

**ADELAIDE HILLS COUNCIL
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING
WEDNESDAY 10 JUNE 2020
VIA AUDIO/VISUAL LINK**

In Attendance

Presiding Member

Geoff Parsons (via audio/visual link)

Members

Ross Bateup (via audio/visual link)

David Brown (via audio/visual link)

John Kemp (via audio/visual link)

Karla Billington (via audio/visual link) - Observer

In Attendance

Marc Salver	Director Development & Regulatory Services
Deryn Atkinson	Assessment Manager
Sam Clements	Team Leader Statutory Planning
Melanie Scott	Senior Statutory Planner
Doug Samardzija	Statutory Planner
Sarah Davenport	Statutory Planner
Karen Savage	Minute Secretary

1. **Commencement**
The meeting commenced at 6.33pm

2. **Apologies/Leave of Absence**
 - 2.1 Apologies
Piers Brissenden

 - 2.2 Leave of Absence
Nil

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3. Previous Minutes

3.1 Meeting held 11 March 2020

The minutes were adopted by consensus of all members (6)

That the minutes of the meeting held on 11 March 2020 be confirmed as an accurate record of the proceedings of that meeting.

4. Delegation of Authority

Decisions of this Panel were determined under delegated authority as adopted by Council on 28 November 2017.

5. Presiding Member's Report

The Presiding Member:

1. Formally welcomed John Kemp as a new member of Council's Assessment Panel, joining the meeting tonight. John has previous experience on the Panel and the Panel looks forward to the contribution that John will make.
2. Formally thanked Linda Green, previous member on the Panel, for her very valuable contribution and assistance in terms of the Panel's decision making. Linda brought a good local perspective to the Panel.
3. Welcomed Karla Billington, who is a special member appointed to the Panel with a background in water quality and water management, as an Observer to the meeting. Karla has no formal voting rights but is able to be called upon to assist when items come before the Panel that relate to her area of expertise.

6. Declaration of Interest by Members of Panel

Nil

7. Matters Lying on the Table/Matters Deferred

7.1 Matters Lying on the Table

Nil

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7.2 Matters Deferred

7.2.1 **Development Application 13/30/473 by Mark Musolino for filling of land to a maximum depth of 6.2 metres (non-complying) at 24 & 28 Emmett Road, Crafers West**

Deferred from meeting 8 May 2019

“At the request of Council staff, that a decision on the matter be deferred to enable Council administration to repeat the public notification process in order to comply with the requirements of Regulation 22(5) of Development Regulations 2008.”

Deferred from meeting 10 July 2019

“That a decision on the matter be deferred to enable the applicant to:

- *Provide clean fill certificates or undertake soil samples, surface and ground water testing and analysis by a suitably experienced and qualified site contamination consultant to provide evidence that the fill placed on the site is not contaminated and suitable for a private open space area associated with a dwelling, and that there is no risk of pollution to surface or underground waters.*
- *Provide clarification of the pre 2010 land form, the existing land form with the fill in situ and the final form of the land proposed following the landscaping shown in the landscape concept plan”.*

Refer to Item 9.1 of these Minutes.

8. **Staff Report**

8.1 **COVID-19 Amendment to Council Assessment Panel (CAP) Operating and Meeting Procedures to include the legal requirement to conduct CAP meetings electronically**

The following recommendation was adopted by consensus of all members (7)

That the Council Assessment Panel adopts the amended Operating and Meeting Procedures as detailed in Appendix 2 of this report to replace the Operating and Meeting Procedures adopted on 9 October 2019.

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Moved John Kemp Carried unanimously
S/- David Brown (8)

That proceedings be suspended to allow items 9.1 to 9.4 to be brought forward on the agenda.

9. Development Assessment Applications

9.1 Development Application 13/30/473 by Mark Musolino for filling of land to a maximum depth of 6.2 metres (non-complying) at 24 & 28 & 32 Emmett Road, Crafers West

9.1.1 Representations

Nil

9.1.2 Decision of Panel

The following recommendation was adopted by consensus of all members (9)

- A. 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 13/30/473 by Mark Musolino for filling of land to a maximum depth of 6.2 metres (non-complying) at 24, 28 & 32 Emmett Road Crafers West 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:

- Statement of support prepared by Mark Musolino dated 17 January 2013
- Statement of effect prepared by Botten Levinson dated March 2017
- Vegetation Restoration Report prepared by Ecological Associates Pty Ltd dated 23 November 2017
- Survey plans (sheets 1, 2 and 3 of 3 reference 3856 plan 3856XI) titled site levels & contour plan and enlargements prepared by Olden and Van Senden Pty Ltd dated 4 October 2012 and 1 August 2014
- Tree Management Plan prepared by Gordon Sykes dated 23 July 2014 and received by Council 25 February 2016
- Site Location and Layout Plan, Site Elevation & Topographic Contours plan and Inferred Extent of Imported Fill Materials & Test Pit Locations (October 2019) prepared by MUD Environmental reference ME-296 Revision 1 figures 1, 2 & 3 received by Council.

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

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NOTES

- (1) Development Approval Expiry**
This development approval is valid for a period of twelve months commencing from the date of the decision notification. However if the development hereby approved is substantially commenced within the twelve (12) month period then it shall be completed within three (3) years of the date of such notification. This time period may be further extended beyond the 3 year period by written request to and approval, by Council prior to the approval lapsing. Application for an extension is subject to payment of the relevant fee. Please note that in all circumstances a fresh development application will be required if the above conditions cannot be met within the respective time frames.
- (2) Requirement For Further Applications**
The applicant is reminded any fencing and earthworks greater than 9 cubic metres requires development approval and will be the subject of separate application.
- (3) Existing Encroachment Identified**
The fill which encroaches over the side boundary into 24 Emmett Road remains unresolved. This development authorisation in no way implies approval from Council for this encroachment. The applicant is encouraged to continue negotiations with 24 Emmett Road to resolve this new and historical encroachment which will likely require a further application to Council to rectify this situation.
- (4) Works On Boundary**
The development herein approved involves work within close proximity to the boundary. The onus of ensuring development is in the approved position on the correct allotment is the responsibility of the land owner/applicant. This may necessitate a survey being carried out by a licensed land surveyor prior to the work commencing.
- (5) Any soil imported to the site should be sources from a commercial supplier where possible. Should waste soils be generated from another site to be imported to this site, the soils should be classified and imported in accordance with EPA requirements.**
- (6) All surplus soils to be removed from the site must be managed in accordance with relevant EPA guidelines and/or requirements of waste or recycling depots authorised by the EPA.**

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- (7) Construction and demolition waste materials should be disposed off-site in accordance with the requirements of waste or recycling depots authorised by the EPA.
- (8) Should any unforeseen materials (including asbestos containing materials) be identified during any excavation works and/or soil handling and management activities, it is recommended that these soils are quarantined, and further advice is sought from an appropriately qualified environmental consultant.
- (9) 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.
- (10) 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.
- (11) Department of Environment, Water & Natural Resources (DEWNR) – Native Vegetation Council Note
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.
- B. Should Development Plan Consent be granted to this application, the CAP provide delegation to the Assessment Manager to resolve any further application to vary the proposal.

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- 9.2 **Development Application 19/1021/473 by Richard Whitehead for change of land use to include horse keeping (maximum 5 horses), construction of a horse keeping & farm building, outdoor arena, associated lighting & earthworks at 163 Taminga Grove, Bridgewater**

9.2.1 **Representations**

Name of Representor	Address of Representor	Nominated Speaker
Bradley Nunn & Lucia Balogh	135 Taminga Grove Bridgewater	Did Not Attend

The applicant, Richard Whitehead, and his representative, Gregg Jenkins (Heynen Consulting) were invited to answer questions from the Panel via audio/visual link.

9.2.2 **Decision of Panel**

The following was adopted by consensus of all members (10)

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 19/1021/473 by Richard Whitehead for a change of land use to include horse keeping (maximum 5 horses), construction of a horse keeping & farm building, outdoor arena, associated lighting & earthworks at 163 Taminga Grove 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:

- Plans from John C Bested & Assoc reference number 16934 drawing number 16934-ENG sheets 1, 2, 3 and 4 of 4
- Manure Management Plan date stamped by Council 17 February 2020
- Stables farm building plans – drawing number 16934 -10 rev 2, 16934 -11 rev 1, 16934 -12 rev 1, 16934 -13 rev 1, 16934 -14 rev 1 , 16934 -15 rev1 all date stamped by Council 17 February 2020 and amended Stormwater and runoff management plan 16934 -16 rev 1 dated 5 May 2020
- Landscape Plan prepared for client Melissa Whitehead and date stamped by Council 5 May 2020
- Exterior Scene 1/Planning Data from Dialux date stamped by Council 17 February 2020 and Horse Training Field dated 21.06.2019.

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

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(2) **Arena Lighting**

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

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

(3) **Arena Lighting Hours**

The proposed arena lighting shall only be operated between 9.00am and 9.00pm and all lights shall be switched off no later than 9.00pm.

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

(4) **Arena Activity Hours**

All horses not stabled on the property shall be removed from the property no later than 9.00pm on any day.

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

(5) **External Finishes**

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

WALLS: Colorbond® Woodland Grey or similar

ROOF: Colorbond® Basalt or similar

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

(6) **Maintenance of Stables and Surrounding Areas**

The stables and manure receptacle shall be at all times maintained and kept in good order and repair. Manure from stables, yards and ménage areas shall be either stored undercover in an impervious surface protected from stormwater intrusion or in impervious containers prior to disposal from the land and in any case not within 10m of any property boundary. This does not, however, preclude use of the manure for domestic garden purposes on the land.

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

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(7) Maintenance Of Horse-keeping Area

- a) The area where the horses are kept shall be maintained in a satisfactory condition at all times so as not to create any insanitary conditions or become a nuisance, be offensive or injurious to health.
- b) The horse/s shall not be exercised or ridden on the above land in such a manner as to annoy neighbours by way of dust, noise or otherwise.
- c) The horse/s shall be confined to sections of the horse yard 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 reduce a dust nuisance.
- d) Horses shall not be grazed when paddocks are waterlogged, or when excessive soil pugging is caused.

REASON: To avoid dust nuisance to adjacent properties and adequate control of surface water run-off.

(8) Maximum Number of Horses

No more than five horses shall be kept on the subject land.

Yards or enclosures shall not be added to the stables without the prior written approval of Council.

The horses shall be contained at all times within a fenced area, as indicated on the approved plan.

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

(9) Retention of Screening Trees

The screen of existing trees and shrubs as shown on the various site plans and the Landscape Plan prepared for client Melissa Whitehead and dated stamped by Council 5 May 2020 shall be retained and maintained in good health and condition at all times with any dead or diseased plants being replaced as necessary in the next planting season.

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

(10) Overflow From Rainwater Tanks

Overflow from rainwater tanks shall be treated on site to the satisfaction of Council in accordance with the amended Stormwater and runoff management plan 16934 -16 rev 1 dated 5 May 2020.

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

(11) Management of Wastewater Treatment System

Prior to the use of the wastewater treatment system associated with the Development, an audible and visible alarm connected to that treatment system shall be located within the existing dwelling located on the Land. Any additional alarm in the horse-keeping building must be non-audible.

REASON: To maintain the amenity of the area and protect the environment from an environmental hazard.

(12) Landscaping

- a) In addition to the landscaping shown on the Landscape Plan prepared for client Melissa Whitehead and date stamped by Council 5 May 2020, further landscape screening shall be planted extending from the driveway entrance of the applicant's house to the driveway access for the new building.
- b) All landscaping shall be planted prior to occupation of the Development and thereafter shall be maintained in good health and condition at all times to the Council's reasonable satisfaction. Any such vegetation shall be replaced if and when it dies or becomes seriously diseased in the next planting season.

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

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.

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(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.

9.3 Development Application 19/1054/473 by Goodhouse Pty Ltd for two storey dwelling alterations & additions and deck (maximum height 3m) at 7 Beadnell Crescent, Bridgewater

9.3.1 Representations

Name of Representor	Address of Representor	Nominated Speaker
Helen Thompson	9 Beadnell Crescent Bridgewater	Via Audio/Visual Link

The applicant's representative, Mark Thomas, addressed the Panel via audio/visual link.

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9.3.2 Decision of Panel

Moved John Kemp Carried
S/- Ross Bateup (11)

The Council Assessment Panel DEFERS consideration of Development Application 19/1054/473 by Goodhouse Pty Ltd for two storey dwelling alterations & additions, deck (maximum height 3m) at 7 Beadnell Crescent Bridgewater to enable the applicant to explore options for inclusion in the development proposal to ameliorate overlooking and impact on the privacy of the neighbouring property at 9 Beadnell Crescent, Bridgewater.

Moved David Brown Carried unanimously
S/- Ross Bateup (12)

That the late submission received for Item 9.4 from the applicant, Derek Grove, be accepted to inform the decision making process of the Panel.

9.4 Development Application 20/37/473 (20/D44/473) by Derek Grove for Land Division (1 into 2) (non-complying) (SCAP relevant authority) at 15 Tiers Road, Woodside

9.4.1 Representations
Nil

9.4.2 Decision of Panel

The following recommendation was adopted by consensus of all members (13)

The Council Assessment Panel considers that the proposal is seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and advise the State Commission Assessment Panel that it DOES NOT SUPPORT the proposed land division in Development Application 20/37/473 (20/D044/473) by Derek Grove for Land Division (1 into 2) (non-complying) (SCAP relevant authority) for the following reasons:

- The proposal is inconsistent with Woodside (Rural Surrounds) Policy Area PDC 2 as it will create an additional allotment.
- The proposal is inconsistent with Watershed (Primary Production) Zone PDC 20 as it is for the purposes of creating an additional allotment and is not for the purposes of a minor readjustment of boundaries to correct anomalies nor is it to improve the management of land for the purposes of primary production and/or the conservation of its natural features.

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- The existing allotment is not considered to be of a suitable size for primary production and no evidence has been provided to suggest that reducing its size further will increase its suitability for primary/food production purposes.
- The proposal seeks to justify the create of an additional allotment in order to establish a hypothetical primary/food production use when it is questionable whether it is a suitable site based on the size of the proposed allotment, its natural features and site constraints and that it abuts the Township of Woodside, directly at odds Council-wide Interface Between Land Uses PDC 13(a).
- The proposal will create an additional allotment within the flood plain area, contrary to Council-wide Hazards PDC 1.
- The land division will not improve or enhance water quality as the land is not connected to Council's CWMS and is therefore contrary to Watershed (Primary Production) Zone Objective 2.
- Existing natural resources on site are unlikely to be able to be suitably protected by buffers and land management strategies due to the limited size of the proposed allotments.

8.2 **Delegation of Power & Functions of Council Assessment Panel (CAP) as a Relevant Authority under the *Planning, Development and Infrastructure Act 2016* and *Regulations***

The following recommendation was adopted by consensus of all members (14)

1. In exercise of the power contained in Section 100 of the Planning, Development and Infrastructure Act 2016, the powers and functions under the Planning, Development and Infrastructure Act 2016 and Regulations made thereunder contained in the proposed Instrument of Delegation (annexed to the Report dated 4 June 2020 and entitled Instrument of Delegation under the Planning, Development and Infrastructure Act 2016 and Regulations - Powers of an Assessment Panel (Instrument C) are hereby delegated by the Council Assessment Panel on this 10th day of June 2020 to Adelaide Hills Council and to the Assessment Manager subject to the conditions and/or limitations specified herein in the proposed Instrument of Delegation; and
2. Such powers and functions may be further delegated by Adelaide Hills Council and the Assessment Manager in accordance with Section 100(2)(c) of the Planning, Development and Infrastructure Act 2016 as both the Council and Assessment Manager sees fit, unless otherwise indicated herein in the proposed Instrument of Delegation.

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8.3 Policy for Council Assessment Panel Review of Decisions of the Assessment Manager

The following recommendation was adopted by consensus of all members (15)

- 1. That the Council Assessment Panel adopts the draft Policy for the Council Assessment Panel Review of Decisions of the Assessment Manager as detailed in *Appendix 2* of this report, including the following underlined amendment to Clause 6.10, with a commencement date being the designated date of Phase 3 of the Planning & Design Code, to be announced by the Minister for Planning in due course:**
 - 6.10 The deferral will be to the next ordinary meeting of the CAP, or such longer period of time as is determined by the CAP, and/or the Presiding Member in consultation with the Assessment Manager, to enable the information sought to be obtained and considered.**
- 2. That the Director Development & Regulatory Services be permitted to make any formatting, nomenclature or other minor changes to the Policy before the designated date.**

10. Policy Issues for Advice to Council
Nil

11. Other Business

11.1 The Assessment Manager advised that a Policy regarding Notification of Accreditation from Accredited Professionals, including Panel members, is being submitted to Council for adoption. There is a requirement in that Policy that notifications of accreditation should be provided within 3 business days to the CEO of Council. Following discussion it was agreed that the draft Policy be amended to allow 5 business days for notification.

11.2 The Assessment Manager reminded the Panel members of the requirement to obtain their Accreditation and, on behalf of the CEO, requested those members who need to obtain accreditation to submit their applications by the end of June, noting that it may take approximately two months for the Accreditation Authority to assess the applications. All Panel members need to be accredited by the designated date, which is currently indicated to be September 2020.

12. Order for Exclusion of the Public from the Meeting to debate Confidential Matters
Nil

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- 13. Confidential Item**
Nil
- 14. Next Meeting**
The next ordinary Council Assessment Panel meeting will be held on Wednesday 8 July 2020.
- 15. Close meeting**
The meeting closed at 9.39pm.