division/estate that were undersized is these allotments have rear access or are accessed solely via laneways. These allotments are wider (generally 9.5m) and therefore will debatably have less impact on the streetscape than narrow row dwellings with garages fronting the street. The narrower allotments proposed in Stage 2B are less than 8m in width and therefore these may be more suitable for semi-detached or row dwellings. However, following the development style within the already developed parts of the estate, these allotments are likely to accommodate detached dwellings with an air gap in between. Given there is very little difference in the appearance to the dwelling block, there is no concern with the allotment sizes proposed generally, provided they can be appropriately developed with dwellings that respond to the topography of the land. Noting that walls of dwellings sited on side boundaries are only envisaged when they would abut another wall or when the exposed section of wall is limited (PDC 12), there is some concern with the width of proposed lots 203 and 904. The proposal is sufficiently consistent with the intent of the Table detailed in PDC 15.

Allotments 203 to 206 and 901 to 904 are located on land that has a slope greater than 1 in 7. These allotments will have greater areas than what is stipulated in the Table in PDC 15, but will not have greater widths and are less than the minimum for a detached dwelling site. The proposal is therefore inconsistent with PDC 16 of the Policy Area, but design concepts could be provided to show how these allotments would be developed taking into account the steep topography of the land (PDC 17).

The subject land is within the Residential Zone and these provisions seek:

- *A residential zone comprising range of dwelling types, including a minimum of 15 percent affordable housing; and*
- *Increased dwelling densities in close proximity centres, public transport routes and public open spaces.*

The following are considered to be the relevant Residential Zone provisions:

*Objectives:* 1, 3 & 4

*PDCs:* 1, 2, 3 & 6

Objectives

As discussed, the proposal could be seen as reducing housing diversity as it reduces some of the large low density sites and removes an apartment site and creates more medium density row or semi-detached dwelling (townhouse) sites. However, the proposal still creates allotment size diversity and dwelling diversity in the overall land division/estate. As mentioned, affordable housing is to be provided as one bedroom apartments in the residential flat buildings within the estate. It is not clear if these small allotments within Stage 3A will meet the affordable housing criteria or if the 15 percent target will be unable to be achieved due to the loss of the apartment site. As a legal agreement has been entered into, the proposal sufficiently accords with Objectives 1 and 3. However, there is some concern in this regard as it has been indicated that the developer has tried to discharge its obligations in relation to this agreement previously. This is a matter for SCAP to review in relation to the legal agreement between the developer (Woodforde JV Pty Ltd) and the Minister for Planning.

As discussed above, the proposal may reduce dwelling densities across the overall site, but this is difficult to determine without knowing how Stage 3C will be developed. Aside from the proposed allotments within Stage 3A, the allotment configurations proposed are generally similar to what already exists within the estate. The developer has advised that the proposed allotments within Stage 3A will provide for a different and more affordable 3 bedroom dwelling type within the estate. The proposal is considered consistent with Objective 4.

Accordance with Zone

Any form of dwelling is envisaged in the zone and therefore the variation proposal accords with PDC 1. Any land division is treated as on-merit within the Glen Stuart Road Policy Area (PDC 2). The subject land is being developed in an efficient and co-ordinated manner and this will not be altered by this variation proposal. The proposed variations are consistent with the Desired Character Statement of the Zone. The proposal accords with PDCs 3 and 6.

*b) Council Wide provisions (limited assessment)*

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

- i. Land division that occurs in an orderly sequence
- ii. Land division that creates allotments appropriate for the intended use

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

Land division

*Objectives:* 1-4

*PDCs:* 1, 2, 5, 6, 7, 8, 9, 11, 15, 16, 18, 19 & 20

The new infrastructure that is being installed is unlikely to change as a result of the variation proposal. As mentioned, it does need to be confirmed in the engineering stage that the stormwater infrastructure is sufficient for the additional allotments within Stage 2B. It should also be demonstrated that the narrow allotments proposed within Stage 2B can be developed with row dwellings taking into account the steep topography, and are therefore appropriate for their intended built form. The proposed variation does not change the orientation of the proposed allotments aside from creating a bank of allotments on the east side of MacIntosh Crescent. The allotments at the southern end (proposed allotments 826 to 828) will have restricted access to sunlight on the western elevation and are therefore not optimum from an energy efficient perspective. The proposed variation does not change how the land division is integrated with the existing site features. The proposal is considered mostly consistent with Objectives 1 to 4.

As mentioned, the overall stormwater management plan for the estate includes water quality and detention mechanisms to ensure post-development stormwater flows do not exceed pre-development flows from the discharge point of the overall estate and that the EPA water quality targets are achieved. An updated stormwater design would need to be provided to prove the variations do not increase the flow rate of stormwater downstream. The proposal should therefore achieve consistency with PDC 1.

As mentioned above, it would need to be proven that the narrow allotments proposed within Stage 2B are suitable on this steep land and that allotments 826 to 828 will have sufficient solar access. In other words, these may not be appropriate for 'boundary build' sites and the allotments within Stage 2B may require excessive cut and/or fill. The extensive modification of allotments within the estate on the southern side near Norton Summit road may result in undue erosion issues, particularly during civil works. All proposed additional or varied allotments will have access to a proposed public road, will be connected to sewer and are not located within a flood plain. The proposal is therefore considered partly consistent with PDC 2.

As discussed above, provided the above mentioned issues can be addressed, it can then be confirmed that the allotments are of a suitable size for their intended built form (PDC 7). The proposed variation does not facilitate optimum solar access for energy efficiency for allotments 826 to 828. The proposal is only partly consistent with PDC 8. The proposed division does use dead end roads within an area that is in an 'Excluded Area from Bushfire Protection Planning Provisions.' However, it is noted that the variation proposal does not alter the road layout or create more dead end roads. The proposal only slightly re-aligns MacIntosh Crescent. It is further noted that the need for emergency vehicle access is being considered in the design of open space (Stage 4). The higher density areas of the estate are further away from the high bushfire risk area to the east of the subject land (PDC 9).

As mentioned above, the proposed 'narrower' allotments within Stage 2B do not minimise the need for earthworks and retaining walls. All the allotments face an abutting street and future development on the proposed allotments should not unreasonably dominate or overshadow the surrounding locality. It would be preferable if allotments 203 and 904 were widened so that a 1m side setback could be achieved for a better interface (visual dominance and overshadowing) with the larger allotments. Whilst it is noted that the Policy Area envisages no side setbacks, PDC 12 clarifies that boundary builds should be when both allotments are intended to be developed in this way. The proposal is considered partly consistent with PDC 11.

As mentioned, the stormwater master plan does not include WSUD stormwater treatment methods within the roads, such as bio-retention or swales. There is no ability to request this for a re-alignment of the road and some additional allotments, particularly as the stormwater master plan has been approved (PDC 15). The developer, though, will be required to comply with the master plan and the Engineering Department has advised that this will need to be reviewed/updated to take into account these proposed variations and be submitted back to Council for approval.

The road reserve width for MacIntosh Crescent will not change as a result of the proposed re-alignment (15 metres). The number of vehicle movements on the road network will now be slightly decreased and therefore the internal road network should still provide for safe and convenient movement of vehicles. The updated car parking plan shows 16 car parking spaces within MacIntosh Crescent, which is an increase of three spaces on the approved plan of division. However, it is noted that the creation of the narrower allotments within Stage 2B will result in the removal of two spaces on-street. The proposal will therefore have a minimal impact on the on-street car parking within the estate, which has previously been demonstrated as being sufficient. The concept for the street car parking shows the allotments within Stage 3A will have shared crossovers between neighbouring allotments to minimise the visual impact. If the variation is supported by SCAP, it is considered this should be a condition of the variation consent (see comments below). Based on this concept there will be sufficient area for street tree planting and the road reserve is of sufficient width to accommodate a footpath. The proposal is considered consistent with PDCs 16 and 19. The road re-alignment will not compromise the efficient movement of traffic and will not increase or reduce trip lengths (PDC 20).

## **7. SUMMARY & CONCLUSION**

The subject land is being developed in an efficient and co-ordinated manner and this will not be altered by this variation proposal. The proposed variations are consistent with the Desired Character Statement of the Zone. In order to prove consistency with the Desired Character Statement and a number of provisions within the Policy Area, and Council-wide provisions relating to land division further information is required. Whilst some matters can be addressed at the engineering stage, other matters relating to whether the allotments are suitable for their intended purpose and can be developed in line with pertinent provisions needs to be addressed at this stage.

The variation 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 variation proposal has sufficient merit to warrant consent. Staff therefore recommend that the State Commission Assessment Panel be advised that Council has no objection to the variation proposal subject to conditions being imposed on any consent granted as detailed below

## **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 advise the State Commission Assessment Panel that it has no objection to the variation proposal in the amended plan of division dated 14 September 2018 in Development Application 15/1007/473 (15/D049/473) by Woodforde Pty Ltd for Land Division (2 into 281) in four stages with associated roads and other civil infrastructure and creation of reserves (SCAP the relevant authority) - described as:**

**Variation to development authorisation 473/D049/15 - to realign MacIntosh Crescent & to reconfigure approved allotments & increase the number of additional allotments overall from 281 to 296, namely to reconfigure approved allotments 203 to 208 and to increase the number of allotments on southern side of Abercrombie Avenue from 4 to 8 allotments (lots 901 to 904) (Stage 2B) & to reconfigure approved allotments 209 to 219 & increase the number of allotments in the southern section of MacIntosh Crescent from 11 to 22 allotments (lots 818 to 828) (Stage 3A), subject to the following comments:**

- (1) As highlighted in the planning submissions on the original land division and in three residential flat building proposals within the sub-division, these residential flat buildings are critical to achieving the net densities desired by the Policy Area. A planning statement should be provided that details how these densities are now going to be achieved.**
- (2) In line with the above, a statement should be provided to detail how housing diversity is still going to be achieved. In particular, how is the 15 percent affordable housing target going to be achieved within the subdivision.**
- (3) It should be proven that larger allotment sizes along Abercrombie Avenue are not required. Concept dwelling designs, including civil plans detailing earthworks should be provided for allotments 203 to 206 and 901 to 904 to demonstrate consistency with the pertinent provisions. In particular:**
  - How will major earthworks and retaining walls be avoided**
  - Are the future dwellings likely to be split-level**
  - Provide a profile of the interface between allotments 904 and 207 and allotments 202 and 203. Consideration should be given to widening these allotments so a 1m side setback can be achieved.**
- (4) Further details should be provided to prove that ‘boundary build’ dwellings on allotments 826 to 828 will have sufficient access to sunlight, in particular the private open space and rooms to the rear.**

(5)

a) The applicant should confirm that:

- Revised engineering designs will be provided for Stage 2B
- A revised stormwater master plan of the whole land division will be provided that it will accord with the planning provisions relating to stormwater management (post development to match predevelopment flows).

b) A condition or note shall be included in any consent granted to the variation to confirm that engineering approval (including for the stormwater master plan) is required to be sought for the revisions made to Stage 2B.

(6) A condition should be included in any consent granted to the variation that requires the created allotments within Stage 3A (209 to 219 and 818 to 828) to share vehicle crossovers to minimise the visual impact of multiple crossovers on the streetscape.

9. **ATTACHMENTS**

Locality Plan  
Approved Plan of Division  
Proposal Plans  
Application Information

Respectfully submitted

Concurrence

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**Sam Clements**  
Team Leader Statutory Planning

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**Deryn Atkinson**  
Manager Development Services