

COUNCIL ASSESSMENT PANEL MEETING
12 June 2019
AGENDA
BUSINESS ITEM – 8.1

Originating Officer: Deryn Atkinson, Acting Director Development & Regulatory Services

Responsible Director: Marc Salver, Director Development & Regulatory Services

Subject: Council Assessment Panel (CAP) Operating and Meeting Procedures

For: Decision

SUMMARY

Council is required to establish a Council Assessment Panel (CAP) under the Planning, Development and Infrastructure Act 2016 to make delegated decisions in relation to development applications. The CAP membership is made up of four independent members and a Council member. There are terms of reference for the CAP, which were adopted by the Council on 26 September 2017 at the original establishment of the Council Assessment Panel under the Planning, Development and Infrastructure Act 2016 (refer to **Attachment 1**)

Appointment by Council of a new CAP occurred on 23 April 2019 for commencement from 1 June 2019. It is necessary for the new CAP to adopt Operating and Meeting Procedures at its first meeting (12 June 2019).

The *Planning, Development and Infrastructure (General) (Assessment Panels) Variation Regulations 2017* which came into operation on 1 October 2017 prescribe basic meeting procedures for Council Assessment Panels (CAPs). These meeting procedures are limited to:

- Instances where a CAP may exclude the public from attendance (i.e. go into confidence)
- The recording of minutes and access to agendas and minutes by members of the public
- The determination of a meeting quorum
- Voting rights
- The validity of CAP proceedings in the event of a vacancy in membership or a defect in the appointment of a member.

All further meeting procedures are determined by the CAP itself. A set of draft operating and meeting procedures (refer to **Attachment 2**) have been prepared by staff for consideration and adoption at the first meeting of the new CAP. The draft document is largely based upon the operating and meeting procedures of the former CAP with some minor amendments, including edits, name updates and reformatting.

Staff are recommending that the draft Operating and Meeting Procedures be adopted by CAP along with any amendments considered necessary by the CAP members.

RECOMMENDATION

That pursuant to Section 83 of the *Planning Development and Infrastructure Act 2016* and the *Planning, Development and Infrastructure (General) (Assessment Panels) Variation Regulations 2017, Regulation 18* the Council Assessment Panel adopts the Operating and Meeting Procedures as detailed in *Attachment 2* of this report, along with amendments considered necessary by the CAP members.

1. GOVERNANCE

➤ Legal Implications

The Council is required to have a Council Assessment Panel in place which is comprised of four independent members and up to one Council Elected Member pursuant to Sections 82 and 83 of the *Planning, Development and Infrastructure Act 2016* (PDI Act) and to have an Assessment Manager to manage staff and the operations of the CAP pursuant to Section 87 of the PDI Act.

The implementation of the PDI Act is staged and the transitional arrangements are still being developed with only parts of the PDI Act in operation. All development applications continue to be lodged under the *Development Act 1993* for the time being. Council is required to delegate its powers and functions under the *Development Act 1993* and the *Development Regulations 2008* to CAP and staff. The [Delegations Policy](#) for the Determination of Development Applications by Council's Assessment Panel (the Policy) was adopted by Council on 12 November 2017. This Policy prescribes the development proposals that CAP will consider. This includes proposals for Category 2 and 3 forms of development where representors are to be heard and certain major commercial, industrial and land division developments, amongst others as listed in the detail of the Policy.

Pursuant to Section 83(1)(f) of the PDI Act the procedures of the CAP must be in accordance with any requirements prescribed by the Regulations. Regulations 13 to 18 of the *Planning, Development and Infrastructure (General) (Assessment Panels) Variation Regulations 2017* address CAP meeting matters including public access to meetings, minutes, documents, quorum and voting as follows:

13—Public access to meetings

- (1) *In connection with the conduct of the proceedings of an assessment panel, members of the public are entitled to attend a meeting of the panel other than as set out in sub-regulation (2).*
- (2) *An assessment panel may exclude the public from attendance at a meeting—*
 - (a) *during so much of the meeting as is necessary to receive, discuss or consider in confidence any of the following matters:*
 - (i) *information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);*
 - (ii) *information the disclosure of which—*

- (A) *could unreasonably be expected to confer a commercial advantage on a person, or to prejudice the commercial position of a person; and*
 - (B) *would, on balance, be contrary to the public interest;*
 - (ii) *information the disclosure of which would reveal a trade secret;*
 - (iv) *commercial information of a confidential nature (not being a trade secret) the disclosure of which—*
 - (A) *could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and*
 - (B) *would, on balance, be contrary to the public interest;*
 - (v) *matters affecting the safety or security of any person or property;*
 - (vi) *information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;*
 - (vii) *matters that should be considered in confidence in order to ensure that the assessment panel, or any other entity, does not breach any law, or any order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;*
 - (viii) *legal advice;*
 - (ix) *information relating to actual litigation, or litigation that the assessment panel believes on reasonable grounds will take place;*
 - (x) *information the disclosure of which—*
 - (A) *would divulge information provided on a confidential basis by or to a Minister of the Crown, the Commission, or another public authority or official; and*
 - (B) *would, on balance, be contrary to the public interest; and*
- (b) *during so much of the meeting that consists of its discussion or determination of any application or other matter that falls to be determined by the assessment panel.*

14—Minutes and other documents

- (1) *An assessment panel must ensure that accurate minutes are kept of its proceedings.*
- (2) *A disclosure by a member of an assessment panel of a direct or indirect pecuniary interest in any aspect of a development or any body associated with any aspect of a development required under the Act must be recorded in the minutes of the assessment panel.*
- (3) *Members of the public are entitled to reasonable access to—*
 - (a) *the agendas for meetings of an assessment panel; and*
 - (b) *the minutes of meetings of an assessment panel.*

- (4) *However, an assessment panel may, before it releases a copy of any minutes under sub regulation (3), exclude from the minutes information about any matter dealt with on a confidential basis by the assessment panel.*
- (5) *Minutes must be available under sub regulation (3) within 5 business days after their adoption by the members of the assessment panel.*

15—Quorum

A quorum at a meeting of an assessment panel is a number obtained by dividing the total number of members of the assessment panel for the time being in office by 2, ignoring any fraction resulting from the division, and adding 1.

16—Voting

- (1) *Each member of an assessment panel present at a meeting of the assessment panel is entitled to 1 vote on a matter arising for decision and, if the votes are equal, the member presiding at the meeting is entitled to a second or casting vote.*
- (2) *Sub regulation (1) does not apply to a person who is taken to be a member of an assessment panel under section 85 of the Act.*

17—Validity of proceedings

A proceeding of an assessment panel (and any decision made by an assessment panel) is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

18—Other matters

Except insofar as a procedure is not prescribed by the Act or these regulations, the procedures of an assessment panel in relation to the conduct of its business will be as determined by the assessment panel (and an assessment panel is accordingly a specified body for the purposes of section 246(6) (d) of the Act).

➤ Financial and Resource Implications

Under Section 83 (1)(h) the Council that appoints an assessment panel is responsible for:

- (i) Arranging the staffing and support required for the purposes of the operations of the CAP and
- (ii) The costs and other liabilities associated with the activities of the CAP

2. BACKGROUND

At the Special Council meeting held on 4 December 2018 (Item 5.1.1) Council resolved to appoint a Council Member and Deputy Member to the CAP as follows:

5.1.1 Appointment of Council Member to Council's Assessment Panel (CAP) and Selection Panel for appointment of Independent Members to CAP – Appointment to Panel

Moved Cr Chris Grant

S/- Cr Ian Bailey

315/18

That Council resolves to appoint Cr Linda Green as Member and Cr Leith Mudge as Deputy Member of the Council Assessment Panel for a 24 month term to commence 4 December 2018 and conclude on 3 December 2020 (inclusive).

Cr Grant, with the consent of Cr Bailey, sought and was granted leave of the meeting to vary the motion as follows.

That Council resolves to appoint Cr Linda Green as Member and Cr Leith Mudge as Deputy Member of the Council Assessment Panel for a 17 month term to commence 4 December 2018 and conclude on 30 May 2020 (inclusive).

Carried Unanimously

At the Council meeting held on 23 April 2019 (Item 19.2), Council resolved the appointment of the independent members to CAP as follows:

ITEM 19.2-RELEASED-16-MAY-2019

19.2.1 → Appointment of Independent Council Assessment Panel Members – Confidential item

¶

Moved Cr Nathan Daniell

S/- Cr John Kemp

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87/19

¶

Council resolves:

¶

1. → That the report be received and noted

2. → That Council appoints the following Independent Members to the Council's Assessment Panel for a two-year period commencing on 1 June 2019 and expiring on 31 May 2021:

¶

i. → Geoff Parsons (as Independent Presiding Member)

ii. → David Brown

iii. → Ross Bateup

iv. → Piers Brissenden

¶

3. → That Council appoints Karla Billington as an Additional Member pursuant to section 85 of the PDI Act with expertise in water quality, watershed protection and environmental management matters for a two-year period commencing on 1 June 2019 and expiring on 31 May 2021.

¶

4. → That in the event any independent member(s) of the Council Assessment Panel are unable to obtain accreditation as referred to in the report by the designated date, then the Mayor and Councillors Kirsty Parkin and John Kemp be appointed to a selection panel, assisted by the CEO and Director Development & Regulatory Services, to undertake the short-listing and interviews of the candidate(s).

¶

5. → That in the event the process referred to in the above recommendation occurs, then the selection panel shall report their recommendations to Council at the next available meeting following the completion of the recruitment and interview process.

¶

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Carried Unanimously

3. DISCUSSION

Appointment of the new CAP members and the commencement of the new CAP on 1 June 2019 necessitate the adoption of operating and meeting procedures for CAP to operate at its first meeting.

CAP Meeting Procedures

A CAP may adopt its own procedures as long as they are consistent with the prescribed regulations.

The Operating and Meeting Procedures adopted by the former CAP (refer **Attachment 3**) were a combination of the Model Meeting Procedures prepared by the LGA and The Operating and Meeting Procedures of the former Panel under the Development Act 1993. They included in summary, the following matters:

1. Matters as prescribed by the Regulations
 - i. Instances where the CAP may exclude the public from attendance to go into Confidence
 - ii. The recording of minutes and access to agendas and minutes by members of the public
2. Meeting quorum
3. Voting rights
4. The validity of CAP proceedings in the event of a membership vacancy or a defect in the appointment of a member
5. Ordinary meetings
6. Special meetings
7. Time and place of meeting
8. Notice of meeting
9. The Hearing of Representations, including discretionary hearing of invalid representations
10. Presentation of new material by a representor or applicant
11. Meeting adjournment by the Presiding Member
12. Deputy Members and Additional Members
13. Acting Presiding Member
14. Decision making
15. Meeting Recording

16. Deferral of agenda items by applicants
17. Procedure for information sent from members of the public about Development Application direct to CAP members
18. Requests for extended leave of absence
19. Site inspections

A review of former CAP Operating and Meeting Procedures highlighted a number of minor edits, name amendments and reformatting. These are reflected in the draft document provided in **Attachment 2** as tracked changes, to improve the document. Note a clean copy is also provided. They are not considered to alter the original intent of the Operating and Meeting Procedures. In addition to these edits the following changes are highlighted:

Ordinary Meetings

Point 1.3 has been deleted from the draft as it specified the giving of notice for the inaugural meeting of CAP. As this was an event in the past it is no longer relevant.

Hearing of Representations

This has been added as a new heading for easy reference and the points that were previously included under other procedures in the document have been relocated to appear under this new heading.

Provision of new material at the meeting

There has been inclusion of two new points in the draft Meeting Procedures in relation representors and applicants providing new material at the CAP meeting to discourage this practice (refer point 5.1.7 and 5.1.8 in draft under Hearing of Representations). This draft amendment is in addition to the reference at points 6.2 and 6.3 which refer to where additional material is accepted on the rare occasion this is deemed to be appropriate by the Presiding Member. In this circumstance, CAP may defer a decision to enable full and proper assessment of the further information is necessary and the Procedures specify that a copy of the information needs to be provided to all parties present in relation to the Agenda item.

Recording of meetings

This has been added as a new heading for easy reference and the points that were previously included under other procedures in the document have been relocated to appear under this new heading. Several amendments have been made to 8.2 which entail adding Assessment Manager as well as Director to the staff that have access to the meeting recording. Additionally, with any CAP member request to access the recording needing to be made to the Council CEO, a timeframe of four weeks from the meeting date has been added for this request. Recordings are usually kept for four weeks after the meeting. Point 8.4 has also been amended in a similar manner to specify requests to access the recording should be within this timeframe.

Site Inspections

This has been added as a new heading for easy reference and the points that were previously included under other procedures in the document have been relocated to appear under this new heading.

In relation to deputy members, Council may appoint deputy members to the CAP. Such members can attend meetings in place of absent Panel Members on an as-needs basis. This may avoid quorum issues arising. A Council Member appointed as a Deputy Member may only act as a deputy for the Council Member. An Independent Deputy Member may be a deputy for all members. In this regard one Council Member has been appointed as a Deputy Council Member (Cr Leith Mudge).

In relation to additional members, Section 85 of the PDI Act allows the CAP to appoint one or two Additional Members for the purposes of dealing with a matter that it must assess as a relevant authority. Such persons must hold a qualification, expertise or experience recognised by a practice direction. In this regard Council appointed Karla Billington as an Additional Member with expertise in water quality, watershed protection and environmental management matters. The CAP can call upon the Additional Member occasionally to attend a meeting to consider advice on a particular agenda item. The circumstances envisaged when the Additional Member may be called upon are when there is a major development with water quality, watershed or environmental concerns or when the staff recommendation is not aligned with a recommendation of the EPA. The Additional Member does not have voting rights.

Other matters which impact on the operation of CAP meetings are:

Code of Conduct for Panel Members

Pursuant to Schedule 3 of the PDI Act, the Minister has adopted a Code of Conduct to be observed by members of an Assessment Panel established under the PDI Act (refer **Attachment 4**). The Code of Conduct sets out standards of conduct and professionalism to be observed by all members of assessment panels and for members to act in the public interest. A key requirement is that all members of assessment panels carry out their functions with the high ethical standards to maintain public confidence in the integrity of the development assessment process, this includes that CAP members take all reasonable steps to obtain all the relevant facts and information when making a development decision and that decisions are supported by adequate documentation.

The Code of Conduct is considered to be the key tool to ensure Panel Members act honestly and ethically with a high degree of accountability.

Terms of Reference

Pursuant to Section 83(1)(b)(i to vi) of the PDI Act, the Council has adopted the Terms of Reference for the CAP which establish procedures to be followed with respect to the membership of the CAP, the appointment of members to the Panel, the duration of their terms of office, conditions of appointment of members including remuneration and the grounds on which a member may be removed from office. As stated elsewhere in the report the Terms of Reference are provided as **Attachment 1**.

These terms of reference are consistent with the past practice of Council for the appointment of Council Assessment Panel Members

Training

On occasions where it is necessary for the Panel Members to undertake training Council resolved a fee of \$75 per hour of training attended be paid, excluding travel time, along with a travel allowance paid at the standard rate for Council staff. Opportunities for car-pooling will be encouraged to minimise travel allowances.

The draft Operation and Meeting Procedures are presented for the consideration of the CAP members for adoption with or, without further amendment.

4. RECOMMENDATION

That pursuant to Section 83 of the *Planning Development and Infrastructure Act 2016* and the *Planning, Development and Infrastructure (General) (Assessment Panels) Variation Regulations 2017, Regulation 18* the Council Assessment Panel adopts the Operating and Meeting Procedures as detailed in *Attachment 2* of this report, along with amendments considered necessary by the CAP members.

5. ATTACHMENTS

- (1) Council Assessment Panel Terms of Reference
- (2) Draft Operating and Meeting Procedures for CAP
- (3) Adopted Operating and Meeting Procedures of the former CAP
- (4) Code of Conduct for CAP

COUNCIL ASSESSMENT PANEL MEETING

12 June 2019

AGENDA – 9.1

Applicant: Shu-Mu Tseng	Landowner: Tseng No 1 Pty Ltd
Agent: Tract Consultants	Originating Officer: Brendan Fewster (Consultant Planner)/Melanie Scott
Development Application:	18/668/473
Application Description: A change of use of existing grazing land to include horticulture comprising a tree and flower plantation (8 hectares)	
Subject Land: Lot:17 Sec: P82 DP:89574 CT:6101/440	General Location: Lot 17 Mount Barker Road Bridgewater <i>Attachment – Locality Plan</i>
Development Plan Consolidated : 24 October 2017 Map AdHi/31 & AdHi/75	Zone/Policy Area: Watershed (Primary Production) Zone - Rural Landscape Policy Area
Form of Development: Merit	Site Area: 79 hectares
Public Notice Category: Category 2 Merit	Representations Received: 11 Representations to be Heard: 8

1. EXECUTIVE SUMMARY

The purpose of this application is for a change of use of existing grazing land to include horticulture comprising a tree and flower plantation.

The subject land is located within the Watershed (Primary Production) Zone - Rural Landscape Policy Area and the proposal is a merit form of development. A total of 11 representations in opposition were 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 proposal is a form of low intensive horticulture that would maintain the use of the land for primary production purposes and contribute positively to the existing open and natural character. The land is approximately 79 hectares and the proposed horticulture area has been reduced from 12.5 to 8 hectares post public notification. The proposed tree and flower plantation does not serve any commercial purpose and the plantings have been amended to include plant species with a lesser fire risk than Manuka for a significant portion of the plantation area. The low intensive nature of the use and controlled land management would ensure there are minimal adverse impacts upon surrounding land.

The main issues relating to the proposal include the suitability of the land use, bushfire protection, environmental management and the impact of the proposal upon the amenity of the locality.

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:

- A change of use of existing grazing land to include horticulture comprising a tree and flower plantation;
- The planting of a mix of trees and shrubs for personal and research purposes over an area of approximately 8 hectares. The new plantings are to be located at least 50 metres from the western boundary creating a 50 metre buffer between the plantation and the nearby existing residential properties; and
- An existing Manuka tree and ornamental tree plantation of approximately 1.3 hectares located at least 125 metres from the western boundary is included in the overall planting area as retrospective development.

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

3. BACKGROUND AND HISTORY

Given the unique nature of the proposal, Council staff sought a legal opinion on whether the proposal constitutes ‘development’ under the *Development Act 1993* by virtue of a change in land use. The legal advice confirmed that the proposal is ‘development’ and therefore should be assessed.

Development compliance action was initiated in August 2018 with a request for a development application to be submitted to Council.

4. REFERRAL RESPONSES

CFS (informal referral response)

Although a statutory referral was not required under Section 37 of the *Development Act 1993*, the ‘original’ application was referred to the CFS for comment given the nature of the use and its proximity to existing residential buildings. The CFS response is summarised as follows:

- SA CFS has concerns that the species type, proximity to existing residential buildings, existing construction levels, slope and terrain, and proximity to other hazardous vegetation in the overall landscape, may pose an unacceptable bushfire risk;
- A 50 metre wide fuel reduced buffer zone should be established adjacent the perimeter of all residential land uses with measures to control grassland within the buffer;
- Maintenance of grasses in and around the plantation; and
- The buffer zone shall be grassland or similar vegetation, cleared of obstructions to allow mechanical slashing in order to reduce the vegetation to a maximum height of 10cms for the duration of the Fire Danger Season.

DEW (informal referral response)

Although a statutory referral was not required under Section 37 of the *Development Act 1993*, the ‘original’ application was referred to the DEW for comment. The DEW response is summarised as follows:

- The use of water is in this case is a “taking allocation” and therefore is not restricted to any particular purpose.

Council Biodiversity Unit

As the subject land is adjacent blue marker vegetation on the road reserve of Mount Barker Road the proposal was referred to the Council Biodiversity Unit. In summary, the proposal is not considered to have an immediate impact on the Mount Barker road reserve vegetation.

5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with Principle of Development Control 72 of the Watershed (Primary Production) Zone therefore requiring formal public notification. Eleven (11) representations were received and of these eight (8) representors have requested to be heard in support of their representation. All of the representations were from adjacent or nearby properties.

The following representors wish to be heard:

Name of Representor	Representor’s Property Address	Nominated Speaker
Marguerite Hann-Syme	23 Oratava Avenue, Bridgewater	Stirling District Residents Association
Mark Christian & Linda MacQueen	3 Orvieto Street, Bridgewater	Stirling District Residents Association
Stephanie Jephson	86 Orontes Avenue, Bridgewater	Marguerite Hann-Syme
Julie Kaye Clark	75 Orontes Avenue, Bridgewater	Appearing personally
Bronwyn Duncan	84 Orontes Avenue, Bridgewater	Stirling District Residents Association
Chris Grant	631 Glynburn Road Beaumont 5066, Engelbrook Reserve	Natural Heritage Manager, Natural Trust of SA. Appearing personally
CA Clark & JM Gardner	82 Orontes Avenue, Bridgewater	Marguerite Hann-Syme
Sam Lang & Margie Bok	86 Osterley Avenue, Bridgewater	Appearing personally

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

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

- Bushfire risk
- Chemical spray drift
- Bee management
- Plant management
- Weed control
- Water use
- Contamination of watercourses

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 applicant's 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**.

In response to concerns raised by nearby residents during the public notification process, the applicant has amended the proposal as follows:

- The area previously proposed to be planted with 8000 new Manuka trees (as identified below) has been reduced to 6.2 hectares and will now be planted with a mix of trees and shrubs which include fire retardant plants. The plant species include:
 - Magnolia "Little Gem"
 - Pyrus "Capital Chanticleer"
 - Ulmus Parufolia
 - Gleditsia
 - Cupaniopsis Anacardioides
 - Myoporum Insulare
 - Prunus
 - Lagerstroemia Natchez
 - Melia
 - Malus Ioensis
 - Lagerstroemia Tuscarora
- A 50 metre buffer has been provided between the new plantings and the nearest boundary that interfaces with existing residential properties.



Figure 1: The original proposal for the planting of 8000 Manuka trees

6. PLANNING & TECHNICAL CONSIDERATIONS

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

i. The Site's Physical Characteristics

The subject land comprises one allotment of approximately 79 hectares in area with frontage to Mount Barker Road to the north and Gross Road to the south. The land is formally described as:

- Allotment 17 in Deposited Plan 89574 in the area named Bridgewater, Certificate of Title Volume 6101 Folio 440

There are two infrastructure easements registered on the title which are not impacted by the proposal.

The subject land is located on the southern side of Mount Barker Road and is bordered by grazing land to the east, Gross Road to the south, a vegetated reserve (Engelbrook Reserve) to the south-west and residential development to the west that is at the periphery of the Bridgewater township.

The land is primarily used for grazing and is occupied by a farm shed, rainwater tanks and a dam. The land topography is undulating with several ridges that fall away considerably in an easterly and westerly direction.

ii. The Surrounding Area

Given the size, location and undulating topography of the subject land, the locality is considered to have varying land use and visual/spatial characteristics. Land to the north and west has a rural residential character as the site interfaces with low density

residential development that is within the township boundary, with larger rural living allotments north of Mount Barker Road.

Land to the east and south has a semi-rural character which is attributed to relatively small-scale grazing and some rural living allotments. The South Eastern Freeway is further east of the subject land. Land to the west, known as Engelbrook Reserve, has a natural character as it is densely vegetated with native trees.

The land is bounded in the south by the Cox Creek.

The subject land and surrounding area are identified on the locality plan at **Attachment – Locality Plan**

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Watershed (Primary Production) Zone - Rural Landscape Policy Area and these provisions seek:

- *maintenance and enhancement of the natural resources and amenity of the Mount Lofty Ranges*
- *primarily primary production comprising farming and horticulture*
- *low density rural living*
- *a pleasant rural character derived from the retention of existing flora and fauna*

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

Objectives: 1, 2, 3, 4, 5, 6

PDCs: 1, 2, 5, 6

The following are considered to be the relevant Zone provisions:

Objectives: 1, 2, 3, 4, 5

PDCs: 9, 10, 14, 15, 16, 17, 27, 28, 31, 35, 36, 37, 41, 42, 43, 44, 70, 71, 72

Accordance with Zone and Policy Area

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. The Rural Landscape Policy Area also seeks “*Primary Production with rural living in localities where the allotments are small*”.

The proposal includes the planting of a mix of trees and shrubs over an area of approximately 8 hectares for personal and research purposes. It also includes an existing Manuka tree plantation of approximately 1.8 hectares, which was planted sometime in 2016. Some of the Manuka trees have since died, however the plantation remains somewhat intact with irrigation infrastructure in place. While the new and existing plantings would not involve any cultivation for commercial purposes, from a land use planning perspective the proposal is considered to be a form of low intensive ‘horticulture’.

Principle of Development Control 1 of the Policy Area envisages farming and horticultural activities as well as retaining areas of natural open space. The subject land is a large rural land holding on the outskirts of the Bridgewater township that has longstanding use rights for grazing. The proposal to use a relatively small portion of the land for low intensive and non-producing horticulture would maintain the use of the land for primary production purposes without diminishing its overall productivity and also maintain the existing open and natural character of the land. As approximately 70 hectares of land would be retained for grazing, the land would remain as a productive rural allotment. The proposal is therefore considered to satisfy Objectives 1, 2 and 3 of the Policy Area and Objective 3 and Principle of Development Control 42 and 44 of the Zone.

Representors have raised concerns around beekeeping. Beekeeping is not development and residents of the Adelaide Hills Council are permitted to keep bees on their property as long as they do not become a nuisance or hazard to other persons. In cases of significant nuisance, the council may order a person to remove bees kept on their property in order to abate a nuisance or a hazard to health or safety, under the Local Government Act 1999. It is important to consider neighbours within close proximity before keeping bee hives. Managed bees are considered livestock and as such all persons keeping bees are by law required to register as a beekeeper and comply with the SA Apiary code of conduct. Council sought advice from a professional apiarist regarding the four hives currently located on the property some 150 metres from the nearest property. This advice noted it is not uncommon to have beehives on residential land as small as 500m² and the most likely time to be stung is when you are within 3 metres of the hive. In this instance, it is considered unlikely that the bees on the subject land would cause a nuisance.

In terms of Objective 4 of the Policy Area, the proposal would contribute positively to the attainment of *“a pleasant rural character derived from the retention of existing flora and fauna”*. The new plantings would provide additional flora that with appropriate management would provide a pleasant outlook for adjacent residential properties and from Mount Barker Road. Existing native vegetation on the land would not be affected. The interface-related matters with the adjacent residential area are considered in more detail below.

Objective 6 of Policy Area seeks to ensure that new development minimises the risk of bushfire. The representors raised concerns with the original proposal in terms of the number and proposed positioning of the Manuka trees and the significant increase this posed for the risk of bushfire. The proposal has since been amended with 8000 new Manuka trees being replaced with a proposed mix of trees and shrubs which include fire retardant plants. A 50 metre buffer will also now be provided between the new plantings and the nearest boundary that interfaces with existing residential properties. As considered in more detail below, the revised proposal would sufficiently minimise the risk of bushfire.

Some representors' concerns with regard to farm management practices have attempted through this application to control and regulate activities which are not development but are expected in the management of rural properties. Further, many of these activities are subject to controls and regulations which are the responsibility

of other organisations. For example the use of water on the land is a matter for the Department for Environment and Water. Arguably the proposed plantings will assist in improving the quality of water run-off from the land. The management of woody weeds and bracken on the land is the subject of ongoing management and best practice does dictate the use of chemicals on the land from time to time. It is hoped the change in the nature of the plantation and the increased separation from the adjacent residential land will assist both the applicant and the representors continue with the business of effectively managing their own land in the most effective and efficient manner. On balance the amended proposed plantations are considered to balance the envisaged use of the subject primary production land against the concerns of the adjacent residential properties in accordance with PDCs 14, 15, 16 & 17.

For the above reasons, the proposal is considered to be an orderly and appropriate form of development that would meet the Objectives of the Zone and Policy Area by providing low-intensive horticulture in a manner that would maintain and protect the existing rural character and the natural resources of the Mount Lofty Ranges.

b) Council Wide provisions

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

- *orderly and economic development;*
- *retention of rural character;*
- *development that does not undermine the objectives of the zone and policy area;*
and
- *development that protects the character and amenity of the locality.*

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

Orderly and Sustainable Development

Objectives: 1, 3, 4, 5, 10

PDCs: 1, 2, 3, 9, 13

Council Wide Principles of Development Control 9 and 13 seek to protect the existing character and amenity of land within the locality. The representors are concerned that the proposal plantation would require the use of chemical spraying, which could potentially impact on their health and amenity.

The applicant has confirmed that chemical spraying would only occur twice a year with a herbicide in order to control blackberries. Row spraying would only take place prior to planting (i.e. one occasion only) and all spraying would be undertaken by a licensed contractor.

In relation to chemical use and management for primary production uses, it is noted that chemical use in South Australia is regulated under the *Agricultural and Veterinary Chemical (Control of Use) Act 2002 and Regulations 2004*, which is administered by PIRSA. This includes provisions for addressing the issue of spray drift and includes a 'Duty of Care' for responsible chemical use. Chemical products that can be legally used already have strict regulatory use instructions provided on product labels and

these labels and products have already been approved via the Australian Pesticides and Veterinary Medicines Authority (APVMA). Previous advice from PIRSA on chemical spray matters confirmed that it would be unreasonable to further stipulate any other specific chemical use requirements.

Given the above chemical controls, the buffer zone provided and the minimal amount of spraying required, any chemical usage associated with the proposal would not cause adverse impacts upon surrounding land. The proposed plantation also would not result in dust, noise nuisance, traffic or any impacts on privacy.

The existing character and amenity of land within the locality would be maintained in accordance with Council Wide Principle of Development Control 9, 13 and 15.

In terms of water supply, the Department for Environment and Water has confirmed that the site has a “taking allocation” which means water use on the site is not restricted by any use or purpose. The existing water allocation would be adequate for plant irrigation and fire protection.

Hazards

Objectives: 1, 2, 4, 5, 6, 7, 10

PDCs: 1, 2, 6, 16, 17, 18, 19

Although the subject land is situated within a High Bushfire Risk Area and is adjacent to an established residential area immediately to the north-west, a referral to SA Country Fire Service under Section 37 of the *Development Act 1993* was not required as the proposal does not include any habitable buildings. Notwithstanding this, an ‘informal’ referral was undertaken given the nature and location of the original proposal.

The CFS considered the original proposal to pose an unacceptable bushfire risk due to the species type, proximity to existing residential buildings, land slope and terrain and the proximity to other hazardous vegetation. The CFS recommended the provision of a 50 metre wide fuel reduced buffer zone adjacent to the boundary of residential land and measures to control grasses within the buffer and around the plantation.

As recommended by the CFS, the proposal has been amended to include a 50 metre wide buffer between the new plantings and the north-western boundary that adjoins the residential area. Further, the type of plants now proposed are considered to be a lesser fire risk than Manuka. Conditions of consent have also been included to ensure germination and grasses are managed appropriately within the buffer zone and plantation (refer recommended Condition 2 and 3).

Furthermore, in the event that fire-fighting vehicles are required to access the plantation there are several gated accesses (informal access) along Mount Barker Road and one at the end of Otranto Street in close proximity to the development site. There is also a made track immediately adjacent the boundary of all the residential properties adjoining the north western boundary of the subject land.

Accordingly, the inclusion of a buffer zone and the land management controls are considered to sufficiently minimise the bushfire risk to property and public safety in accordance with PDCs 1 & 2.

Natural Resources

Objectives: 1, 2, 3, 4, 6, 8, 9, 10, 14

PDCs: 1, 2, 3, 4, 6, 24, 25, 28, 34, 35, 37, 38, 39, 40, 41, 45

The above Objectives seek to protect existing native vegetation and scenically attractive areas in order to preserve the rural character and natural environment and protect water quality. The proposal will not involve the removal of any vegetation and the new plantings would provide additional flora whilst minimising bushfire risk as suitable buffer distances have been proposed. The new plantings will not alter the natural contours of the land and would also have environmental benefits by protecting the land from soil erosion or scarring. All water use is in accordance with the current water licensing on the land. A visit to the site and examination of aerial photography reveals significant effort has been put into better managing the subject land with the installation of fencing and evidence of spraying and slashing over large portions of the land subject to blackberry and bracken infestation.

7. SUMMARY & CONCLUSION

The proposal is a form of low intensive horticulture that would maintain the use of the land for primary production purposes. The new tree and shrub plantings would contribute positively to the existing open and natural character while also enhancing the visual outlook from adjacent residential properties and from Mount Barker Road.

Chemical usage would be minimal and controlled so as not to cause adverse impacts upon surrounding land. The proposed plantation also would not result in dust, noise nuisance, traffic or any impacts on privacy.

The proposal has been amended to include a 50 metre wide buffer zone between the new plantings and the adjacent residential area for fire protection purposes.

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 18/668/473 by Shu-Mu Tseng for a change of use of existing grazing land to include horticulture comprising a tree and flower plantation (8 hectares) at Lot 17 Mount Barker Road, Bridgewater 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 received by Council on 1 May 2019
- Letter prepared by Shu-Mu Tseng dated 11 April 2019

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

(2) **Bushfire Protection**

A fuel reduced buffer zone of at least 50 metres wide shall be established between the proposed tree and shrub plantings and the boundary of adjacent residential properties as identified on the Site Plan dated 1 May 2019. The buffer zone shall comprise of grassland or similar vegetation and be cleared of obstructions to allow mechanical slashing. The vegetation shall be no higher than 10cms for the duration of the Fire Danger Season.

REASON: To minimise the bushfire risk to property and public safety.

(3) **Bushfire Protection**

Grasses in and around the proposed plantation shall be regularly maintained to prevent pest and weed infestation and to minimise the risk of bushfire, to the reasonable satisfaction of Council. Further vegetation on the proposed landscaping will be managed to minimise the spread of fire from the grasses into the understorey.

REASON: To minimise the bushfire risk to property and public safety and to prevent pest and weed infestation.

NOTES

(1) **Chemical Spraying**

The applicant is reminded that chemical use must at all times be strictly undertaken in accordance with the *Agricultural and Veterinary Chemical (Control of Use) Act 2002 and Regulations 2004*.

(2) **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.

(3) Erosion Control During Construction

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

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

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

www.environment.sa.gov.au/Conservation/Native_Vegetation/Managing_native_vegetation

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.

- (6)** The applicant is reminded of their duty to act reasonably in relation to the management of natural resources within the State, in accordance with Section 9 of the *Natural Resources Management Act 2004*.
- (7)** The development approval does not include the taking of any water from the Western Mount Lofty Ranges Prescribed Water Resources Area and its application to land in addition to that currently authorised under the *Natural Resources Management Act 2004*.
- (8)** Should it be intended to change any aspect of the current authorisation, the applicant should contact the Department for Environment and Water (DEW) to ascertain relevant requirements under the *Natural Resources Management Act 2004* and to determine appropriate water licensing arrangements. . For information regarding water licensing contact DEW Water Licensing Branch on telephone (08) 8463 6876 or visit: <http://www.environment.sa.gov.au/licences-and-permits/water-licence-and-permit-forms/adelaide-and-mount-lofty-ranges-water-licences-and-permits>.

- (9) Section 144 of the *Natural Resources Management Act 2004* requires the occupier of the land on which a well is situated to ensure that the well (including the casing, lining and screen of the well and any mechanism used to cap the well) is properly maintained. A permit is required from the Department for Environment and Water (DEW) for any work to be carried out on a well or for new wells to be drilled. Information on specific wells can be obtained from www.waterconnect.sa.gov.au. For information regarding permit applications contact DEW on telephone (08) 8735 1134 or visit: <http://www.environment.sa.gov.au/topics/water/water-licences-and-permits/well-drilling>.
- (10) SA CFS recommends access to a dedicated fire-fighting water supply be provided at the entrance to the subject site in a concrete or metal tank with fire authority access. SA CFS is happy to provide further details regarding dedicated fire-fighting water supply, access to fire authority and a suitable location.
- (11) Managed bees are considered livestock and as such all persons keeping bees are by law required to register as a beekeeper and comply with the SA Apiary code of conduct – fines for non-compliance apply.

Registration as an Apiarist/Bee Keeper:

Person(s) keeping bee hives are requested to have a Certificate of Registration from the Department of Primary Industries and Resources SA (PIRSA) as a registered Apiarist. For more information on the keeping of bees contact the South Australian Biosecurity Apiary unit – 820777902 or 82077975 or visit: http://www.pir.sa.gov.au/biosecurity/animal_health/bees

Unregistered persons keeping bees and unmanaged hives put our state at risk of bee diseases. Fines may apply for not registering your bees.

9. ATTACHMENTS

Locality Plan
Proposal Plans
Referral Responses
Publically Notified Plans
Representations
Applicant's response to representations

Respectfully submitted

Concurrence

Melanie Scott
Senior Statutory Planner

Deryn Atkinson
Manager Development Services

COUNCIL ASSESSMENT PANEL MEETING
12 June 2019
AGENDA – 9.2

Applicant: Hills Christian Community School Inc	Landowner: Hills Christian Community School Inc
Agent: Julie Lewis URPS	Originating Officer: Melanie Scott
Development Application:	19/245/473
<p>Application Description: Staged expansion to existing community facility, namely change of use of existing residential property & primary school to educational establishment (pre-school, primary & secondary school)-</p> <p>Stage 1: Demolition of existing dwelling & ancillary structures (lot 51) & construction of two single storey secondary school buildings, water storage tanks, staff car park, associated retaining walls & earthworks</p> <p>Stage 2: Extension of public roadway (Sandow Lane), internal driveway (ring road) & associated retaining wall & earthworks</p>	
<p>Subject Land: Lot:51 Sec: P4083 FP:7229 CT:5593/373 Lot:50 Sec: P4083 FP:7229 CT:5278/321 Lot:3 Sec: P4083 DP:83765 CT:6060/645 Lot:3 Sec: P1922 FP:157238 CT:5660/148 Lot:4 Sec: P1922 FP:157239 CT:5593/376 Lot:9 Sec: P462 DP:57448 CT:5864/911</p>	<p>General Location: 10, 14, 16, 17 and 24 Onkaparinga Valley Road, Lot 4 Sandow Road & Sandow Road Verdun</p> <p>Attachment – Locality Plan</p>
<p>Development Plan Consolidated : 24 October 2017 Map AdHi/76</p>	<p>Zone/Policy Area: Watershed (Primary Production) Zone - Watershed Protection Policy Area & Settlement Policy Area</p>
<p>Form of Development: Merit</p>	<p>Site Area: 5 sites owned by HCCS totalling 7.4 hectares, 1 site owned by the Verdun Fighting Forces Memorial Hall Inc 0.4 hectares</p>
<p>Public Notice Category: Category 2 Merit</p>	<p>Representations Received: 2</p> <p>Representations to be Heard: 1</p>

1. EXECUTIVE SUMMARY

The purpose of this application is to expand an existing non-denominational primary school and early learning centre facility to include a secondary college on a site adjoining the school. The proposal includes the construction of two buildings, adjacent each other on the new land and the demolition of the existing residential building. Further the application proposes the construction of a one way ring road through the new land from Sandow Road exiting at a new access point on Onkaparinga Valley Road. The construction of the ring road does involve work on Sandow Road which will be subject to a section 221 permit. The purpose of the ring road is to provide an internal kiss and drop zone internal to the site and to address the known traffic and access concerns related to existing and future operations of the Hills Christian Community School. As part of the proposal the informal car parking arrangement between the school and the Verdun Hall are formalised as on-going parking for the school community.

The subject land is located within the Watershed (Primary Production) Zone - Watershed Protection Policy Area and the Settlement Policy Area. The proposal is a merit form of development. Two representations regarding the proposal were received during the Category 2 public notification period. One was in support with conditions and one was against the proposal.

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 expansion of this development in the zone, traffic, parking and general access to and from Onkaparinga Valley Road. From a Council perspective there are issues with the site, which is collectively described as six parcels of land and the incremental intensification of the use over time. The school commenced operation in 1983 and has grown in small increments over the ensuing thirty five years. While the school has a business requirement to be operational with the secondary college in January 2020, prior to construction of the ring road, Council engineering and DPTI recommend the ring road must be operational at the same time.

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:

- Demolition of existing structures at 10 Onkaparinga Valley Road.
- Construction of a one way ring road from Sandow Road to a new access point on Onkaparinga Valley Road on the land described as 10 Onkaparinga Valley Road and Sandow Road.
- Closure of the existing access point at 10 Onkaparinga Valley Road.
- Construction of two new single storey buildings comprising classrooms and student amenities at 10 Onkaparinga Valley Road, one described as the middle school and the other described as the senior school.
- Construction of a new staff carpark for 18 vehicles with entry and egress via the proposed new access point.
- Associated earthworks involving excavation and filling of land and a retaining walls.
- Stormwater management including a detention basin, two swales and five 13,500 litre detention tanks, three 13,500 litre retention tanks which are plumbed back to the buildings for water reuse.
- Associated landscaping including pedestrian pathways with connections to the existing school and play spaces.
- Removal of two eucalypts (native vegetation removal) on the proposed ring road.
- Formalisation of the existing informal car parking arrangement with the Verdun Hall for use of their car park by the school community.

- The works are intended to be undertaken in two stages. In addition to the stage description above of note but not a planning consideration is the school has a business imperative to have the secondary school operational by 2020 to accommodate the transfer of approximately 90 students from their current off campus location at Oakbank Area School.

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
17 January 2019	18/783/473	Alterations and additions to community facility (Classroom for educational establishment) & associated filling within the floodplain & demolition of existing outbuilding at 24 Onkaparinga Valley Road
23 November 2018	17/1090/473	Community facility (educational establishment building) addition-deck (maximum height of 500mm)
12 July 2018	16/622/473	Outbuilding (storage shed) in association with existing community facility
11 December 2014	14/1015/473	Freestanding shelters x 2 (4.6m x 2.5m x 2.8m height)
15 December 2015	14/123/473	Change of use to Community facility - classroom and outdoor area in association with existing school at Lot 4 Sandow Road
29 October 2013	13/846/473	Variation to 12/403 to amend window details
17 June 2013	13/403/473	Alterations and additions to existing community facility – single storey office addition
10 April 2013	12/913/473	Verandah attached to Community facility
30 January 2012	11/932/473	Variation to DA 473/851/09 - additional retaining wall on south-eastern boundary (maximum height 1.6 m) adjacent the multi-purpose hall
30 November 2011	11/931/473	verandah
9 November 2011	10/1134/473	Fencing (maximum height 2.5m) on eastern portion (25m length) of northern boundary
Unable to locate file, appears not to have progressed	09/1300/473	New shelter shade structures for stairways – nation building project

14 July 2009	09/851/473	Variation to development authorisation 473/171/09 to stage development Stage 1 - site works Stage 2 remainder
20 September 2010	09/479/473	Addition to existing community facility (Primary School) comprising a single storey building containing 4 classrooms and multi purpose hall at Lot 4 Sandow Road.
30 December 2008	08/734/473	Application for Early Learning Centre in association with existing primary school for a maximum of 30 children & construction of a carpark & fencing
20 March 2008	08/105/473	Three freestanding signs with a maximum heights of 2.075m)in association with existing primary school
17 September 2007	07/815/473	Variation to DA 07/411 to vary size and location of proposed outbuilding
1 November 2007	07/601/473	Alterations and addition to existing primary school
Recall	07/411/473	Shed and demolition of existing shed and carport
28 June 2007	07/29/473	Outbuilding (shade structures) to be used in association with existing educational establishment
24 May 2005	05/525/473	Shelter
3 June 2005	05/403/473	Community Facility - Shed
16 October 2003	03/670/473	Two storey school building and demolition of existing school building
25 May 2001	01/435/473	Verandah to shed
22 August 2001	01/340/473	Verandah to shed
2 February 1999	98/1219/473	Clear Sheeting to Covered Walkway
Recall	98/1196/473	Shed
6 January 1998	97/480/473	Addition to HCCCS office
26 June 1997	97/153/563	Class 10A Shed
19 June 1997	97/144/563	Class 10B Pre-cast concrete games court wall
2 May 1995	95/63/563	Community Facility – School Room
27 October 1994	94/341/563	Class 10A pergola
28 September 1993	93/253/563	Class 10A Verandah
11 November 1994	94/248/563	Community Facility - Classroom
2 November 1993	93/212/563	Community Facility – 2 Storey classroom building
3 October 1991	91/741/580	Pergola

2 September 1991	91/616/580	Community Facility Extensions
27 March 1991	91/206/580	Library Extensions
4 July 1990	90/423/580	Construction of a school library
19 October 1987	87/674/580	Four (4) additional classrooms

4. REFERRAL RESPONSES

- **DPTI**

Response received 22 May 2019 and included 8 conditions. DPTI is general supportive of the proposed development, but raised concern with the staging of the development relating to the ring road. They recommended that the following condition be imposed (DPTI condition 5) - “the ring road shall be completed and operational prior to the occupation of the new school buildings.” Council has **recommended conditions 11, 12, 13 & 14** as recommended by DPTI.

- **NVC**

There are two (2) eucalyptus trees which will need to be removed from the land for the ring road. A note should be placed on any approval for the applicant to seek the approval of the NVC. (refer to **recommended note 4**)

- **AHC Engineering**

The traffic report and the further written responses provided by the applicant and MFY does not satisfactorily address Council Engineering’s concerns relating to traffic management for this development. The developer has acknowledged the existing traffic management issues at the site, with Sandow Road being at capacity, and long que lengths and delays occurring at the intersection of Sandow/ Onkaparinga Valley/ Grivell Roads. The developer proposes to address this by creating a link road from Sandow Road to new egress points onto Onkaparinga Valley Road, which Council Engineering supports. This link road is an important element of the development and should not be delayed to a later stage. The staging of the development is not supported by Council Engineering.

Alternatively, if a staged approach is the only way the development can proceed, Council would be looking for some genuine effort by the developer to mitigate the negative impact of their development on the surrounding roads. This would be by taking actions to reduce the morning and evening peaks as much as possible. A cap on student numbers would prevent the problem worsening year on year, and a commitment to put on an extra bus would give Council some confidence in the low trips per student numbers MFY has quoted in their most recent correspondence dated 5 June 2019. Council Engineering would be supportive of conditioning the development accordingly. **See recommended conditions 4, 5, 6 and 8** to address these concerns and recommendations.

- **AHC EHU**

Council’s Environmental Health Officer has granted approval to install a further waste water treatment system for the new amenities (refer 19/W33/473).

The DPTI and Council Engineering Responses are included as **Attachment – Referral Responses**.

5. CONSULTATION

The application for a community facility was categorised as a Category 2 form of development in accordance with Zone PDC 72 requiring formal public notification. Two (2) representations were received. Of these, one representation was opposing the proposal, and one offered conditional support of the proposal. Both representations were from adjacent properties.

The following representors wish to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Mark Baryczka & Vanessa Clarke	18 Onkaparinga Valley Road Verdun	Self

The applicant and their representative – Julie Lewis from URPS will be in attendance.

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

- Increase in traffic
- Traffic noise
- Access problems and safety
- Parking – for visitors to local residences
- Privacy when informal parking occurs on the subject land (in particular 24 Onkaparinga Valley Road)

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 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:

- The Site's Physical Characteristics
The subject land is described as six (6) different allotments in the table below, including the Verdun Hall. All include school activity and note school activity transects two development plan policy areas.

Address	Current Use	Size	Policy Area
10 Onkaparinga Valley Road	Residential allotment with a frontage to the Onkaparinga River of some 180 metres in the east and a frontage to Onkaparinga Valley Road of 134 metres in the west. It is bounded to the north by the HCCS Early Learning and Out of School Hours Care and 80m of an	2.4ha	Watershed Protection

	unmade portion of Sandow Road. It has a creek transecting its south western corner and there is a residential allotment to the south. The portion along the river is flood mapped and subject of an easement to Council. The existing residence on the site is on a high point in the northern portion of the land adjacent to existing school buildings at 14 Onkaparinga Valley Road which is in the Settlement Policy Area.		
14 Onkaparinga Valley Road	HCCS Early Learning and Out of School Hours Care, car park for 8 vehicles and tennis basketball court	4000m ²	Settlement
16 Onkaparinga Valley Road	Main primary school campus catering for reception to Year 4 and school administration and playground area	8159m ²	Settlement
Lot 4 Sandow Road	Hall/Gym, classrooms for years 5 & 6, and staff carparking	3091m ²	Settlement
24 Onkaparinga Valley Road	Year 7 classroom and outdoor learning centre and the land includes both sides of the Onkaparinga River. Access to the outdoor learning centre is from Sandow Road. The portion of the allotment along the river is flood mapped and the flood zone extends very close to the building on the site.	3.5ha	Watershed Protection
17 Onkaparinga Valley Road	The property of the Verdun Fighting Forces Memorial Hall over which the school is in the process of negotiating a lease for parking commencing in July 2019 with a 10 year term and possibly an option to purchase. The site was approved as a carpark in 2002 with a crushed rubble surface. There is not record of the number of carparks which can be accommodated in the site.	4295m ²	Settlement

ii. The Surrounding Area

To the west of Onkaparinga Valley Road there are large primary production parcels which sustain viticulture and Maximilians restaurant and Sidewood Wines cellar door. To the north of the site is the settlement of Verdun with a number of residential holdings on the north western and north eastern corner of the intersection of

Onkaparinga Valley Road, Grivell Road and Sandow Road. This is a cross road on a bend of Onkaparinga Valley Road. The Verdun Fighting Forces Memorial Hall is on the south western corner of this intersection. There is a footpath on the western side of Onkaparinga Valley Road heading south approximately 90 metres to a school crossing with flashing lights described as a “koala crossing” and managed by DPTI. To the east on the other side of the Onkaparinga River, are larger primary production parcels of land in the District Council of Mount Barker. The landowners in the District Council of Mount Barker were included in the public notification process. The site is approximately 200m from the roundabout at the intersection of Onkaparinga Valley Road and Mount Barker Road. There is a rural residential property to the south of the proposed new building with the house being at least 60metres from the school boundary and some additional 80metres from the proposed new school buildings.

Sandow Road is a public road which is used mainly by the school. It has one residential property which uses it for access and has a large section which is unmade and is currently used for informal parking by school staff. The proposed ring road will involve work in Sandow Road and the loss of the informal parking and the applicant has indicated their willingness to enter into a Section 221 of the Local Government Act agreement with Council regarding the future of the unmade portion of the road. Council engineering has also begun the process of declaring Sandow Road a school zone.

iii. Development Plan Policy considerations

a) Policy Area/Zone Provisions

The subject land lies within the Watershed (Primary Production) Zone - Watershed Protection Policy Area and the Settlement Policy Area. The Zone provisions seek:

- The maintenance and enhancement of the natural resources of the south Mount Lofty Ranges along with the long term sustainability of rural production.

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

Objectives: 1 & 2

PDCs: 1, 2, 3, 4 & 5

The proposal makes no contribution to the primary production goals of the policy area, however arguably given the size of the land and its long term use for rural residential purposes, the subject land has little opportunity to contribute to these goals. The proposal is not low intensity farming and the proposal is not in accordance with PDCs 1 & 2 for this reason. Further the proposal does not offer visitor or recreational facilities and is not in accordance with PDC 3.

The design of the built form for the secondary college is considered to be of a scale that is compatible with the topography and the proposed landscaping will assist in ensuring the proposal is in accordance with PDC 4. 10 Onkaparinga Valley Road has been used for low intensity primary production in the past and has minimal native vegetation remaining. The proposal does propose the removal of two eucalypts on 10 Onkaparinga Valley Road to enable construction of the ring road. There are

eucalypts in Sandow Road which are proposed to be protected when the ring road is constructed. On balance the proposal is considered in accordance with PDC 5.

Reviewing the points made above in this policy area, the proposal is finely balanced between allowing the reasonable expansion of an existing facility in the Policy Area and the loss of land which has historically been used for primary production but is not currently and has not been for some time.

It seems important to analyse the proposal against the provisions of the adjoining policy area to see if the balance can be tipped in favour of the proposal given four of the six parcels which make up the school site are in the adjacent Settlement Policy Area. Arguably the land at 10 Onkaparinga Valley Road sits more comfortably in the Settlement Policy Area being bounded by the Onkaparinga River to the east, the Onkaparinga Valley Road to the west and the settlement policy area to the north. On this basis follows a brief analysis of the proposal against the PDCs of the Settlement Policy Area.

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

- A mixed used village environment with small collection of very low-density detached dwellings, recreation and community facilities.

Objectives: 1 & 2

PDCs: 1, 3, 4 (d), 6, 7 & 8

No evidence has been provided on the catchment area for students at the HCCS however it could be argued the school does service local educational requirements in accordance with PDC 1. The primary school has a capacity of 434 students and the Early Learning Centre 36 students. The proposal is for the addition of a secondary college with a maximum of 125 additional students.

The proposal is for non-residential development and neighbours were all notified during public notification. It is not apparent the proposal will interfere with the adjacent residential uses any more than currently experienced. The responses to the notification and examination of the site would suggest minimal residential interference is a reasonable supposition based on separation distances. The dwelling to the south is greater than 100metres from the proposed ring road and further from the proposed new buildings. The southern neighbour is arguably the closest residence to the increased activity on site. Other neighbours are currently exposed to existing school activity, especially those in Sandow Road and they have commented on existing traffic issues in Sandow Road. The applicant's traffic consultant has argued the proposed ring road will lessen the traffic impact on adjacent residential properties in Sandow Road. On balance the proposal is considered in accordance with PDC3. Arguably, on the basis of the already mentioned unknown school catchment, the proposal is in accordance with PDC 4 (d) as it is of a small scale and for the provision of local service facilities. Consequential to this it could be argued the expansion of the existing school to include secondary facilities is grouping local service facilities in proximity to each other as envisaged in PDC 7.

Notably the Desired Character for the Settlement Policy Area envisages minor additions and alterations to existing uses and notes the focus of development on the main road. Accordingly the proposal is considered in accordance with PDC 6.

The subject land is on the lower fire risk side of Onkaparinga Valley Road and is not considered to cause a significant increase in fire hazard in accordance with PDC 8.

The following are considered to be the relevant Zone provisions:

Objectives: 1, 2 & 4

PDCs: 1, 2, 3, 4, 9, 10, 11, 15, 29, 36, 37 & 39

The proposed middle school building is set back some 14.4metres from Onkaparinga Valley Road and is sited with a floor level some 6 metres above the level of Onkaparinga Valley Road. The proposed floor level is approximately 2metres below the high point on 10 Onkaparinga Valley Road. However whilst below the ridge line the proposal could not be described as well below the ridgeline and the area containing the ridgeline is to be the subject of earthworks labelled future kick about play space and is proposed at a higher the level than the finished floor level of the proposed buildings. The play space has a finished level approximately 1.5metres above the middle school building and 1metre above the senior school buildings. The proposed buildings are single story and modest in scale as described in PDC 2. With expected landscaping the proposal is finely balanced to be in accordance with PDC 1 when considered in conjunction with the design parameters envisaged in PDC 2. Importantly the proposal will mark a significant change the visual amenity of the subject land to traffic on Onkaparinga Valley Road during construction and until the establishment of the proposed landscaping.

A large new septic has been approved to connect into the CWMS scheme available in Verdun and the senior school has some water reuse proposed. Mains water is also available to the site. The proposal is in accordance with PDC3.

The proposed buildings are not within 25 metres of a watercourse and whilst a portion of 10 Onkaparinga Valley Road is flood prone the proposed development and associated earthworks are no closer than 10 metres to this area of the subject land. On balance the proposal is considered in accordance with PDC 4.

The proposed ring road does follow the contours of the land in accordance with PDC 9.

The landscaping proposed with the application is native and considered in accordance with PDC 10. There is some existing vegetation near the proposed new egress on Onkaparinga Valley Road which is largely exotic. It is proposed to keep this in the first instance and the applicant's traffic consultant has provided drawings confirming this will not interfere with sight lines. All proposed landscaping is native and will supplement the existing landscaping. As previously reported on balance the proposed buildings will not impair the amenity of the area when scale, siting and landscaping is considered, as envisaged in accordance with PDCs 11 & 15.

As previously reported the proposal has a minimal impact on native vegetation, however any planning approval associated with this application does not imply the removal of native vegetation. A note (Note 4) regarding an application to the Native Vegetation Council is recommended to ensure the proposal is in accordance with PDC 29.

As the proposal does not encroach into the flood mapped portion of the site and extensive stormwater management and treatment solutions are proposed, on balance the proposal is considered to be in accordance with PDC 36 in that it may contribute to improvements in water quality flowing into the Onkaparinga River through the use of swales, retention and detention.

The proposal makes no contribution to the primary production goals of the zone, however arguably given the size of the land and its long term use for rural residential purposes, the subject land has little opportunity to contribute to these goals. The proposal's inability to contribute to these goals is not considered fatal to the proposal.

b) Council Wide provisions

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

Community Facilities

Objectives: 1, 2, & 3

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

The HCCS is close to the South Eastern Freeway, is on a public bus route and serviced by school buses. Further development of the facility in this location is for these reasons considered in accordance with PDCs 1 & 4 and Objective 1.

10 Onkaparinga Valley Road is not in the Settlement Policy Area but is immediately adjacent to it, and arguably the piece of land is in neither a useful or, productive location for primary production. Therefore the proposal is considered to promote efficient use of this particular parcel of land in accordance with PDC 2.

The proposal design with separate buildings on separate sites ringed by gardens, outdoor uses and walkways is considered flexible, as is their location on separate allotments, in accordance with PDC 3.

With some agreement between Council and the applicant in regard to overall site parking and better management of Sandow Road the proposal on balance will accord with PDC 5.

With the site being on Onkaparinga Valley Road and bounded to the west by the Onkaparinga River the site is almost naturally isolated from nearby residences. Adjacent residents who made representations acknowledge their location adjacent a school which has been there since 1983 and was in the past a public primary school and on balance the proposed ring road will alleviate the current disturbance to their amenity as desired by PDC 6. The primary school has a capacity of 434 students and

the Early Learning Centre 36 students. The proposal is for the addition of a secondary college with a maximum of 125 additional students. It is anticipated the secondary student numbers who are transferring from another campus at Oakbank Area School will be in the vicinity of 90 in 2020 and build to 125 by 2023.

Design and Appearance

Objectives: 1 & 2

PDCs: 1, 3, 5, 7, 9, 11, 12, 20, 21, 23 & 28

The proposed buildings have very low roof pitch (peak height at a maximum 4.7m) and wall heights (maximum 3m). The rooves will be Colorbond Gully (light grey green tone) and the walls Axon cladding finished in “coffee” tones. There is also some timber screening proposed. These features are in accord with PDCs 1 & 3 being of a neutral design with non-reflective finishes. It should be noted there are solar cells on the roof, however in accordance with development legislation, being parallel to the roof, the solar cells are not development.

The senior school building does have a significant deck/balcony on the eastern and south-eastern elevation up to 2.8m above natural ground level. This structure does not face the public domain and uses building design to minimise proposed earthworks, as the land form falls away significantly to the Onkaparinga River in this portion of the site. Further the proposed eight stormwater tanks will be discretely located under these decks. The proposal is considered in accordance with PDC 5.

The setbacks of the buildings from all boundaries and other land uses, combined with the size of the site ensure the proposal will not cause overshadowing, loss of sunlight, or an adverse impact on microclimatic conditions in accordance with PDC 7.

The ring road and staff parking will require significant earthworks, however the bulk of those works will not be visible from the public domain. The new entrance to Onkaparinga Valley Road and the associated staff car-parking have the potential to be highly visible as they will be new. However the establishment of associated landscaping and the retention of existing vegetation will help soften the proposal. The proposal is considered in accordance with PDC 9.

Energy Efficiency

Objectives: 1 & 2

PDCs: 1, 2 & 3

The proposed buildings have been designed with a northerly aspect, as has the adjacent kick/play space in accordance with PDCs 1 and 2.

Solar arrays are proposed on both buildings, although as parallel with the roof they are not the subject of a development application. However their proposed existence contributes to the proposal being in accordance with PDC 3.

Hazards

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

PDCs: 1, 2, 3 & 4

The subject land is in a medium bush fire risk area, the lowest rating available in the Adelaide Hills Council area and while the land is flood mapped the proposed development is not in the flood mapped portion of the land. The development is not proposed in an area in which the risk of fire and flooding would preclude development in accordance with PDC 1. Very little modification to the site is proposed to ensure minimisation of risk in accordance with PDC 2. The proposal has been developed on flood mapped land, clear of the 1-in-100 year flood map and the proposed stormwater management for the site has been designed for up to a 1-in-100 storm event with the design including detention, retention and swales before excess water is discharged into the Onkaparinga River. For these reasons the proposal is considered in accordance with PDCs 3 and 4.

Interface Between Land Uses

Objectives: 1 & 3

PDCs: 1, 2, 3, 6, 16 & 17

As an educational institution the proposal is unlikely to emit airborne pollutants. Noise was not raised as an issue during public notification. The proposal is considered in accordance with PDCs 1 (b) and 6 in this regard. Specifically with regards to PDC 1 the main cause for potential conflict is traffic impacts and stormwater runoff. The applicant has provided extensive reporting on traffic impacts and proposed solutions. Neighbours raised during the public notification process the concern of traffic conflicts, in particular conflicts between traffic queuing for pick up and access to their property. The applicant has responded suggesting the ring road will reduce congestion through queuing being moved further from Sandow Road and a reduction in the number of two way movements on Sandow Road. There is also some work to do with a proposed section 221 permit between the applicant and the Council regarding the ongoing management of Sandow Road which will assist in controlling parking adjacent the residential property. The proposal is generally considered to be improving the existing traffic situation around the school and the development is in accordance with PDC 1. Given the proposed ring road is to the rear of the site which is bounded by the Onkaparinga River and the unique isolation of the land, the potential for the proposal to impact on other land users is minimised in accordance with PDC 2. Further there is no potential for overlooking or overshadowing because of both the large setbacks created by the property location and the building setbacks on the subject land. On this basis the proposal is in accordance with PDC 3. The isolation of the subject land created by Onkaparinga Valley Road and the Onkaparinga River minimises the potential for the site to be impacted upon by adjacent rural activities in accordance with PDC 16. Further the development is some 40 metres from adjacent viticulture (to the west) which provides an adequate separation buffer in accordance with PDC 17. Along the western boundary where the site fronts Onkaparinga Valley Road there is “high level native vegetation” proposed with “low level native grasses” which is considered to enhance the visual amenity of the project.

Landscaping, Fences and Walls

Objectives: 1 & 2

PDCs: 1, 2 & 3

Detailed landscaping was submitted on 23 May 2019 and it has a native plants and trees flavour. The landscaping particularly on the western and southern portions of 10 Onkaparinga Valley Road will enhance the site and does incorporate open space, different level plantings and paths for access. The indicative plantings proposed are largely native and will have minimal opportunity to impact on adjoining properties. On balance the proposal is considered to be able to meet the requirements of PDCs 2 & 3.

Natural Resources

Objectives: 1, 2, 3, 4, 5, 6, 7, 10 & 13

PDCs: 1, 2, 4, 5, 6, 10, 11, 12, 13, 14, 15, 19, 20, 22, 23 & 24

The extent of earthworks proposed for the ring road have the potential to impact on the natural environment, however the extensive stormwater management, rear of site location for the bulk of the works and proposed landscaping should ensure the proposal protects biodiversity, water quality and the amenity of the area as envisaged by PDCs 1 and 2.

Arguably the subject land has minimal contribution to make to primary production and has very little native vegetation. The size of the land limits its contribution to primary production. There are two eucalypts proposed to be removed for the ring road which will be the subject of a Native Vegetation Council application and the assessment of this. Extensive stormwater management measures will limit the impact of the proposal on water resources. On balance the proposal is considered to be in accordance with PDCs 4 and 6.

The proposed buildings are appropriately set back from the Onkaparinga Valley Road, and with landscaping will not impact on the scenic amenity of the south Mount Lofty Ranges as envisaged by PDC 5.

Extensive stormwater management has been proposed which includes detention and retention tanks, along with a detention basin and swales to ensure the proposal incorporates Water Sensitive Urban Design in accordance with PDCs 10 and 14. Calculations have been provided up to a 1-in-100 year storm event to demonstrate the rate of discharge from the site is no greater than pre development rates. These measures will protect the development from damage during a 1-in-100 year flood in accordance with PDC 12, noting the development, including the ring road is not in the flood mapped portion of the site. Further the swales and rock rip rap should ensure the water being discharged from the site will be equivalent to or better quality than it currently is when it reaches the Onkaparinga River in accordance with PDCs 11, 13 and 15.

The bulk of the detention and retention is proposed in tanks which should ensure minimal risk to public health. Open detention is proposed on a low area of the site which is adjacent to car parking and in the opinion of staff, not in a high pedestrian area of the site, which further minimises the risk to public health. The proposal is considered to accord with PDC 19. As previously detailed the detention is designed in accordance with PDC 20 allowing sediment to settle prior to discharge.

A soil drainage and erosion management plan is proposed as a condition prior to issue of building rules consent (refer recommended condition 4), particularly for the ring road to ensure the proposal is in accordance with PDCs 22 and 23.

There are no works proposed in the watercourses on site, namely the Onkaparinga River and a smaller “creek” in the south western portion of the site. The latter is adjacent the proposed new access and is already piped under Onkaparinga Valley Road. On balance the proposal is considered in accordance with PDC 24.

Orderly and Sustainable Development

Objectives: 1, 2, 5, 6, 7, 8, 9, 10, & 13

PDCs: 1, 2, 4, 5, 6, 7, 9, 11 & 12

As argued elsewhere in this report, the primary production value of 10 Onkaparinga Valley Road is debatable given its size and location between the Onkaparinga River and Onkaparinga Valley Road. For this reason the proposal is not considered to prejudice primary production in accordance with PDC 1. Further given the low primary production value on the basis of location, it can be further argued the land being immediately adjacent the Verdun Settlement Policy Area is on balance in accordance with PDC 2. The proposal is considered a compact extension to an existing built up area in accordance with PDC 4.

Given the availability of the Common Waste Management Scheme (CWMS) the school is able to take advantage of local infrastructure by connecting a new large on-site septic to the CWMS. This along with the proposed further works to maximise safety and use of Sandow Road ensure the proposal is in accordance with PDC 5.

The proposed ring road and new access point to Onkaparinga Valley Road is expected to assist in resolving a long standing traffic situation at the intersection of Onkaparinga Valley, Grivell and Sandow Roads. The proposal will improve sight lines and reduce traffic numbers at the aforementioned intersection, and will upgrade existing conditions in Sandow Road. Combined this will create a safer egress for staff, students and parents and for the whole Hills Christian Community School in accordance with PDC 6. There are some conditions around the works for the ring road and the conditions in Sandow Road as there is still some negotiation around timing of the works, the cost of the works and Council’s role in relation to any Section 221 works. The applicant has suggested these details can be secured by **conditions**. **Conditions 1, 3, 4, 5, 6, 7, 8 & 9** are recommended. Despite DPTI advice and Council engineering, the applicant argues the senior school can commence operation prior to construction of the ring road. Further the applicant has offered to negotiate more detail around proposed timing for construction of the ring road after development plan consent has been granted but before building rules consent is granted. There will also need to be negotiation and agreement around a construction management plan which addresses timing of the works and interim staff parking and student drop off plans.

For all the reasons previously mentioned with regards to the location of 10 Onkaparinga Valley Road, the proposal is considered an efficient and coordinated

development of underutilised land adjacent the existing school facility and is in accordance with PDCs 7 and 9.

PDC 11 suggests extensions of built up areas outside townships and settlements should not be in the form of ribbon development. This proposal extends the frontage of the school to Onkaparinga Valley Road by approximately 130 metres. However as the proposal does not interact with the street frontage other than for the proposed new access point it is not considered ribbon development in the true sense. The proposal is considered to generally be in accordance with PDC 11.

The proposed site is flood mapped, however all the works, buildings road and earthworks have been managed outside the 1-in-100 year flood zone. Further designs and supporting calculations have been provided to ensure the pre and post development flows of stormwater from the site into the Onkaparinga River have been maintained at the same level. The proposal is considered in accordance with PDC 12.

Siting and Visibility

Objectives: 1

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

Onkaparinga Valley Road is a scenic route, it is a gateway to the northern Mount Lofty Ranges. The proposed site is elevated above the road and through the use of buildings with a low profile and a careful balance of excavation and elevated platforms the proposal is considered to be in accordance with PDC 1. The two new buildings are grouped together and landscaping is proposed to assist in the low profile buildings blending with the surrounding landscape in accordance with PDCs 2, 3 and 4. Further the bulk of the earthworks proposed are to the east of the site and removed from the public domain as envisaged by PDC 5. The chosen materials and colours are non-reflective and in accordance with PDCs 6 and 7.

The proposed ring road has been designed to work with the contours of the land and the bulk of it is located to the rear of the site as previously mentioned. Landscaping has been proposed to minimise the visual impact of the proposed earthworks as sought by PDC 10. The ring road is designed to ease congestion on Sandow Road which arguably will minimise nuisance to neighbours. All these points contribute to the proposal being in accordance with PDC 9.

Sloping Land

Objectives: 1

PDCs: 1, 3 & 4

The proposed buildings are partially excavated and partially elevated, with the elevated portions most removed from the public domain. The proposed ring road is contoured around the rear of the site from the north to the south. The proposal is considered in accordance with PDCs 1 and 3. The proposed ring road will be surfaced with asphalt; however there may be an interim period which sees a compacted dolomite surface. **Recommended conditions 7 and 16** address the requirements of these provisions to minimise and control surface run off and drag out.

Transportation and Access

Objectives: 1, 2, & 6

PDCs: 3, 4, 5, 6, 7, 8, 9, 15, 17, 25, 26, 27, 29, 30, 32, 33, 34, 35, 36, 39 & 40

Representors have raised traffic and access concerns based on the existing situation on the site, being the six sites Council describes as the school, in particular with regards to queuing in Sandow Road. One representor mentioned occasional parking on the property at 24 Onkaparinga Valley Road.

PDCs 6 and 8 all requires development which is safe and convenient and be sited and designed so as to not unreasonably interfere with the health and amenity of adjacent sensitive land uses. In their response to representations the applicant proposes once the ring road is constructed queuing in Sandow Road will virtually be eliminated as required by PDC 14. During assessment of this application it has become apparent Sandow Road is not sign posted or line marked in accordance with any agreed policy between the applicant, Council and DPTI. It is apparent the school has been managing and undertaking works within Sandow Road. For example the zebra crossing on Sandow Road is not in accordance with any standard and the no right turn sign at the western end of Sandow Road is “not in accordance with any current standard.” It is recommended Council engineering and the applicant reach an agreed position for the ongoing management of the existing made portion of Sandow Road prior to the issue of any building rules consent on this application to ensure the proposal is in accordance with PDC 3.

The proposed ring road is considered to blend with the terrain, following the contours of the land and as the bulk of the works are proposed to the rear of the site, they will not be visible from the public domain in accordance with PDC 4.

The proposal has considered school bus access and parking as envisaged by PDC 5. Further the proposal includes purpose built drop off zones as envisaged by PDC 6. There are a number of compromises in design in relation to the pickup drop off zones with regard to safety as required by PDC 7. For example passenger vehicles will drop the passengers through the right hand side of the vehicle on the right hand side of the road and the school bus drop off will require students to cross the ring road. The applicant’s traffic consultant has offered whilst not regular these solutions are acceptable. Given the proposal is overall considered an improvement to the current congestion experienced at this site, on balance the proposal is considered in accordance with PDC 7.

No mention of bicycle or pedestrian access to the site is made by the applicants and their experts, other than an observation no student activity of this type was observed. The proposal is not considered in accordance with PDC 8.

The current Sandow Road - Onkaparinga Valley Road intersection has limited sightlines. There is no dispute the proposed ring road will improve the safety of the site in accordance with PDC 9, however the benefit will only be realised when the ring road is built and Council could require the secondary school and the ring road to operational at the same time. The applicant wishes to negotiate the construction of the ring road and this is expected to be detailed at some time between issue of

development plan consent and prior to the issue of building rules consent. The maximum timeframe considered allowable by the Council administration for the completion of the ring road is detailed in **recommended condition 5**.

There are drainage pipes under Sandow Road which will require modification at the applicant's expense on construction of the ring road and there is a large culvert under Onkaparinga Valley Road adjacent the proposed new crossover which is not expected to impact on the culvert of the watercourse associated with it. A section 221 agreement will be required prior to the issue of building rules consent for all the works in Sandow Road and a condition note is included in the recommendation to this effect (**refer condition 9**). The proposal is considered in accordance with PDCs 15 and 17.

The proposed ring road is to be finished with bitumen in accordance with PDC 25. As previously discussed it is expected current congestion around the intersection of Onkaparinga Valley Road and Sandow Road and for residents in Sandow Road will be eased as expected in PDCs 26 and 27.

Onkaparinga Valley Road has an annual daily traffic in the order of 8,500 vehicles and the proposal does not include any reversing into the road. The proposal is in accordance with PDCs 29 and 30.

Extensive engineering has been provided for the southern portion of the proposed ring road which does demonstrate it is designed to work with the contours of the road. The MFY report references 15 carparks as required for the increase in school activity, (page 14) the CPR plan details 18 dimensioned to meet Australian standards. There is an oversupply of 3 carparks for the high school based on assessment against the Development Plan table 4. In their parking assessment MFY concludes when the senior school is fully staffed (2023) 18 car parks will be required (page 15). Further it suggests 2 staff will be relocated from the visitor carpark in Sandow Road to the new carpark. An extensive engineering plan with stormwater management measures has been proposed. On balance the proposal is in accordance with PDC 32.

The proposed pathways with a 1:20 gradient meet the DDA requirement of 1:14 which enables convenient access for people with disabilities in accordance with PDC 33.

The applicant suggests a growth to a maximum of 125 secondary students and 15 staff by 2023 and contends 18 is the required number of carparks for schools in accordance with PDC 34. The proposed 18 car parks are designed in accordance with PDC 35. The primary school has a capacity of 434 students and the Early Learning Centre 36 students. In the past there have not been any conditions regarding the number of students for the primary school nor has parking for the school or for school drop off zones been proposed or conditioned. The proposal is for the addition of a secondary college with a maximum of 125 additional students. It is anticipated the secondary student numbers who are transferring from another campus at Oakbank Area School will be in the vicinity of 90 in 2020, which will build to 125 by 2023. Staff are **recommending condition 8** which details the maximum number of students for the secondary school to ensure the site is not developed beyond potential capacity

for parking and in particular prior to completion of the ring road. A further condition around regarding maximum student numbers on completion for the educational establishment is recommended for the same reasons (*see recommended condition 18*).

Council engineering staff advise the vehicle parking is designed as expected in PDC 36.

The proposed ring road will be surfaced in asphalt and **condition 7** recommending this is proposed. In consideration of this, the proposal will be in accordance with PDC 39.

7. SUMMARY & CONCLUSION

The main issues regarding this proposal are the appropriateness of the proposal in the zone, traffic impacts and the staged nature of the proposal.

On balance a secondary school is a logical extension to an existing community facility in the locality and the portion of land the proposal is made on has an untested contribution to make to the zone's primary objective of continuing to promote primary production.

The proposed ring road will resolve ongoing traffic management issues at the cross roads of Onkaparinga Valley Road, Grivell Road and Sandow Road by reducing vehicle queueing and congestion, with a new access point with improved sight lines further south on Onkaparinga Valley Road. The provision of staff parking on site for the secondary school is essential and the formalising of a long standing arrangement between the school and the adjacent Verdun Hall for parking is of benefit to the community.

Uncertainty around the proposed staging of the school operations and the operation of the proposed ring road is the most difficult decision to be made with regards to this proposal. Acknowledging the community benefit of this development and trying to balance the school needs with the concerns expressed by Council engineering and DPTI, **conditions 4, 5, 6 & 8** are recommended by planning staff as a compromise to the ideal timing of ring road completion and operation. Council planning staff are inclined to accept the applicant's arguments, but with restrictions on the secondary student numbers initially and the running of an additional private bus service.

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 19/245/473 by Hills Christian Community School Inc for a staged expansion to an existing community facility, namely change of use of existing residential property & primary school to an educational establishment (pre-school, primary & secondary school):

Stage 1: Demolition of existing dwelling & ancillary structures (lot 51) & construction of two single storey secondary school buildings, water storage tanks, car park, associated retaining walls & earthworks

Stage 2: Extension of public roadway (Sandow Lane), internal driveway (ring road) & associated retaining wall & earthworks at 10, 14, 16, 17 and 24 Onkaparinga Vallley Road, Lot 4 Sandow Road & Sandow Road Verdun subject to the following conditions:

(1) Reserved Matter

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

- In accordance with HCCS correspondence dated 21 May 2019, a copy of a lease agreement for no less than 3 years (the term within which the development must be substantially completed) be executed with the Verdun Hall Committee (or other site where applicable) and be submitted to the Council for its records.

NOTE: Council reserves the right to attach further conditions in relation to this.

REASON: To minimise disruption to the amenity of the local residents and for safe and convenient movement of vehicles.

(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:

- Drawings from Phillips/Pilkington Architects project number 18564 drawing numbers SK01, SK02, SK03, SK04, SK05, SK06, SK07, SK08, SK09, SK10, SK11, SK12 & SK13 issue DA01 & SK01 issue P5 reflecting stage 1
- Drawings from Phillips/Pilkington Architects project number 18564 drawing numbers SK02 issue P5 being the Stormwater management concept plan from Combe Pearson Reynolds 1801-c-SK01, SK02 & SK03 – Rev A dated 18 March 2019
- Drawings from Phillips/Pilkington Architects project number 18564 drawing numbers A150, A151 & A152 issue P12 – Landscape Plan, Planting Schedule and Landscape materials

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

Traffic & Car Parking

(3) Prior to Building Rules Consent- Provision of Interim Traffic and Parking Management Plan

Prior to Building Rules Consent for the applicable stage, the applicant shall submit an Interim Traffic and Parking Management Plan to the satisfaction and approval of the Commission of Highways and Council for the management of displaced off-site set-down / pick up and/or overflow on-street primary school staff parking for the duration of the construction period for both stage 1 and stage 2.

These activities shall be undertaken in accordance with the approved Traffic and Parking Management Plan.

REASON: To minimise disruption to the amenity of the local residents and for safe and convenient movement of vehicles.

(4) Prior to Occupation of Stage 1

Prior to occupation of the stage 1 buildings, the detailed drawings for Stage 2 (ring road) shall be lodged and approved by the Council.

REASON: To ensure the proposal is undertaken in accordance with plans.

(5) Construction of The Ring Road- Stage 2

The ring road shall be constructed and operational to the reasonable satisfaction of Council within 15 months of the development approval of Stage 1.

REASON: To ensure the proposed ring road is constructed within a reasonable timeframe in order to minimise vehicle queuing and traffic congestion issues on Onkaparinga Valley Road and surrounding roads.

(6) Extra Bus Service - Ring Road Construction

The educational establishment shall provide an additional private bus service up until the ring road has been constructed and is operational to the reasonable satisfaction of Council.

REASON: To minimise vehicle queuing and traffic congestion issues on Onkaparinga Valley Road and surrounding roads.

(7) Surfacing of The Ring Road

The proposed ring road will be surfaced with asphalt, line marked and sign posted to the satisfaction of Council.

REASON: To ensure the proposal is undertaken in accordance with plans.

(8) Student Numbers Cap For Secondary School- Ring Road Completion

The secondary school shall be limited to a maximum of 90 students until such time as the ring road is completed and operational to the reasonable satisfaction of Council. Once the ring road is completed the secondary school shall be limited to a maximum of 125 students.

REASON: To minimise vehicle queuing and traffic congestion issues on Onkaparinga Valley Road and surrounding roads.

(9) Off-site works

The off-site works offered in the letter from the Hills Christian Community School dated 23 May 2019, the traffic reports prepared by MFY consultants dated 8 May 2019 and March 2019, and depicted on the drawings from Phillips/Pilkington Architects project number 18564 drawing numbers SK02 issue P5 being the Stormwater management concept plan from Combe Pearson Reynolds 1801-c-SK02 – Rev A dated 18 March 2019, all shall be constructed/installed to the reasonable satisfaction of the Council prior to the use of the proposed ring road including the works to Sandow Road, namely:

- Making of an unmade portion of Sandow Road
- Modifications to the parking and line marking in Sandow Road
- Relocation of drains and CWMS infrastructure in Sandow Road
- Barrier kerbing and or balustrading
- Associated earthworks and retaining walls

NOTE: A permit under Section 221 of the Local Government Act 1999 is required to be issued for all the works within the Council's road reserve (excluding the new driveway crossovers) and a bond or other suitable financial guarantee shall be entered into to cover the cost of these works, project management and any damage to existing public infrastructure that may arise from the proposed development.

REASON: To ensure the off-site works agreed to be undertaken prior to operation of the approved development. To ensure traffic and pedestrian safety is not compromised and is improved by the proposed development.

(10) Bitumen 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 in accordance with Australian Standard AS 2890.1:2004. Line marking 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 bitumen or brick paved prior to occupation and 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.

DPTI – Traffic

(11) Vehicles Entering and Exiting the Site

All vehicles shall enter and exit the site in forward direction.

REASON: For safe and efficient movement of all transport modes.

(12) Access Into the Site

All access to the site shall be in general accordance with Phillip/Pilkington Architect Drawing Register & Location Plan, Projection No./Drawing No. 18564-SK01, Revision DA01 dated 20/03/2019.

REASON: For safe and efficient movement of all transport modes.

(13) New Crossover Sightlines

The proposed exit point to Onkaparinga Valley Road shall be designed as shown in Projection No./Drawing No. 18564-SK04 dated 20/03/2019 and be signed appropriately. Furthermore, sightlines at this access point shall meet Safe Intersection Sight Distance requirements in accordance with the AustRoads Guide to Road Design Part 4A: Unsignalised and Signalised Intersections. Vegetation trimming/removal shall be undertaken on an as needs basis to ensure this requirement is achieved.

REASON: For safe and efficient movement of all transport modes.

(14) New Crossover Construction- Onkaparinga Valley Road

Following completion of the ring road, the proposed crossovers to the new secondary school car park area shall be exit only. These proposed exit points to Onkaparinga Valley Road shall be sealed from the edge of the seal on Onkaparinga Valley Road to a point no less than 6 metres into the site. Any obsolete crossover/s on Onkaparinga Valley Road shall be closed and reinstated to the Council's kerb and gutter standard at the applicants expense prior to operation of the development.

REASON: For safe and efficient movement of all transport modes.

Landscaping

(15) Timeframe For Landscaping To Be Planted

Landscaping detailed in drawings from Phillips/Pilkington Architects project number 18564 drawing number A150 & A151 issue P12 – Landscape Plan & Planting Schedule shall be planted in the planting season following occupation of stage 1 and maintained in good health and condition at all times. Any such vegetation shall be replaced in the next planting season if and when it dies or becomes seriously diseased.

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

Erosion Control & Stormwater Management

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

Prior to Building Rules Consent being granted for each stage of the proposal 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 that detail erosion control methods and installation of sediment collection devices that will prevent:

- a. soil moving off the site during periods of rainfall;
- 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.

(17) Stormwater Management

All stormwater from roof and hard surfaces is to be directed to the proposed detention tanks and/or the detention basin and swales within three (3) months of the roof or surface installation. All stormwater shall be managed on-site in accordance with the Stormwater Management Concept Plans (180564- SK02) prepared by CPR Consulting Engineers.

All stormwater associated with the proposed extension of Sandow Road and the ring road shall be installed within three (3) months of the road surface being laid.

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

Capacity

(18) Student Numbers Cap For Whole Educational Establishment

Following the completion of the development (both stages) the educational establishment shall have an overall maximum of 589 students and each tier shall be limited to the following:

Early learning centre- 30 students (Development authorisation 473/734/08)
Primary school- 434 students
Secondary school- 125 students

REASON: To ensure the capacity of the car park, septic tank and Council infrastructure is not exceeded by incremental expansion of the educational establishment and to minimise vehicle queuing and traffic congestion issues on Onkaparinga Valley Road and surrounding road.

(19) Requirement For Septic Tank To Be Installed

The hydraulic services (22,000L septic tank, grease arrestor, settling pit, neutralising pit) shall be installed and connected to the Council CWMS infrastructure prior to occupation of the stage 1 buildings, and shall have a trafficable lid/s if within a vehicle trafficked area.

REASON: To ensure the efficient management of wastewater and that the development does not cause adverse water quality impacts.

Building Appearance

(20) External Finishes

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

- WALLS:** Smooth vertical and horizontal cladding in Dulux Smooth Coffee, Stone River or similar
- ROOF:** Colorbond Gully 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.

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

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

www.environment.sa.gov.au/Conservation/Native_Vegetation/Managing_native_vegetation

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

9. ATTACHMENTS

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

Respectfully submitted

Concurrence

Melanie Scott
Senior Statutory Planner

Deryn Atkinson
Manager Development Services

COUNCIL ASSESSMENT PANEL MEETING
12 June 2019
AGENDA – 9.3

Applicant: Visionstream Australia Pty Ltd	Landowner: Telstra Corp Ltd
Agent: Stefan Kaldis	Originating Officer: Doug Samardzija
Development Application:	18/898/473
Application Description: Telecommunications facility, comprising a monopole (maximum height 29.9m including antennae), associated equipment shelter (maximum height 3.4m), security fencing (maximum height 1.8m), associated landscaping & earthworks	
Subject Land: Lot:69 Sec: P4014 FP:26227 CT:5843/220	General Location: 6 Bridge Street Balhannah Attachment – Locality Plan
Development Plan Consolidated : 24 October 2017 Map AdHi/1, 20 and 61	Zone/Policy Area: Watershed (Primary Production) Zone - Balhannah/Oakbank (Rural Surrounds) Policy Area
Form of Development: Merit	Site Area: 683m ²
Public Notice Category: Category 3 Merit - Notice published in The Advertiser on 29 March 2019	Representations Received: 2 Representations to be Heard: 2

1. EXECUTIVE SUMMARY

The purpose of this application is to construct a 29.9m high telecommunications facility comprising a monopole and associated antennae, equipment shelter, security fencing, associated landscaping and earthworks on behalf of Telstra to provide mobile coverage to Balhannah area.

The subject land is located within the Watershed (Primary Production) Zone - Balhannah/Oakbank (Rural Surrounds) Policy Area and the proposal is a merit form of development. The subject land is flood prone and adjacent to a scenic route and the Balhannah Town Centre.

One representation in opposition and one representation in support of the proposal were received during the Category 3 public notification period.

As per the CAP delegations, the CAP is the relevant authority for Category 3 applications where representors wish to be heard.

The main issues relating to the proposal are visual amenity, and noise impacts, as well as development in a flood zone.

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:

- A new 29m high steel monopole
- Six (6) panel antennas at a centreline height of 29.9m
- Installation of a Mercedes compact headframe
- Installation of nine (9) Remote Radio Units (RRUs)
- Installation of one (1) Telstra Equipment Shelter (maximum height 3.4m)
- Installation of associated ancillary cabling and equipment
- Installation of new security fencing with maximum height of 1.8m
- Landscaping strip of a minimum of (9) nine Southern Cypress trees to the western boundary

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

Whilst there is an existing building on the subject land, Council has no records of any previous development applications on the subject land. The building is likely to pre-date planning legislation.

4. REFERRAL RESPONSES

- **COUNCIL’S ENGINEERING DEPARTMENT**
Council’s Engineering Department was consulted in relation to the proposal. Amended plans were provided by the applicant in relation to the telecommunication facilities being proposed in a 1 in 100 year flood plain. Council’s Engineering Department is satisfied with the increase in the floor level of the shelter building 300mm above the flood level.

5. CONSULTATION

The application was categorised as a Category 3 form of development in accordance with Section 38(2)(c) of the Development Act 1993 requiring formal public notification and a public notice. Two (2) representations were received, with one (1) representation opposing the proposal and one (1) supporting of the proposal. Both were from adjacent and nearby properties.

The following representors wish to be heard:

Name of Representor	Representor’s Property Address	Nominated Speaker
Stephen J Thiele	98 Onkaparinga Valley Road, Balhannah	Stephen J Thiele
Vickie Tyrer	8 Bridge Street, Balhannah	Vickie Tyrer

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

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

- Proximity to the dwelling
- Health impacts
- Noise impacts from sub-station operation and during construction
- Visual impacts
- Impacts during construction
- Impacts on property values

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 from the applicant 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 regular shaped allotment of approximately 683m² in area with the primary frontage to Bridge Street. The allotment currently contains a Telstra exchange building set approximately 7m from the front boundary. A driveway to the back of the allotment runs along the western property boundary. The allotment is surrounded by recreation grounds to the east and north with the immediate area surrounding the subject land covered with large native tree. To the west, the allotment abuts a residential property with a standard corrugated fence and minimal vegetation along the front portion of the boundary separating the two allotments.
- ii. The Surrounding Area
The locality contains allotments of various shapes and sizes and the Balhannah recreation grounds. Use of land within the immediately locality varies with the allotments west of the subject land being predominantly residential in nature whilst allotments south east of the subject land are used for a variety of commercial purposes.

Immediately east of the subject land is Onkaparinga Valley Road identified in the Development Plan as one of the Scenic Routes within the Adelaide Hills Councils Area. The closest existing telecommunication facility is approximately 1.6km north of the proposed location on Peacock Hill at Oakwood Road, Oakbank. This is a NBN, Optus and Vodafone facility.
- iii. Development Plan Policy considerations
 - a) Policy Area/Zone Provisions
The subject land lies within the Watershed (Primary Production) Zone - Balhannah/Oakbank (Rural Surrounds) Policy Area and these provisions seek:

Balhannah/Oakbank (Rural Surrounds) Policy Area

- *The retention of rural character and amenity*
- *Retention of attractive views from roads*

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

Objectives: Nil

PDCs: 1, 2 and 3

PDC 1 within the policy area seeks retention of the rural character and attractive views by encouraging deep setbacks from roads. The proposal is considered to achieve the intent of the PDC by proposing to set the monopole approximately 21m from the front boundary and the associated equipment shelter 15m from the front boundary. Whilst the proposed shelter with a 3.4m maximum overall height is not going to be as visible from the road, the monopole given its 29m height is. It must however be recognised that all telecommunication facilities need to have a clear line of sight to surrounding areas and will therefore have some visual impacts on the locality. This is an unavoidable and an inherent part of such facilities. The key issues are whether such facilities are located and designed to minimise such impacts. In this instance given the increased setback from the front boundary and the existing large dense native vegetation on the adjacent allotment which will screen a large portion of the structure the proposed sitting is considered acceptable.

The portion of the subject land where the equipment shelter and monopole are proposed is located in a 1 in 100 year flood plain and PDC 2 within the policy area states that buildings should not be erected on land subject to flooding. Whilst the intent of the PDC is clear, the use of the word should (not “will” or “shall”) implies that there could be some degree of flexibility in the application of this principle. Whilst the proposal fails to satisfy this PDC by proposing to locate the structures in the flood plain, the plans have been amended to ensure that the equipment storage shelter is located 300mm above ground level to ensure that the structure is not impacted by any potential flooding or that it increases the impact of flooding on adjacent properties.

The following are considered to be the relevant Zone provisions:

Objectives: 1, 2, 3, 4 and 5

PDCs: 1, 2, 4, 5, 8, 11, 14, 15, 16, 17, 29, 30, 32, 37, 39 and 44

Form of Development

Zone Objective 5 seeks the enhancement of the amenity and landscape of the south Mount Lofty Ranges and this is supported by PDC 1 which calls for buildings to be located in unobtrusive locations. PDC 2 seeks buildings to be unobtrusively designed and PDCs 11, 14 and 39 states that buildings should not detract from, or impair the natural and rural landscape character of the region by way of scale or siting. It is acknowledged that the proposed monopole is of an obtrusive design due to its 29m height. However as mentioned earlier in the report, in order for the structure to provide the services that it is intended to, the height and clear line of sight is integral to the design of these structures. In saying that, the choice to use a monopole rather than a lattice tower which tends to be an alternative design option helps in reducing

the overall bulk and scale of the structure. Whilst the proposal fails to satisfy PDC 1 in that the structure will be located in an obtrusive location the proposal is considered to accord with PDCs 11, 14 and 39. Whilst not much can be done to satisfy PDC 1 given the nature and height of the proposed structure, the fact that the site is located adjacent to the Town Centre and recreation grounds minimises the detrimental effect on the rural landscape and character.

The applicant has provided two photo montages to represent the visual impact of the proposed tower. One of the montages depicts the views from the North when approaching along Onkaparinga Valley Road. The montage shows that a significant portion of the monopole is going to be screened by existing vegetation on the recreation grounds surrounding the selected site, with only the top section of the monopole and associated antennas being visible. The second montage depicts the monopole from Onkaparinga Valley Road on the opposite side of the petrol station. These images shows that a larger portion of the structure is going to be visible from the western side of Onkaparinga Valley Road (scenic road) but also that the majority of the structure will be exposed to views from the western side of Bridge Street. As previously mentioned, it would not be possible to screen the entire structure due to its height, but also due to the clear line of sight required for the effective operations of the facility. It is therefore considered that whilst the proposed monopole tower is an obtrusive design and not consistent with PDC 2, in this instance it is generally accepted that there is not much that could be done to the design of the structure to improve its overall appearance.

The immediate neighbour to the west at 8 Bridge Street has raised concerns about visual impacts of the proposed structures on her property. Options put forward in the representation to mitigate those impacts was for a new 2.1m high Colorbond fence on the boundary and for fast growing mature trees to be planted along the fence line within the subject land. In the response to the representation the applicant has advised that they are willing to provide a new 2.1m high green good neighbour fence and the requested landscaping. Amended plans were also provided annotating the replacement of the fence and the proposed planting of nine (9) Southern Cypress trees to provide additional screening for the structure when viewed from the property at 8 Bridge Street.

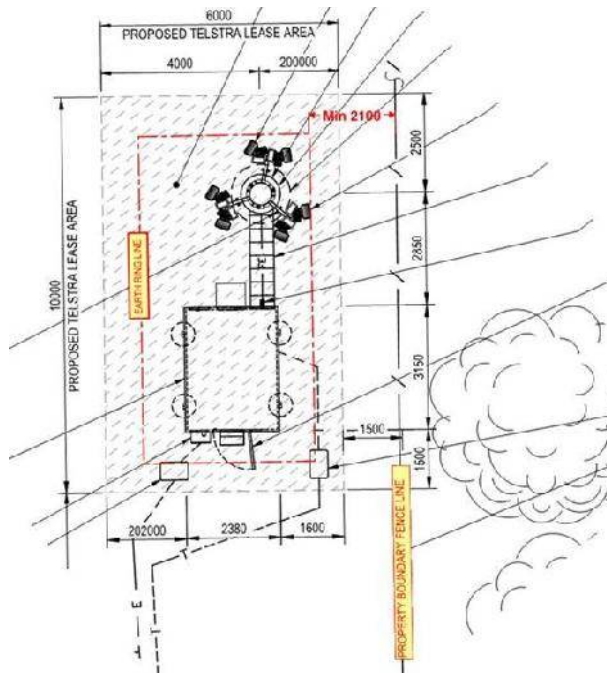
Conservation

PDC 29 states that buildings should not be located within areas of native vegetation and PDC 30 seeks that any building near native vegetation should be sited where there is an existing cleared area of sufficient size. The proposed structures are located on a relatively cleared site which does not require removal of any substantial vegetation and only minor pruning of vegetation will be necessary for construction access. A search was also undertaken within 1km radius of the nominated site using federal database to determine if there were any possible natural flora, fauna and endangered species of significance. The list of species is derived from a number of sources including Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) and lists the matters of environmental significance within that specific area nominated that may occur. The report concluded that there were potential 22 threatened and 14 migratory species that may exist in the area. However given that the proposal does not involve removal of any significant native vegetation and only involves minor pruning there is not going to be any impacts on any of the natural flora and fauna.

PDC 32 provides that (amongst other matters) the provision of access and power should be over areas already cleared of native vegetation.

The Telstra monopole and associated structures will be accessed via an existing crossover to Bridge Street and will utilise part of the existing track within the site along the western property boundary.

Power to the facility will be provided by underground cables of approximately 20 metres in length to run from existing Telstra exchange building to the electrical pit proposed to be located within the fenced compound of the proposed development. The proposal is considered to be consistent with PDC 32. Trenching and earthing will be done in form of an earth ring around the proposed site as depicted on the image below. This form of trenching will be installed within 1m from the shelter and around the site with the option to reduce the setback to 500mm and with the depth of excavation proposed to be 500-600mm. It is therefore considered that there will either be no damage or very minor damage to the tree roots.



The proposed location of the facility is also on an allotment already utilised by Telstra and which is not used or able to be used for any primary production purposes. The proposal is therefore not going to impact any primary production land. The necessary area to accommodate the Telstra facility is 60m² and in the context of the site and the locality this is not considered to be a substantial amount of land. The proposal is therefore considered to accord with Objective 3 and PDC 44 in regards to maintaining long-term the sustainability of primary production in the Mount Lofty Ranges.

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*
- *Development located and designed to minimise adverse impacts and conflict between land uses*
- *Protection of scenically attractive areas, particularly natural and rural landscape*
- *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.*

Design and Appearance

Objectives: 1

PDCs: 1, 3, 7, 9, 11, 12, 15, 16, 28 and 29

Objective 1 seeks development of a high design standard and appearance whilst PDCs 1, 3 and 7 seek developments of appropriate colours, finishes and design which reflects the desired character of the locality. Whilst these requirements are relevant in the assessment of the application they become difficult to achieve with a proposal of this nature for essential infrastructure. As mentioned earlier in the report, telecommunication towers are generally limited in their design options in that they are commonly a monopole or a lattice tower. In this instance the option of a monopole was chosen which is more of a slimline structure and the visual impacts maybe considered less than if it was a lattice tower. These structures also tend to be of height and scale which are generally not comparable with most developments in the Hills given that they usually need to be in the vicinity of 30m or above in height to provide meet the operational specification that the facility is designed for. Whilst the proposal fails to fully meet Objective 1 and PDCs 1, and 7, the location of the monopole and associated storage facilities at the rear of the property and amongst dense vegetation on the adjoining property will ensure that large portions of the structure are well screened from public realm in particular when viewed from immediate locality. The proposed location will ensure that large portions of the structure are screened from parts of the immediate locality consistent with the intent of these PDCs and Objective 1. The increased setback from the front allotment boundary also ensures compliance with PDCs 28 and 29. The external finish of the monopole will remain unpainted galvanized steel which will dull grey finish overtime whilst the storage facility will be painted a green colour which will blend in with the landscape and the proposal does not include highly reflective materials consistent with PDC 3.

PDC 11 states that no building should be erected within 100 metres of the scenic route which would impair, disfigure, interfere with the aesthetic appearance or natural beauty of the scenic route, the landscape visible from the scenic route and/or the landscape visible from any vantage point adjacent to the scenic route. At its closest point the monopole is set approximately 57m away from Onkaparinga Valley Road which is identified as one of the Scenic Routes in Figure AdHi(EC)/1. Whilst the

proposed structure is going to be relatively well screened when viewed from immediate locality, the top part of the monopole is going to be exposed when viewed from a distance. It is common that some part of these structures is visible at a distance but it is usually a notable element in the landscape for a very limited distance because of existing trees and structures. Given the location is adjacent to other township development and that majority of the structure is going to be screened by vegetation with views mainly of the top section of the facility and predominantly for a short distance the proposal whilst not meeting all of the requirements is still considered to be relatively consistent with PDC 11.

Interface Between Land Uses

Objectives: 1 and 2

PDCs: 1, 4, 5 and 7

In the representation received by the immediate neighbour to the west there were concerns raised about the potential noise impacts from the substation machinery and also during construction. In the response to the representation applicant has advised that there will be some low level noise from ongoing operations of the air conditioning equipment however these noise levels are anticipated to be comparable to the domestic air conditioner units. As such it is considered that the proposal is in accordance with Objective 1 and PDCs 1, 4, 5 and 7. Whilst concerns were raised about the noise during construction these noises are generally unavoidable and the contractors have an obligation to comply with the relevant EPA construction guidelines relating to start and finish times as well as the noise levels that must be adhered to during construction. There are penalties for not complying with the guidelines and it is in the interests of the contractors to ensure they meet their obligations.

Objective 2 states that community health and amenity needs to be protected from adverse impacts of the development. Concerns were raised in the representation about the impacts of EME levels. It is quite well established in planning case law that EME impacts cannot be a relevant consideration in the planning assessment of development applications for telecommunications facilities. There are no relevant Development Plan policies which guide the assessment of EME levels arising from such facilities as it is governed by other legislation. Notwithstanding this, the applicant has advised that the maximum predicted EME levels from the proposed facility will be 0.98% of the Australian RPS3 safety standard. Proposal is therefore considered to accord with Objective 2.

Siting and Visibility

Objectives: 1

PDCs: 1, 2, 4, 5, 6, 7 and 10

Visual impacts from telecommunication facilities are generally unavoidable due to their size and design. PDC 1 and 2 seeks that developments be sited and designed to minimise its visual impacts and be unobtrusive. The applicant has provided two photo montages which represent the likely appearance of the structure in the locality, should it be approved in the nominated location. The montages show that the bottom half of the tower along with the associated equipment will be screened by the existing vegetation when viewed from south and northeast in accordance with PDC

2(b). This provision states that building where possible shall be screened by existing vegetation when viewed public roads and Scenic Routes. However when viewed from the west most of the structure would be exposed due to lack of vegetation along that side of the property. This is for a short distance back to the intersection of Junction and Onkaparinga Valley Roads and along Bridge Street where the roads bend.

As mentioned earlier in the report, applicant has provided amended drawings to illustrate landscaping and screening along western boundary to address the concerns raised by the adjoining neighbour and also to accord with PDC 10. Whilst this landscaping is not going to do much to address the views from the distance it does provide a good screening barrier for the immediate adjoining properties. Acknowledging that there are visual impacts with the proposal, it is considered that the impact has been reduced due to the existing vegetation around the site as well as proposed landscaping. The top portion of the facility, which is approximately half of the structure as shown on the montages provided, would remain exposed and only for a short distance of Onkaparinga Valley Road and Bridge Road. This is not considered to be unreasonable and is required in order for the facility to function as intended.

PDCs 4 and 5 seek that earthworks be kept to a minimum and take place in a manner not extensively visible from surrounding localities. Given that it is a flat site very minimal earthworks will be required for the proposed facility. The proposal is therefore consistent with PDCs 4 and 5.

Telecommunications Facilities

Objectives: 1 and 2

PDCs: 1, 2, 3 and 4

Objective 1 states that telecommunications facilities should be provided to meet the needs of the community and Objective 2 seeks that telecommunication facilities be located and designed to minimise visual impacts on the amenity, which is also enforced by PDC 1. During the site selection process there were a total of (6) six primary sites considered, including the Bridge Street site. Of those sites two of them were on the adjacent recreation grounds including the option of a replacement of an existing 15m high monopole. Both sites were rejected due to being closer to the community facilities and for potential to have a greater visual impact. The other three sites that were looked at were determined to not meet the appropriate coverage area. Co-location was considered during the selection process however the two sites available for co-location were discounted due to not being able to meet the required radio frequencies for Telstra.

As mentioned earlier in the report, the external finishes of the monopole and associated structures are of an appropriate colour which will minimise their visual impacts. The structures are also located at the rear of the property behind existing buildings and amongst dense vegetation on adjacent property which will provide adequate screening of a large portion of the structure when viewed from the south and northeast. The proposal is therefore considered to be reasonably consistent with Objectives 1 and 2 and PDCs 1 and 3.

PDC 2 seeks that telecommunication facilities in areas of high visitation and community use incorporate innovative design techniques such as sculptures where this design would positively contribute to the character of the area. Whilst the subject

land is immediately adjacent the recreation grounds the structure itself is set approximately 70m from the tennis courts and approximately 100m from the car parking spaces utilised with the tennis courts and as such is not considered an area of high visitation. Whilst sculpture type design could be considered as an option to minimise visual impacts from Scenic Routes, it was not considered necessary in this instance given that a high portion of the structure will be screened by existing vegetation. Requirements within PDC 2 are therefore not considered necessary.

Other Matters

During public notification there were concerns raised by representor in relation to property values and compensation was sought for the loss of property value. This issue while being of concern to the neighbour is not a relevant planning consideration. The Adelaide Hills Council Development Plan does not have any policies which would guide the assessment of such issues. The applicant in their response to the representations has provided comments in relation to the above mentioned concerns.

7. SUMMARY & CONCLUSION

The proposal is for a Telstra telecommunication facility comprising an overall height of 29.9m and associated infrastructure in the Watershed (Primary Production) Zone. The facility if installed will provide mobile telecommunication coverage and high speed wireless internet to Balhannah area. Whilst it is acknowledged that the proposal will result in visual impact to the locality due to its height, the need to have a clear line of sight for the signal to be transmitted to the selected areas makes it difficult to avoid these visual impacts. The applicant has demonstrated that a site has been selected which would minimise those impacts as much as practically possible and a site where the bottom section of the tower and associated infrastructure is going to be screened by existing vegetation when viewed from the Scenic Route. Landscaping has also been included along the western side with the proposal now including the planting of a strip of Cyprus Pines which are capable of growing to 15m in height to screen the bottom part of the structure when viewed from the west. Equipment shelter is proposed to be located on the section of the allotment that is in a 1 in 100 year flood plain; as a result applicant has amended the plans to raise the floor level of the building to be 300mm above the flood level.

Whilst noise was identified as one of the concerns by the neighbour, the applicant advised that the biggest noise associated with the structure would be the air-conditioning unit with the noise being comparable to the noise that domestic air conditioning units emit.

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 18/898/473 by Visionstream Australia Pty Ltd for Telecommunications facility, comprising a monopole (maximum height 29.9m including antennae), associated equipment shelter (maximum height 3.4m), security fencing (maximum height 1.8m), associated landscaping & earthworks at 6 Bridge Street Balhannah 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 locality plan prepared by Visionstream, drawing number S107603 sheet S1, dated 19/08/18 and date stamped by Council 08/05/2019
- Amended site layout plan prepared by Visionstream, drawing number S107603 sheet S1-1, dated 19/08/18 and date stamped by Council 08/05/2019
- Amended antenna layout plan prepared by Visionstream, drawing number S107603 sheet S1-2, dated 19/08/18 and date stamped by Council 08/05/2019
- Amended south east elevation drawing prepared by Visionstream, drawing number S107603 sheet S3, dated 19/08/18 and date stamped by Council 08/05/2019
- Amended configuration table prepared by Visionstream, drawing number S107603 sheet S3-1, dated 19/08/18 and date stamped by Council 08/05/2019

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

(2) External Finishes

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

Monopole: Galvanized steel or similar

Equipment shelter and fencing: Colorbond Pale Eucalypt 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.

(3) 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.

(4) Requirement For Screening Strip

A landscaping screening strip of nine (9) Southern Cypress trees of semi-mature plantings shall be established within (1) one month of construction of the development along the western boundary of subject land as indicated on the locality plan, site layout plan and elevation drawing. Plants shall be maintained in good health and condition at all times with any dead or diseased plantings being replaced in the next planting season.

REASON: To minimise the visual impact of the development and ensure the survival and maintenance of the vegetation.

NOTES

(1) Development Plan Consent Expiry

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

(2) Responsibility In Relation To Flooding

The applicant is reminded that Adelaide Hills Council accepts no responsibility for damage to, or loss of property, as a result of flooding. It is the applicant's responsibility to ensure that all appropriate steps are undertaken to minimise the potential damage to property as a result of flooding.

(3) 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.

(4) Environmental Management of Dewatering During Construction Activities

Underground waters may be contaminated by a wide range of pollutants. Dewatering these contaminated waters and then discharging them to surface waters, such as inland and marine waters or a stormwater system, may result in environmental harm. Therefore, prior to any dewatering activities (where earthworks will intersect groundwater), a desktop risk assessment should be carried out to highlight potential environmental risks. As a minimum this will identify groundwater prohibition areas (GPA), known site contamination and existing potentially contaminating activities (PCAs) at the site and land directly adjacent the site. PCAs are defined in the Environment Protection Regulations 2009 under Schedule 3.

For further information refer to EPA Guideline for Environmental Management of Dewatering During Construction Activities.

(5) EPA Environmental Duty

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

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

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

www.environment.sa.gov.au/Conservation/Native_Vegetation/Managing_native_vegetation

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
Applicant's Professional Reports
Publically Notified Plans
Representation
Applicant's response to representations

Respectfully submitted

Concurrence

Doug Samardzija
Statutory Planner

Deryn Atkinson
Manager Development Services

COUNCIL ASSESSMENT PANEL MEETING

12 June 2019

AGENDA – 9.4

Applicant: Philip and Ruth Thompson	Landowner: P A Thompson & R E Thompson
Agent: Phillip Brunning	Originating Officer: Marie Molinaro
Development Application:	17/532/473
Application Description: Change of use to include horse keeping (maximum of 14 horses), including conversion of farm building to horse keeping building (stables) & change of use to also include intensive animal keeping (maximum of 14 dogs for temporary period coinciding with the current ownership of the land), and conversion of domestic outbuildings to kennels (non-complying)	
Subject Land: Lot:307 Sec: P6046 DP:74039 CT:5994/122	General Location: 42 Kenton Hill Road Gumeracha Attachment – Locality Plan
Development Plan Consolidated: 28 April 2016 Map AdHi/3	Zone/Policy Area: Watershed (Primary Production) Zone
Form of Development: Non-complying	Site Area: 28.20hectares
Public Notice Category: Category 3	Representations Received: Three
Notice published in The Advertiser on 8 March 2019	Representations to be Heard: One

1. EXECUTIVE SUMMARY

The purpose of this application is to seek retrospective approval for the keeping of 14 horses (horse keeping) and 14 dogs (intensive animal keeping). The application also includes the conversion of a farm building to a horse keeping building, and conversion of two domestic outbuildings to dog kennels.

The subject land is located within the Watershed (Primary Production) Zone and both horse keeping and intensive animal keeping are non-complying forms of development in this zone. Three opposing representations were received during the Category 3 public notification period.

Following the public notification period, and to address representor concern, the applicant offered a condition limiting the dog keeping to their ownership of the land. Staff support this condition, and as a result the development description has also been updated to reflect the proposed temporary nature of the dog keeping.

As per the CAP delegations, the CAP is the relevant authority for intensive animal keeping applications, and for applications where representors wish to be heard.

The main issues relating to the proposal are the potential impacts on water quality (waste management and soil erosion), reduced setback distances to a water course, the number of dogs proposed to be kept and residential amenity due to noise (dog barking) and odour.

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 the following:

- Retrospective consent for the keeping of a maximum of 14 horses (horse keeping).
- The horse keeping is spread across multiple paddocks on the land, with a horse exercise area (arena – 20m x 60m) located near the north-eastern boundary of the land. Paddock areas with excessive slope to the south and south-west of the dwelling are not proposed to be used for horse keeping purposes.
- Other paddocks have been set-aside for the use of irrigated pasture and the continuance of cattle grazing.
- Horse keeping management practices include rotating the horses across the paddocks with supplementary hay and hand feeding. The paddocks are managed by liquid spray weed control applications and soil testing as may be necessary. Waste (manure) is collected and stored centrally on the land near the proposed horse stable building.
- The proposed horse keeping building (stables) was originally approved as a farm building. No building alterations were required for the horse keeping use.
- The horse keeping building has an area of 192 square metres (16m x 12m) with fenced yards attached to the ends of the building.
- A separate farm building adjacent to the proposed horse keeping building is partly used as a wash bay and feed storage area for the horses.
- Retrospective consent for the keeping of a maximum of 14 dogs (intensive animal keeping) (Golden Retrievers & Whippets).
- The dog keeping is confined to a fenced area immediately to the east of the dwelling, and includes two dog kennel buildings, originally approved as domestic outbuildings. There have been no modifications to these buildings, other than insertion of separate pen areas inside the buildings.
- Waste is collected and disposed of in the household rubbish bin, for disposal at the Council landfill site.
- The horses and the dogs belong to the owner/occupiers of the land, who are the applicants. The animals are pets that are also used for ancillary breeding and showing purposes.

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
28 June 2004	03/1298/473	Detached dwelling Review of this application showed it also included a separate garage – being one of the domestic outbuildings that has been converted to a dog kennels
7 April 2005	05/161/473	Domestic outbuilding – garage - being one of the buildings converted to dog kennels
24 April 2008	08/137/473	Farm building – barn (measuring 16m x 12m x 5m maximum wall height) - being the building converted to stables
30 April 2008	08/136/473	Farm building – hay storage shed (measuring 9m x 6m x 3m maximum wall height)

It is understood that the applicants have owned the land for approximately 10 years, and have consistently over this time kept a similar number of horses and dogs for which approval is being sought. It is understood that no complaints have been received by Council staff relating to the horse keeping and dog barking, and the matter was brought to the attention of staff by the applicant.

A Section 84 enforcement notice was issued to the applicants on 4 May 2017 directing the applicants to:

- Cease horse keeping involving hand feeding and exceeding 9 horses at any one time; and
- Cease the use of the farm building as horse keeping building; and
- Cease keeping more than 3 dogs at any one time, until further notice.

In response to the enforcement notice the applicants chose to lodge a development application to seek approval for the horse keeping and was later amended to also include the dog keeping. The directions in the Section 84 notice have been suspended by staff to enable an assessment of the development application. If the development application is approved this will resolve the breach of the Development Act and the Section 84 notice will be withdrawn by Council.

The keeping of more than 3 dogs on a rural property is contrary to the separate Council By-Law for dog keeping.

Potentially up to 9 horses could be kept on the land without Development Approval, provided also that they were not hand fed.

4. REFERRAL RESPONSES

External (mandatory)

- **EPA**

The EPA assessed the proposal for potential water quality impacts.

The EPA is satisfied that the development, if managed properly, will not cause unacceptable water quality impacts. The EPA has recommended one condition relating to management practices as outlined in the Statement of Effect. The Statement of Effect management details have been detailed in recommended conditions five to eight.

The EPA also recommended their standard advisory notes, which have also been included.

- **Regulatory Services**

Advised they have no objection to the proposal. Separate Council By-Law exemption approval has already been granted for the keeping of 14 dogs but only applies to the current dogs and owners and does not go with the land. The exemption granted by Regulatory Services does not negate the need to also obtain Development Plan Consent.

Recommended note two also reminds the applicant to comply with the dog registration requirements of the *Dog & Cat Management Act (1995)*.

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

5. CONSULTATION

The application was categorised as a Category 3 form of development in accordance with Section 38(2)(c) of the Development Act (1993) requiring formal public notification and a public notice. Three opposing representations were received during the public notification period. All were from adjacent, or nearby properties.

The following representor wishes to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Glen Swaby	15 Ivan Drive, Gumeracha	TBA

The applicant or their representative – Phillip Brunning may be in attendance.

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

- Negative impact on residential amenity with noise – dog barking
- Future negative impact resulting from dog keeping approval and possible ownership change/take-over of this approval – e.g. change in dogs and dog keeping practices which could lead to greater noise impact
- Concern that dog keeping will expand, or change into a commercial dog boarding kennel facility
- Concern for the spread of animal diseases/animal welfare
- Concern for property management/maintenance – waste and weed control

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

In response to the representations received the applicants have offered a condition restricting the dog keeping approval to a time period coinciding only with their ownership of the land. The dog keeping approval would cease at the end of their ownership of the land (akin to a sunset clause) and any new owners would be required to lodge a further development application and the breed, number of dogs and dog keeping practices would be reconsidered. To some extent this condition has also been suggested to negate providing an environmental noise report (acoustic report). The rationale being that the applicant's management of the dog keeping has not resulted in unreasonable noise nuisance to nearby residential properties. Such condition could only be altered by a person/s seeking development approval for a variation, which would need to be assessed by a fresh development application. Under the existing legislation, a variation application would trigger public notification again. Council staff are agreeable to the condition as suggested by the applicant - see recommended condition three.

The separate By-Law exemption granted by Council Regulatory Services is also only valid/applicable to the current dogs. It does not remain applicable to the land.

A copy 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 has an area of 28.20 hectares and is irregular in shape. The land contains a dwelling and associated outbuildings which are clustered towards the north-east portion of the land. A stand of native vegetation is located between the dwelling and Kenton Hill Road, a dam is located to the north-west of the dwelling.

The topography of the land is undulating. Areas to the south-west and south of the dwelling are the steepest portions of the land, with a varying slope between 11 to 22 degrees. The most steeply sloping parts of the land are mostly clear of horse keeping.

The land has been divided into paddock areas for the horse keeping, separate cattle grazing and pasture irrigation purposes. Separate fenced outdoor dog pen/run areas are also provided near the proposed kennels.

Access to the paddock area is via existing internal access tracks.

The land is on the fringe of the Watershed (Primary Production) Zone, adjoining the Country Township (Gumeracha) Zone to the west.

The land is approximately 380m south of the River Torrens, and borders Kenton Creek to the west. Kenton Creek flows into the River Torrens.

ii. The Surrounding Area

The locality contains a mix of large rural allotments, smaller rural living allotments and residential allotments in the township zone.

There is a vineyard adjoining the subject land to the west, and a separate vineyard adjacent the site to the east, on the opposite side of Kenton Hill Road.

The proposed dog keeping area on the land is approximately 290m south-west of the nearest dwelling on adjoining allotment – that being 20 Kenton Hill Road, Gumeracha. The dog keeping area on the land is approximately 350m south-east of the dwelling owned/occupied by the representor who wishes to be heard.

iii. Development Plan Policy considerations

a) *Zone Provisions*

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

- *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 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 & 5

PDCs: 3, 14, 16, 17, 31, 40, 42, 44, 45, 46 & 47

Form of Development

Objective 1 seeks the enhancement of the natural resources of the Watershed, and in particular Objective 2 seeks the enhancement of the Watershed to maintain high water quality.

The EPA as the authority on water quality impact in the Watershed has advised that the proposal is acceptable. This is subject to proper management, in particular management relating to the horse keeping. Recommended conditions five-eight re-enforce the water quality management requirements.

The proposal, as re-enforced by conditions is consistent with Objectives 1 and 2.

Objective 3, as supported by PDCs 16 and 17 seeks the long-term sustainability of rural production in the south Mount Lofty Ranges.

The exact use of the land prior to the current ownership is unknown. However, historical aerial photography would suggest there has been no horticulture occurring on the land. Horticulture being a type of high value rural production particularly sought in the Council Wide rural development module.

It is acknowledged that the proposed uses are not a form of primary production, and are not associated with supporting primary production. However, it would appear that the land has not had a history of being used for high value primary production, but there is existing cattle grazing, albeit in a restricted/confined portion of the land. The proposed uses will not prejudice the viticulture activities occurring on nearby sites, and will not preclude the possible future use of the land for primary production.

In light of the above, the proposal is considered to be sufficiently consistent with Objective 3.

Objective 5 as supported by PDC 14 seeks the enhancement of the amenity and landscape for the enjoyment of residents and visitors.

The proposal is considered to enhance the enjoyment of the land for the owners/occupiers as it will allow them to lawfully keep their pet animals.

The area of the site dedicated to dog keeping is not readily visible from other land in the locality, so in this regard Objective 5 is not offended. In any event, the dog keeping is largely contained to existing buildings, with no external appearance change.

The grazing of horses in fenced paddock areas on the site is not considered to be detrimental to the landscape amenity of the locality, as it is similar in type to cattle grazing, which already occurs on the land and is common in the Zone. Like the dog keeping buildings, the horse keeping building is an existing structure, with no external appearance change.

Recommended condition eight will ensure that the horse keeping areas are maintained to prevent erosion and denudation which could be a detriment to the landscape amenity of the locality if the horses are not managed properly. It is recognised that the western slopes of the land provide a highly scenic backdrop to the Gumeracha Township.

PDC 3 seeks for buildings to have a year round water supply, safe and efficient effluent disposal system and an unobtrusive area for the storage and disposal of refuse in a safe and tidy manner.

The existing water supply will be used for cleaning both the horse keeping and dog keeping buildings. There are no wet areas inside the buildings, so there is no need to connect to an effluent disposal area. The buildings are existing, so the efficiency/effectiveness of the existing on-site waste system is therefore not compromised as a result.

In regards to waste storage and disposal, the applicant's management plan outlines that faeces from both animal types are collected frequently. Horse manure is stored near the proposed stable area, which is central to the site and well away from adjoining residential properties. It is then either bagged for sale, or composted and used as a fertiliser in the paddocks. Dog faeces are deposited in the general household bin for disposal at the Council landfill site.

The applicant is agreeable to a condition requiring the horse manure storage area to be covered. See recommended condition seven.

Conservation

PDC 31 states that no change land use should occur in or near areas of native vegetation which are likely to adversely impact on the vegetation.

There are two horse keeping paddocks on the eastern side of the land, which cover the most densely vegetated area of the land. This vegetation is comprised of native vegetation. Horse keeping is considered to be a low intensity use, which will not adversely impact on the vegetation. The vegetation is mature vegetation, and site inspection revealed no evidence of vegetation damage.

The proposal is consistent with PDC 31.

Recommended note five reminds the applicants of the separate requirements of the Native Vegetation Act relating to tree damaging activity.

Rural Development

PDC 40 relates directly to intensive animal keeping uses in the Zone. Dog keeping is a form of intensive animal keeping, however it is not specifically mentioned as a form of intensive animal keeping that should be discouraged, or phased out. This would appear to be an acknowledgement that dog keeping is a smaller scale form of intensive animal keeping that could be considered in the Zone.

The above rationale is reinforced by PDC 45 which relates to dog keeping particularly and is considered to be an acknowledgement that it is contemplated in the Zone. This PDC states that no more than two dogs should be kept on any land for racing, breeding or boarding purposes.

The proposal is at variance with PDC 45 as a maximum of 14 dogs will be kept on the land.

It is assumed that PDC 45 considers a maximum of two dogs as this is understood to ensure consistency with the Council dog keeping By-law at the time. PDC 45 is considered to only have limited weight as it gives no consideration to the varying size of allotments in the Zone, potential carrying capacity and setback to sensitive receptors. Based on this, it is considered to be an arbitrary figure that does not provide much guidance to the assessment of the proposal. Variance with PDC 45 is therefore not considered to be fatal to the proposal.

PDC 47 is considered to be more applicable to the proposal as it provides some qualitative performance measures to test if animal keeping is appropriate. The provision states that the keeping of animals (and other agricultural activities) should not be undertaken without appropriate regard for the carrying capacity of the land, soil conservation and the prevention of water pollution.

The proposal is retrospective, and it is understood that the dogs and the horses have been kept on the land for many years, and there is no evidence of erosion, poor grass coverage, or any other undesirable impacts as evidenced by historical aerial imagery. It is expected that these issues would be apparent when too many animals are grazing, or being held in an undersized area of land. Based on this, the carrying capacity of the land is considered suitable for the number of proposed dogs and horses.

In regards to soil conservation, recommended conditions five-eight will require the maintenance of the animal keeping areas. As discussed above, the proposal is not considered to pose an unacceptable risk to water quality. Recommended conditions five-eight re-enforce the management requirements need to prevent water pollution.

PDC 46 relates directly to horse keeping, and states that horse keeping (and dairy activities) should be located at least 100 metres from watercourses, townships and residential development. The intent of the PDC is to ensure that the disposal of wastes does not pollute water catchment areas or create a health risk and that horses do not degrade land close to watercourses. The proposed horse keeping is occurring within 100m of Kenton Creek to the west of the land, and the residential township to the north-west of the land. The horse keeping area on the western portion of the land is approximately 20m from Kenton Creek (measured from property boundary), but with a typical setback ranging between 40m and 90m where the watercourse bends away from the subject land.

The proposal is therefore at variance with PDC 46. However, the reduced setback distance is not considered to be fatal to the proposal in this case as the management techniques proposed and re-enforced by the recommended conditions are considered adequate to manage the risk and ensure the watercourse is free from pollution resulting from the horse keeping. The EPA, as the authority on water quality impact, is satisfied that the horse keeping is acceptable.

b) Council Wide provisions

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

- *Orderly and economic development.*
- *Protection of productive primary production land from conversion to non-productive or incompatible uses, and encouragement of full-time farming of rural land.*
- *The retention of rural areas primarily for forestry, primary production and conservation purposes and the maintenance of the natural character and rural beauty of such areas.*
- *The retention of rural land in primary production especially land suitable for high rates of fruit and vegetable production.*
- *Protection of watersheds from pollution.*
- *The prevention of development which could lead to a deterioration in the quality of surface or underground waters within the Mount Lofty ranges Watershed.*

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

Form of Development

Objectives: 1, 6

PDCs: 1, 2, 3, 9, 12, 13, 15

Objective 1 and PDC 2 seek development that is orderly and economic.

The proposal is considered to be an orderly form of development as it is considered to be undertaken with regard to the condition of the land and objectives of the Watershed (Primary Production) Zone.

The applicant has recognised that the most steeply sloping portions of the land are not suitable for horse keeping and these have been fenced off to restrict access.

The land management practices as re-enforced by the recommended conditions also have regard to protecting water quality as a key objective of the Watershed (Primary Production) Zone.

The proposal is not considered to prejudice development in the adjacent Country Township Zone, as amenity impacts are considered to be adequately addressed – see further discussion later in the report.

PDCs 13 and 15 relate to amenity impacts, which as above are discussed in detail later in the report.

Rural Development

Objectives: 61 & 62

PDCs: 174, 177, 178, 179, 180, 183, 184, 185, 186

The Council Wide provisions relating to rural development 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 61

The retention of rural areas primarily for forestry, primary production and conservation purposes and the maintenance of the natural character and rural beauty of such areas.

Defining land for rural purposes will assist in a more intensive use of the land for food production, prevent land speculation and the uneconomic spread of the metropolitan area.

As discussed earlier, there is no evidence to suggest that the proposed uses have replaced a primary production use of the land for food production, e.g., horticulture and cattle grazing continues on the land.

The proposed uses will not preclude the potential future use of the land for intensive primary production (subject to separate Council consent), and they do not prejudice the continuation of viticulture on nearby sites.

Objective 62

The retention of rural land in primary production especially land suitable for high rates of fruit and vegetable production.

The protection of the scenic amenity, flora and fauna, agricultural land and water resources in the Mount Lofty Ranges, should be the main considerations governing all proposals for the development of rural land in the area.

Objective 62 is very similar to Objective 61 as discussed above.

Whilst the proposal is not a form of primary production it is not considered to contribute to the diminishment of primary production.

The proposal is not considered to detract from the natural character of the area for the following reasons:

- No additional structures are proposed
- Fencing to delineate the paddock areas and exclude steeply sloping land and dam from the horses is rural post & wire fencing
- Native vegetation is to remain and;
- The western slopes of the land as visible from the Country Township (Gumeracha) will be maintained through suitable land management techniques – paddock rotation, irrigation and weed management.

The proposal is considered to be sufficiently consistent with Objectives 61 and 62.

PDC 174

Rural land should primarily be retained for agricultural and/or native vegetation retention.

See discussion above relating to Objectives 61 and 62.

PDC 177

Intensive animal keeping should not be located within 2000 metres of a proclaimed township boundary, or within 400 metres of a dwelling not on the same property as the intensive animal keeping.

The land abuts the Country Township Zone, with the area of the land being used for intensive animal keeping (dog keeping) being approximately 340m from the Township Zone boundary at the closest point, and approximately 280m south-west of the nearest dwelling on an adjoining allotment (20 Kenton Hill Road, Gumeracha).

The reduced setback is not considered to be fatal to the proposal. The proposed intensive animal keeping is low-scale, and the potential impacts relating to amenity and water quality are considered to be acceptable – see further discussion below relating specifically to amenity impacts.

PDC 178

Keeping of animals (including horses, donkeys, mules, goats, poultry) should not detrimentally affect the amenity of the locality by reason of odour, dust pollution, noise or cause unhealthy conditions and should not be undertaken on small allotments.

Odour

Possible odour issues relating to both the horse keeping and the dog keeping is primarily considered to result from waste (faeces). The applicant has adopted a management regime for waste collection, storage and disposal which is considered to result in the low likelihood of odour affecting the amenity of the locality.

Waste is collected frequently, and stored for disposal near the dwelling which is centrally located on the site and well away from dwellings on adjoining allotments.

Dust pollution

Overgrazing of the horses in the grassed paddock areas could lead to the denudation of the ground cover resulting in dust pollution.

The applicant has a management system in place for rotating the horses across the paddock areas of the site, and supplementing grazing with hand feeding and the supply of hay bales in the paddocks. Paddock rotation occurs approximately every six weeks.

Noise

Dog barking is the noise source most likely to have the potential to affect the amenity of the locality.

The EPA publication Evaluation Distances for Effective Air Quality and Noise Management recommends a 500m separation distance from dog refuges, shelters and kennels (boarding or breeding) to sensitive uses in recognition that one of the major impacts of dog kennels is noise from barking dogs. The document states "consideration should be given to the number of dogs kept on the premises, and also whether there are multiple kennels in close proximity."

The proposed dog keeping has a reduced separation distance of 290m from the nearest non-associated dwelling. Staff did request an environmental noise report (acoustic report) to demonstrate that a reduced setback was acceptable relative to compliance with separate EPA policy – *Environment Protection (Noise) Policy 2007* being achieved.

An acoustic report has not been provided, however it is considered on balance that noise will not unreasonably affect the amenity of the locality for the following reasons:

- The proposed dog keeping (intensive animal keeping) is considered to be low-scale
- The proposed dog keeping (intensive animal keeping) is for the applicant's dogs and not for boarding kennels. They dogs are pets that are used for breeding and show purposes

- It is understood that there is at least one owner present at the site at most times, which will assist with monitoring dog barking
- The dogs are confined to the enclosed kennel buildings, or allowed to sleep inside the dwelling at night, which will assist with providing some acoustic barrier for any possible barking
- The dogs are confined to the eastern portion of the land, which is furthest removed from the more densely settled Country Township Zone
- The dogs have been kept on the land for many years (albeit without authorisation) and no barking nuisance complaints have been registered with Council
- There are no other known dog kennels in the area
- The applicant has agreed to recommended condition two restricting the dog keeping to breeding and personal ownership with any for commercial boarding kennel use requiring a further development application (noting that boarding kennels may have potential for greater noise nuisance resulting from barking from unfamiliar and possibly unsettled dogs)
- The applicant has offered recommended condition three that will restrict the dog keeping to their ownership of the land. This will, unless varied, ensure that the dog keeping approval cannot be transferred to different owner/s if the land is sold. It is recognised that without this condition different owner/s could take over the approval which would result in unknown barking impacts

The proposal description has been updated accordingly to also reflect the temporary nature of the intensive animal keeping (dog keeping).

Recommended condition four relates to noise, and will control fixed machinery noise associated with the dog kennel buildings, e.g., heating and cooling units etc. It also reminds the applicant that if dog barking noise nuisance should occur, it will be managed separately in accordance with the *Dog & Cat Management Act (1995)*.

In regards to the secondary part of PDC 178, the subject land is not considered to be a small allotment, and the long-standing (albeit unauthorised) use of the land for horse keeping without environmental impact would indicate that the carrying capacity of the land is suitable for the number of horses proposed.

The proposal is considered to be sufficiently consistent with PDC 178.

PDC 179

Land that is used for animal keeping should be adequately fenced.

Both the horse keeping and dog keeping areas are confined to fenced areas. The fencing is of the post and wire type, which is consistent with the rural character of the locality, and which does not detract from the natural beauty of the area.

The applicants have over time increased the fenced areas, in particular fencing off the most steeply sloping part of the land, and the larger dam on the land.

The proposal is consistent with PDC 179.

PDC 180

Keeping of animals should not contribute to pollution of the watershed and not lead to a denudation of the ground cover of the land.

See discussion elsewhere in the report regarding the EPA advice on water quality impact, and dust pollution impact.

The proposal is consistent with PDC 180.

PDC 183

Horse keeping and associated activities should not impact upon the quality of surface or groundwater.

Subject to conditions, the EPA as the authority on water quality impacts is satisfied that the horse keeping would not cause unacceptable water quality impacts. Therefore, the proposal is consistent with PDC 183.

PDC 184

Horse keeping and associated activities (including activities in/on stables, holding yards and paddocks) should only occur where:

a) the slope of any part of the land on which the activity is located is less than 12 degrees

The site plan has been colour coded to highlight the most steeply sloping portions of the land. Orange indicates a slope of approximately 11-15 degrees and red indicates a slope of approximately 11-22 degrees.

The red highlighted areas are shown as being excluded from horse keeping, however there are some horse paddocks located partly over the areas of the site with a slope of between 11 and 15 degrees. However, there is generally a balance in restricting the horses to the areas of the land with a slope less than 11 degrees. As non-complying development the proposal was referred to the EPA and the use of land with a slightly greater slope than 12 degrees for horse keeping was not a concern.

b) the activity is located further than 25 metres from any watercourse

The boundary of the most-south western horse paddock area is approximately 20m from Kenton Creek at the closest point. However, the setback is typically 40m or more, where the watercourse bends away from the subject land.

c) buildings and structures associated with horse keeping are located further than 25 metres from any watercourse identified

The proposed horse keeping buildings are centrally located on the land, upslope of Kenton Creek, with an approximate separation distance of 380m.

d) there is no damage or loss of native vegetation.

There are two horse paddock areas which contain an area of native vegetation, to the east of the dwelling – labelled as young horse paddock areas on the site plans.

The native vegetation is mature, and keeping horses in this area is not anticipated to damage the native vegetation.

There are no additional new structures (including fencing) proposed, which could cause the loss of native vegetation to facilitate construction.

The proposal is sufficiently consistent with PDC 184.

PDC 185

Horse keeping and associated activities (including activities in/on stables, holding yards and paddocks) should not impact upon the quality of surface or groundwater by:

a) providing for the collection and disposal of waste, with storage in a dry, enclosed space until removed or used on the land

Waste (manure) is to be stockpiled near the proposed horse keeping building. It will then either be bagged for sale, or composted and used as paddock fertiliser. The applicants have indicated their agreement to construct a cover for over the waste storage.

b) directing water from wash down areas onto a suitably vegetated area that can absorb all the water or into a constructed soakage pit.

Washdown water is to be directed to a soakage pit. The proposal is consistent with PDC 185.

PDC 186

Horse exercise areas should:

a) have a surfaced area resistant to erosion or dust when used

There is one horse exercise area (arena), located to north-east of the land. It has a sand surface. This is a common surface treatment for horse exercise areas. Compaction is considered to assist with managing erosion and dust nuisance.

b) have adequate control of surface water run-off

The sand base is a pervious material, allowing for stormwater soakage.

c) be located no closer than 25 metres from a watercourse or wetland.

The horse exercise area is upslope of, and well in excess of 25m from Kenton Creek. There are no wetlands.

The proposal is consistent with PDC 185.

Watershed Protection

Objectives: 103, 104 & 105

PDCs: 296, 297, 299

Objectives 103, 104 and 105 are very similar in their aim of protecting the Mount Lofty Ranges against pollution, and preventing development which could lead to deterioration in the quality of surface or underground waters.

The subject land is in the Mount Lofty Ranges Watershed Protection Area, specifically Priority Area 3. Priority Area 3 is the lowest priority area in the Watershed.

The proposal with the management requirements is considered to be sufficient with these Objectives, and it is supported by the EPA. The EPA is the authority on water quality impact.

Other Matters

Representor concern was raised in regards to animal welfare matters, however animal welfare is not a planning assessment consideration. Regardless, site inspections have shown the animal keeping areas to be clean and tidy, and the animals themselves in good condition.

7. SUMMARY & CONCLUSION

The proposal is seeking retrospective consent for a change of land use for horse keeping (maximum of 14 horses) and intensive animal keeping (maximum of 14 dogs) with associated conversion of existing buildings to horse keeping and dog keeping buildings.

The subject land is in the Watershed (Primary Production) Zone, and both the proposed horse keeping and intensive animal keeping are non-complying forms of development in this Zone.

Despite being non-complying, the applicant has sufficiently demonstrated that water quality and amenity impacts arising from the proposal can be satisfactorily managed. This is evidenced by the support given from the EPA, and as re-enforced by recommended conditions.

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 Development Plan. In the view of staff, the proposal has sufficient merit to warrant consent. Staff therefore recommend that **CONCURRENCE** from the State Commission Assessment Panel be sought to **GRANT** Development Plan Consent, subject to conditions.

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 17/532/473 by Philip and Ruth Thompson for Change of use to include horse keeping (maximum of 14 horses), including conversion of farm building to horse keeping building (stables) & change of use to also include intensive animal keeping (maximum of 14 dogs for temporary period coinciding with the current ownership of the land), and conversion of domestic outbuildings to kennels (non-complying) at 42 Kenton Hill Road Gumeracha 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 (page 1 of 4) by JWB Drafting & Design, dated 20 January 2019
- Amended partial site plan (page 2 of 4) by JWB Drafting & Design, dated 20 January 2019
- Amended floor plan (plan view stables) (page 3 of 4) by JWB Drafting & Design, dated 20 January 2019
- Amended floor plan (plan view dog facilities) (page 4 of 4) by JWB Drafting & Design, dated 20 January 2019

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

(2) Maximum Number of Dogs

No more than 14 dogs shall be kept on the subject land. Dogs shall only be kept which belong to the owners/occupiers of the land, with the exception of a dog brought to the site temporarily for breeding purposes.

NOTE: Any increase in the number of dogs kept, or change in land ownership, or change to the keeping of dogs for boarding purposes (or similar) on the subject land will require a separate development approval.

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

(3) Temporary approval for dog keeping

The intensive animal (dog keeping) approval is only valid for a period coinciding with the current ownership of the land.

NOTE: If the ownership of the land is transferred a separate development application will be required for intensive animal keeping (dog keeping).

REASON: To ensure the proposed development does not detrimentally affect the amenity of the locality.

(4) Noise Levels

Noise impact on nearby residences is to be managed and limited in accordance with the Environment Protection (Noise) Policy 2007. Specifically, fixed machinery noise shall not exceed 52dB(A) between 7:00am and 10:00pm and 45dB(A) between 10:00pm and 7:00am.

NOTE: Dog barking noise nuisance will be managed separately in accordance with the Dog & Cat Management Act (1995).

REASON: To maintain the amenity of the locality.

(5) Maintenance of Dog Keeping Buildings and Surrounding areas

An impervious receptacle with a closed fitting lid shall be provided adjacent to the kennel buildings for the temporary storage of faeces or other wastes generated by the dog keeping. Faeces shall be collected daily and placed in the receptacle. The collected wastes shall be removed at least once in every week, and then disposed of off-site.

Water from the maintenance and cleaning of the proposed dog kennel buildings shall be directed to a grassed swale (or similar).

REASON: To ensure no adverse impacts on water quality, and the amenity of the locality is maintained.

(6) Maximum Number of Horses

No more than 14 horses shall be kept on the subject land. The horses shall be contained at all times within fenced paddock areas as indicated on the approved site plan (page 1 of 4 by JWB Drafting & Design) and the horse-keeping building.

NOTE: Any increase to the number of horses kept on the land will require a separate development approval.

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

(7) Maintenance of Stables and Surrounding Areas

Manure from stables and exercise areas shall be stored in the location as shown on site plans (pages 3 & 4 by JWB Drafting). Manure shall either be stored undercover on an impervious surface protected from stormwater intrusion, or in impervious containers prior to disposal from the property. This does not, however, preclude use of the manure for domestic purposes on the property.

Water from the wash down area shall be directed to a soakage pit, as indicated on site plan (page 3 by JWB Drafting).

REASON: To ensure good land management practises, minimise odour and to ensure no adverse impacts on the water quality of any watercourse.

(8) Maintenance of Horse Keeping Paddocks

- i) The horses shall be confined to sections of the horse paddock areas on a rotation basis such that ground cover may regenerate in the unused sections. Where ground cover does not regenerate, the earth shall be covered with suitable material so as to prevent erosion and reduce dust nuisance; and
- ii) Horses shall not be grazed when paddocks are waterlogged, or when excessive soil pugging is caused. 70 % vegetation cover of 4-5cms in height shall be maintained in horse paddocks and paddocks rested until grass growth is 12cms high

REASON: Development should be undertaken to prevent erosion.

(9) Lighting

Any flood lighting for the proposed horse keeping and dog keeping buildings and also including the horse exercise areas 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.

NOTES

(1) Development Plan Consent

This Development Plan Consent 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 the appeal is determined, whichever is later). Building Rules Consent must be applied for prior to the expiry of the Development Plan Consent, or a fresh development application will be required. The twelve (12) month period may be further extended by written request to, and approval by, Council. Application for an extension is subject to payment of the relevant fee.

(2) Separate Dog Registration Required

This consent does not convey separate dog registration approval for the keeping of dogs on the land, pursuant to the Dog & Cat Management Act (1995). For further information visit: <http://www.ahc.sa.gov.au/Resident/pets-animals/dogs#registration>

(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) 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>

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

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

www.environment.sa.gov.au/Conservation/Native_Vegetation/Managing_native_vegetation

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
Referral Responses
Representations
Applicant's response to representations

Respectfully submitted

Concurrence

Marie Molinaro
Statutory Planner

Deryn Atkinson
Manager Development Services

COUNCIL ASSESSMENT PANEL MEETING

12 June 2019

AGENDA – 9.5

Applicant: Lennane Orchards	Landowner: L A Leonard
Agent: Town Planning HQ Pty Ltd	Originating Officer: Brendan Fewster (Consultant Planner)/Damon Huntley
Development Application:	19/44/473
Application Description: Environmental cover (5.8 hectares) associated with existing horticulture	
Subject Land: Lot:21 Sec: P548 DP:78278 CT:6155/417, Pce: 26 Sec: P1011 DP:80153 CT:6040/129 Pce: 25 Sec: P1011 DP:80153 CT:6040/129	General Location: 814B & 814D Montacute Road Montacute Attachment – Locality Plan
Development Plan Consolidated : 24 October 2017 Map AdHi/9	Zone/Policy Area: Hills Face Zone
Form of Development: Merit	Site Area: 18.52 hectares
Public Notice Category: Category 3	Representations Received: Six (6)
Notice published in The Advertiser on 22 February 2019	Representations to be Heard: Two (2)

1. EXECUTIVE SUMMARY

The purpose of this application is for the erection of an environmental cover over 5.8 hectares of land currently used for horticulture (cherry orchard).

The subject land is located within the Hills Face Zone and the proposal is a merit form of development. Five (5) representations in opposition and one (1) representation in support of the proposal were received during the Category 3 public notification period.

The purpose of the proposed environmental cover is to protect the existing cherry orchard from the weather and bird damage so as to maximise fruit production. The subject land has longstanding use rights as a cherry orchard and the proposed netting would not change nor intensify the existing use of the land. On balance, the visual impacts associated with the proposed netting would not be unreasonable given the site and locality characteristics, which include horticultural activities (agrarian landscape) and an area of only moderate scenic value. The proposed environmental cover will not be visible from the Adelaide Plains, nor from a designated scenic route within the Development Plan.

As per the CAP delegations, the CAP is the relevant authority for a Category 3 development where representors wish to be heard.

The main issues relating to the proposal are the visual impacts to surrounding properties, to the roads within the Hills Face Zone, namely Montacute Road which forms part of Marble Hill Scenic Route 51, and the natural character of the Mount Lofty Ranges.

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:

- Environmental cover supported by steel posts and cables erected over an existing cherry orchard. The netting walls are black (60gsm hexagonal) and the roof netting is white (20mm quad crossover). The netting and support structures will be a maximum of 5 metres in height and are permanent (anchored into the ground)
- The proposed environmental cover will cover a total area of approximately 5.8 hectares
- The setbacks for the environmental cover are provided in the table below:

Boundary	Anchor Setback	Post Base Setback
North (front boundary)	28m (minimum) – 187m (maximum)	33m (minimum) – 192m (maximum)
East (side boundary)	5m (minimum) – 87m (maximum)	10m (minimum) – 90m (maximum)
West (side boundary)	137m (minimum) – 258m (maximum). Measured to the western side boundary of Allotment No. 814B Montacute Road	142m (minimum) – 263m (maximum). Measured to the western side boundary of Allotment No. 814B Montacute Road
South (rear boundary)	43m (minimum) – 132m (maximum)	48m (minimum) – 137m (maximum)

- Removal of approximately 4000m² of the existing cherry trees on the southern side orchard with the trees to be replaced with SA Blue Gum plantings

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
9 December 2013	13/421/473	Verandah
6 June 2013	13/204/473	Garage
12 October 2012	12/662/473	Verandah attached to farm building

4. REFERRAL RESPONSES

- **Heritage Advisor**

The application was referred to Council’s Heritage Advisor as the subject land is adjacent to a Local Heritage Place situated at 780 Montacute Road, Montacute. The Local Heritage Place comprises a dwelling and sheds.

The heritage advice has confirmed that *“the installation of the netting will not affect the heritage value of the adjacent Local Heritage Place.”*

The above response is included as **Attachment – Referral Responses**.

5. CONSULTATION

The application was categorised as a Category 3 form of development in accordance with Section 38(2)(c) of the Development Act 1993 requiring formal public notification and a public notice. Six (6) representations were received. Of these, five (5) representations are opposing the proposal and one (1) is in support of the proposal. All were from adjacent or nearby properties.

The following representors wish to be heard:

Name of Representor	Representor’s Property Address	Nominated Speaker
Bronte Earl & Josephine Dowsett	844 Montacute Road, Montacute	Bronte Earl & Josephine Dowsett
Bill Spragg	136 Corkscrew Road, Montacute	Nathan Daniell

The applicant or their representative – (Town Planning HQ Pty Ltd) may be in attendance.

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

- Impact on visual amenity due to permanent light coloured structures;
- Impact on views along scenic route – Marble Hill Scenic Route 51;
- The proposal will not preserve and enhance the natural character of the area; and
- Retractable and dark coloured netting may address some of the visual impact.

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**.

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 approximately 18.52 hectares in area and consists of two separate allotments. The land is formally described as:

- Allotment comprising Pieces 25 and 26 in Deposited Plan 80153 in the area named Montacute, Certificate of Title Volume 6040 Folio 129; and
- Allotment 21 in Deposited Plan 78278 in the area named Montacute, Certificate of Title Volume 6155 Folio 417.

There are several electrical easements and rights of way registered on the titles.

The subject land is located on the southern side of Montacute Road and has a combined road frontage width of approximately 210 metres (excluding Piece 25 on the northern side of the road). A watercourse traverses the northern part of the subject land.

The allotment comprising Piece 26 primarily contains a cherry orchard, with two farm buildings located near Montacute Road and a dwelling further to the south. This allotment has a considerable slope from a ridge line to the south to a watercourse in the valley floor to the north.

Allotment 21 contains a dwelling and several sheds adjacent to the road frontage and there is approximately three hectares of various free trees.



Photo 1: The subject land viewed from Montacute Road



Photo 2: Distant view of the subject land from CFS station to the west



Photo 3: Existing dwelling and farm sheds on the site



Photo 4: Existing farm shed at the front of the site



Photo 5: Distant view of the subject land from Montacute Road to the north-east

ii. The Surrounding Area

The subject land is situated within a rural area where land in the vicinity of Montacute Road is used for primary production purposes, and in particular for cherry and apple orchards. There are some smaller rural living allotments along Montacute Road, which appear to have been excised from larger land holdings in the past.

Further north and south of Montacute Road is undulating land with large stands of native vegetation. Montacute Road forms part of the Marble Hill Scenic Route 51.

The subject land and surrounding area are identified on the locality plan at **Attachment – Locality Plan**

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

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

- To preserve and enhance the areas natural character as a backdrop to the Adelaide Plains and in contrast to the urban area; and
- Low intensity agricultural activities and open space with structures designed in such a way to limit visual intrusion particularly when viewed from roads or Adelaide Plains and prevent the loss of life and property resulting from bushfires.

The following are considered to be the relevant Zone provisions:

Objectives: 1 & 2

PDCs: 1, 2, 3, 4, 5, 6, 7, 8, 10 & 22

Accordance with Zone

Objective 2 and Principle of Development Control 1 of the Hills Face Zone recognise that some land within the zone is suitable for agricultural activities and that farm buildings and structures are often required to facilitate such activities.

The purpose of the proposed environmental cover is to protect the cherry trees from the weather and from bird damage so as to maximise fruit production. The subject land has longstanding use rights as a cherry orchard and the proposed environmental cover, which is a fruit protection measure, would not change nor intensify the existing use of the land. The size and functionality of the orchard will not change.

When assessing the proposal against the zone policies, it is evident there is some tension between the Objectives and the guiding Principles of Development Control. The desired character statement envisages that new development “*should not only preserve but should also enhance the natural character of the zone or assist in the re-establishment of a natural character*”. As outlined in Principle of Development Control 1, new development should be associated with agricultural activities, with new buildings and structures anticipated with such activities. Farm buildings and other horticultural structures typically do not “*enhance*” the character of an area, however they can often be located unobtrusively so as to minimise their impact, and thus preserve the areas character.

While the proposed environmental cover would not enhance the character of the surrounding area, the visual impacts and overall appropriateness of the environmental cover need to be considered in the context of the existing land uses and the visual characteristics of the area. The proposed environmental cover would be associated with the existing use of the land as an orchard and would not be at odds with the use of temporary netting that is prevalent throughout the area. It is

also noted that the subject land is not visible from the Adelaide Plains or from a designated scenic route within the Development Plan.

The visual-related impacts are considered in more detail below.

Although finely balanced, the proposal is considered to meet the policy intent of the Hills Face Zone and accordingly would not undermine the Objectives of the Hills Face Zone.

Appearance of Land and Buildings

The existing cherry orchard is visible from Montacute Road as the land rises quite steeply in a southerly direction. While the proposed netting would therefore be readily visible from the road, the extent of visibility would be limited to a relatively short stretch of road that is in the order of 400 metres. This is due to the configuration of the road, the topography of the land and the screening afforded by existing vegetation.

It is noted that Montacute Road forms part of the Marble Hill Scenic Route 51, however, is not a designated Scenic Route in Figure AdHi(EC)/1 of the Development Plan. As a result, the provisions with the Development Plan which seek greater protection and enhancement of environments visible from designated scenic routes cannot be considered. Based on this, it is considered that the wider passage of Montacute Road offers a general level of scenic quality, which is characteristic of the north-eastern portion of the Hills Face Zone. The subject land is not visible from the Adelaide Plains.

Views of the subject land from nearby dwellings on the southern side of Montacute Road would be oblique and obscured by existing vegetation, and thus the visual amenity of these properties would not be significantly affected. The dwellings on the northern side of the road at 819A and 819D are elevated and therefore would have more direct views of the covers. While the outlook from these properties would be affected to some extent, the proposed environmental cover is considered to be a form of development that is in keeping with the area's horticultural character.

As the land is surrounded by orchards, the proposed development would be confined to an area with a horticultural character (as opposed to a natural bushland character) where farm buildings and other horticultural structures are evident. As observed on the attached locality plan, horticultural netting is widely used throughout the surrounding area, and in all cases, the netting is white in colour. While the netting used is temporary and therefore can be removed, the visual impacts between temporary netting and permanent environmental covers are not dissimilar. The permanent nature of the proposed environmental cover would improve the management of the existing orchard and its productivity. While visually prominent, the environmental cover would not significantly impair the 'natural' character of the Mount Lofty Ranges, the aesthetic appearance of a designated scenic route within the Development Plan, or views from the Adelaide Plains.

Although the proposed environmental cover would not be located unobtrusively as sought by Principle of Development Control 7 of the Hills Face Zone, the siting and appearance of the development would not be significantly at variance to the zone provisions given the prevailing land use and visual characteristics of the locality.



Photo 6: Temporary netting being used on a neighbouring property

b) Council Wide provisions

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

- *Design & Appearance;*
- *Animal Keeping & Rural Development – Environmental Covers;*
- *Heritage Places;*
- *Natural Resources;*
- *Orderly & Sustainable Development, and;*
- *Siting & Visibility*

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

Design & Appearance

Objectives: 2

PDCs: 2, 3, 7, 9, 11, 12 & 13

Council Wide Principle of Development Control 11 anticipates that *“buildings should not be erected within 100 metres of the Scenic Routes shown on Figure AdHi(EC)/1 which would impair, disfigure, interfere with or be in any way detrimental to the aesthetic appearance or natural beauty of:*

- a) The scenic routes*
- b) The landscape visible from any part of the scenic routes*
- c) The landscape visible from any vantage point adjacent to the scenic routes.”*

As Montacute Road is not a designated Scenic Route as per Figure AdHi(EC)/1 of the Development Plan, the merits of the proposed environmental cover within the Hills Face Zone are to be further considered.

As considered above, the subject land has longstanding use rights as a cherry orchard (in excess of 100 years) and is surrounded by other orchards of varying size. The existing cherry orchard forms part of a 'productive' horticultural business known as Lennane Orchards.

Environmental covers are commonly used in orchards for crop protection. By protecting crops from the weather and from wildlife, crop yields can be enhanced and ultimately the long-term productivity of the land can be sustained. The suitability of environmental covers as a protective measure for horticultural uses has been recognised at a State planning level with the relaxation of planning controls within the Development Act and Regulations. Subject to certain height and siting requirements, the construction of environmental covers in areas outside of the Hills Face Zone is exempt from the planning approval process.

While the subject land is situated within the Hills Face Zone, and therefore is not exempt from planning approval, the proposed environmental cover is considered appropriate in this circumstance as it would:

- protect an existing cherry orchard that has been farmed for over 100 years
- be located on land and in a locality with a horticultural character with moderate scenic value
- not be visible from the Adelaide Plains and therefore not compromise the key Objectives of the Hills Face Zone
- not be visible from a scenic route designated in the Development Plan
- enhance crop productivity and the long term protection and sustainability of productive land
- be wildlife friendly with dark coloured walls and a light coloured roof for visibility
- be located on land that is stable.

For the above reasons, the proposal is considered to be an orderly and appropriate form of development from a both a design and appearance and land use perspective, and therefore satisfies Council Wide Principles of Development Control 3, 7, 9, 11 and 12.

Animal Keeping & Rural Development – Environmental Covers

Objectives: -

PDCs: 23, 25, 26, 27, 28, 29 & 30

The above principles provide guidance for environmental covers, particularly with respect to their siting, design and materials.

Council Wide Principle of Development Control 25 seeks to ensure that environmental covers are sited, designed and screening by landscaping to have minimal visual impact upon the surrounding area. Whilst the proposed environmental cover would be highly visible from some sections of Montacute Road

and from land on the high side of the road, the extent of visual intrusion needs to be considered with regard for the established land uses and scenic qualities of the area.

As highlighted above, the area has a distinct horticultural character where orchards, farm/horticulture buildings are prevalent, including the wide use of white temporary netting. Although Council Wide Principle of Development Control 24 indicates a preference for dark coloured environmental covers, lighter colours such as white are considered acceptable within a 400 metre passage of the zone, in an area where the wider character is inclusive of horticultural activities. The proposed environmental cover will have dark coloured sides in accordance with Council Wide Principle of Development Control 26 and the white coloured roof, although a light colour would not be reflective due to the permeability of the material. A light coloured roof is considered necessary for fruit maturity (i.e. a dark roof would cause excessive shading) while also providing a visual contrast with the orchard tree foliage to minimise bird strikes.

The environmental cover and support structures will be a maximum of 5 metres in height and have side walls with rollup openings, which would satisfy Council Wide Principle of Development Control 23.

The siting of the proposed environmental cover would satisfy the setback requirements outlined in Council Wide Principle of Development Control 23, and thus enable access for maintenance and fire-fighting purposes and maintain spatial separation to nearby dwellings.

The proposal will also include the removal of approximately 4000m² of existing cherry trees on the southern side orchard with the trees to be replaced with SA Blue Gum plantings. These plantings would enhance the existing stands of native vegetation along the ridge line and provide additional visual screening to properties further to the south and west.

On balance, the visual impacts associated with the proposed environmental cover would not be unreasonable given the site and locality characteristics, which include horticultural activities.

Heritage Places

Objectives: 1, 2, 3 & 4

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

Council Wide Objective 3 seeks to conserve the historical setting and significance of both State and local heritage places. The proposed environmental cover would have a separation distance of some 250 metres to the Local Heritage listed property at 780 Montacute Road 'The Poplars'. As detailed in the referral responses section of the report above, the Council's local heritage advisor has no objection to the proposed installation of the environmental cover.

The proposed environmental cover would be positioned at an acceptable separation distance to the local heritage listed property, and would not impair or otherwise harm the heritage value of this historic building. The proposal is considered to accord with Principles of Development Control 5 and 6.

Natural Recourses

Objectives: 1, 2, 3, 4, 5, 6, 8, 10, 12, 13 & 14

PDCs: 1, 2, 3, 4, 5, 8, 9, 10, 37, 38, 39, 40, 41, 45, 46, 47, 48, 49 & 50

Council Wide Objective 13 and 14 seek to protect existing native vegetation in order to preserve the rural character and natural environment. The proposal will not involve the removal of any vegetation as the environmental cover will be constructed around the periphery of the existing orchard. Furthermore, the small amount of earthworks required for the support structures would not lead to soil erosion or scarring.

Orderly & Sustainable Development

Objectives: 1, 3 & 4

PDCs: 1, 2, 3, 9, 12 & 13

Principle of Development Control 3 seeks to ensure that development is undertaken in a manner which sustainably expands the economic base of the region. As mentioned above, the proposed environmental cover will allow for crop yields to be enhanced and ultimately the long-term productivity of the land to be sustained.

The proposed environmental cover would not require the removal of any native vegetation and would be appropriately setback from the watercourse that traverses the site.

The proposal would not result in adverse environmental impacts and therefore Principle of Development Control 3 would be satisfied.

Siting & Visibility

Objectives: 1

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

Principle of Development Control 3 recommends that structures are located within valleys, and positioned below ridgelines within the surrounding landscape.

Whilst the environmental cover would be highly visible along a section of Montacute Road, the structure would not be visible against the skyline, nor would it physically alter the natural sloping topography of the land. The internal vehicle access tracks within the environmental cover footprint will still be fit for purpose.

It is considered that the structure would be adequately setback from Montacute Road, and therefore is consistent with Principle of Development Control 3.

7. SUMMARY & CONCLUSION

The subject land has longstanding use rights as a cherry orchard and the proposed environmental cover would not change nor intensify the existing use of the land.

The permanent nature of the proposed netting would improve the productivity of the land and therefore ensure the longevity of primary production activities on the subject land. While visually prominent, the environmental cover would not impair the natural character of the Mount Lofty Ranges, the aesthetic appearance of a designated scenic route within the Development Plan or views from the Adelaide Plains.

The visual impacts associated with the proposed netting would not be unreasonable given the site and locality characteristics. Whilst Montacute Road forms part of the Marble Hill Scenic Route 51, offering a level of scenic quality, the proposal is ancillary to the long-standing use and function of the land, within a locality that has a horticultural character.

Although finely balanced, the proposal is considered to meet the policy intent of the Hills Face Zone and accordingly would not undermine the Objectives of the Hills Face Zone.

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 19/44/473 by Lennane Orchards for environmental covers (horticultural netting) over 5.8 Hectares of land associated with existing horticulture at 814B & 814D Montacute Road Montacute 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:

- Letter dated 31 January 2019 from G2 Netting Systems
- Email correspondence from G2 Netting Systems dated 13 & 15 February 2019
- Structural Images Plan (Sheet No. 106 Rev. A) prepared by G2 Netting Systems received by Council on 1 February 2019
- Amended Overshadowing Plan (Sheet No. 105 Rev. A) prepared by G2 Netting Systems received by Council on 1 February 2019
- Amended Elevations Plan (Sheet No. 104 Rev. A) prepared by G2 Netting Systems received by Council on 1 February 2019
- Amended Existing Site Plan (Drawing No. P002 Rev. A) prepared by Town Planning HQ received by Council on 3 May 2019
- Amended Locality Plan (Drawing No. P001 Rev. A) prepared by Town Planning HQ received by Council on 3 May 2019
- Amended Proposed Site Plan & Landscape Plan (Drawing No. P003 Rev. A) prepared by Town Planning HQ received by Council on 3 May 2019

- Amended Elevations Plan (Drawing No. P004 Rev. A) prepared by Town Planning HQ received by Council on 3 May 2019
- Amended Elevations Plan (Drawing No. P005 Rev. A) prepared by Town Planning HQ received by Council on 3 May 2019

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

(2) Landscaping To Be Planted

The proposed landscaping shall be established on the site in accordance with the Proposed Landscape Plan (Drawing No. P003 Rev. A) prepared by Town Planning HQ received by Council on 3 May 2019 and shall be planted in the planting season following completion of the approved development and maintained in good health and condition at all times thereafter. Any such vegetation shall be replaced if 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.

(3) Removal of Leaves and Debris from Netting

Leaves and other debris shall be removed from the canopy roof of the netting structure as soon as practicable.

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

(4) External Finishes

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

WALL NET: Black or similar
ROOF NET: White or similar

NOTE: At such time that the roof netting is to be replaced the netting colour is to be reviewed by Council and the applicant shall liaise with Council at that time.

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

(5) Setback of Netting to Native Vegetation

Where the netting structure is located adjacent an area of native vegetation (fuel load), provision shall be made to allow bushfire fighting personnel and equipment to travel beneath or adjacent the structure, with the space being a minimum width of 3m (or 4 metres on steeper terrain) and with a minimum vertical clearance of at least 4 metres.

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

(6) Posts/Anchors Near Watercourses

No posts or anchors shall be located within the banks of any watercourse.

If this occurs, a 'water affecting activity' permit under the Natural Resources Management Act 2004 may be required from the Adelaide and Mount Lofty Ranges Natural Resource Management Board. For further information visit www.amlrnm.gov.au

REASON: To maintain and enhance the natural environment and protect the environment from intrusive development.

(7) Replacement of Damaged Netting

Torn or dislodged netting shall be removed or replaced as soon as practicable.

REASON: To maintain and enhance the visual amenity of the locality in which the netting structure is located.

NOTES

(1) Requirement for Additional Nets

If additional nets are to be put on the sides of the netting structure(s) which are not shown on the approved plans, a further development application will be required.

(2) Development within Allotment Boundaries

All of the development herein (including anchor points) shall be located within the specified boundaries of the subject land. 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) 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.

(5) EPA Environmental Duty

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

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

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

[www.environment.sa.gov.au/Conservation/Native_Vegetation/
Managing_native_vegetation](http://www.environment.sa.gov.au/Conservation/Native_Vegetation/Managing_native_vegetation)

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

9. ATTACHMENTS

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

Respectfully submitted

Concurrence

**Brendan Fewster
Consultant Planner**

**Deryn Atkinson
Manager Development Services**