

## COUNCIL ASSESSMENT PANEL MEETING

12 May 2021

### AGENDA – 8.1

<b>Applicant:</b> Sasha & Gary Holland	<b>Landowner:</b> S J L & G L Holland
<b>Agent:</b> Philip Harnett (URPS)	<b>Originating Officer:</b> Damon Huntley
<b>Development Application:</b>	20/1198/473
<b>Application Description:</b> Two storey detached dwelling, deck (maximum height 4.12m), combined fence & retaining walls (maximum height 3.4m), swimming pool & associated barriers, masonry fence, associated earthworks & landscaping	
<b>Subject Land:</b> Lot:50 Sec: P2797 DP:111446 CT:6175/564	<b>General Location:</b> 9 Braemar Terrace Stirling  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 08 August 2019 <b>Map</b> AdHi/28 & AdHi/72	<b>Zone/Policy Area:</b> Country Living Zone - Country Living (Stirling And Aldgate) Policy Area
<b>Form of Development:</b> Merit	<b>Site Area:</b> 771 m <sup>2</sup>
<b>Public Notice Category:</b> Category 2 Merit	<b>Representations Received:</b> 6  <b>Representations to be Heard:</b> 4

#### 1. EXECUTIVE SUMMARY

The purpose of this application is to construct a two-storey detached dwelling, deck (maximum height 4.12m), combined fence & retaining walls (maximum height 3.4m), swimming pool & associated barriers, masonry fence, associated earthworks & landscaping.

The subject land is located within the Country Living Zone and the Stirling and Aldgate Policy Area. The proposal is a merit form of development and pursuant to the procedural matters for the Zone was subject to Category 2 public notification. The application received six (6) representations during the public notification period and four (4) parties wish to be heard in support of their representations.

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 built form and siting and its impact on character and 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 two-storey detached dwelling, comprising a lower level with enclosed rainwater tanks (12,000L), home office, theatre, lift access and double garage. The rear portion of the lower level is cut 2.4m into the site. This cut enables the northern section of the upper level to be sited at a ground level equivalent, with this section of the dwelling comprising 3 bedrooms, a bathroom, and retreat. The southern portion (front) of the upper level comprises the main living areas, master bedroom, lift access and a balcony area.
- The dwelling presents to Braemar Terrace, exhibiting a modern aesthetic with sharp lines, complemented by some traditional design features and materials. A prominent central gable clad in a light toned prefabricated steel anchors the frontage. The gable is flanked by two sections of parapet walling clad in a horizontal cement weatherboard finished in a light grey. Glazing with aluminium framing contributes further to the horizontal and vertical interplay exhibited by the external cladding materials. The front balcony integrates with the gable to create a defining feature, mixing a modern cantilevered canopy (verandah) with heritage style balustrading. Other notable elements include the stone entry, timber door, front stone wall, timber gates and balustrade fencing.
- The dwelling has a strong connection to the main areas of private open space, with a large alfresco area, enclosed on three sides by the northern portion of the upper level (including to the north). This alfresco area connects to a lawn, deck and swimming pool area. These private open space areas are directly accessible via the main living areas of the dwelling and present well with respect to the northern aspect of the site.
- Retaining walls are largely concealed, with retaining cut centrally through the allotment and adjacent to the rear boundary.
- A comprehensive landscaping scheme will see up to 38 different varieties of trees, shrubs and groundcovers being established around the dwelling, and the alfresco courtyard integrates a deep planting bed with a variety of vegetation, exhibiting sound biophilic design.
- A right of way and an easement runs adjacent to the eastern boundary for the purposes of electricity and sewer.

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
06 January 2015	14/D12/473 – 14/319/473	Boundary realignment (9 into 9)

In respect of the current development application, the Applicant has provided updated drawings and documentation comprising site stormwater calculations prepared by Nigel Hallett and Associates, and revised site plan (drawing 01 of 07 rev E drawn by In Property Design) detailing amended site coverage calculation.

Section 221 approval under the *Local Government Act 1999*, has been issued by Council's Biodiversity and Open Space Departments for the verge planting, which forms a key feature of the landscaping scheme.

#### 4. REFERRAL RESPONSES

- **AHC Engineering**

There is currently no formal crossover established for vehicle access to the site. A crossover to the south-west of the allotment frontage is proposed and a condition regarding the creation of this to Council's reasonable satisfaction is recommended (refer to Recommended Condition 2). Council's Engineering Department support the crossover location.

Engineering has reviewed the updated stormwater management plan and is satisfied with the post development flows and the inclusion of 2 x 5000 litre rainwater tanks for the purpose of retention and detention.

It is noted that Easement "M" is for the transmission of electricity.

#### 5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with the procedural matters for the Country Living Zone, on account of the combined retaining wall and fencing height threshold being exceeded and the front balcony deck height exceeding maximum height thresholds. Six representations in opposition to the proposed development were received during the notification period. Four parties have indicated that they wish to be heard. The CAP is the relevant authority for Category 2 applications where representors wish to be heard and the hearing of representations is at the discretion of the CAP.

The following representors wish to be heard:

NAME OF REPRESENTOR	REPRESENTOR'S PROPERTY ADDRESS	NOMINATED SPEAKER
Mrs Jennifer Elsom	10 Braemar Terrace, Stirling	Self
Ms Susette Cook & Mr Steven Marshall	1 Ridge Road, Stirling	Self
Ms Una Walker	6 Braemar Terrace, Stirling	Paola Dal Pozza
Ms Kerry Jarvis & Mr Christopher Lemm	3 Ridge Road, Stirling	Christopher Lemm

The applicants and their representative – Phil Harnett of Urban and Regional Planning Solutions will be in attendance.

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

- Character and appearance
- Building height
- Building setbacks to boundaries

- Private open space
- Site coverage
- Landscaping
- Car parking
- Overlooking and privacy
- Noise
- Stormwater
- Encroachment over private easement

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

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

## 6. PLANNING & TECHNICAL CONSIDERATIONS

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

### i. The Site’s Physical Characteristics

The subject land is a rectangle shaped allotment of approximately 771m<sup>2</sup> located on the high side of Braemar Terrace. The site rises from the south to the north of the allotment with a 28% grade from the road to the rear of the block, which translates to a height difference of some 8.95 metres. The property is serviced by SA Water mains water and sewer. The site is currently vacant of buildings and contains a number of trees and shrubs in varying condition.

Three easements and one right of way are registered on the Certificate of Title, which effects the eastern portion of the allotment and includes:

- A free and unrestricted right of way;
- One easement for sewer purposes, in favour of SA Water; and
- Two easements for the transmission of electricity by underground and overhead cable, respectively.

### ii. The Surrounding Area

The locality has a distinct residential character with larger dwellings, including numerous two storey dwellings, generally set on larger blocks with spacious surrounds. Mature vegetation enhances the setting of the locality and provides a valuable and defining characteristic. The vegetation also creates a sense of seclusion, with many dwellings partially or fully screened by vegetation when viewed from the public realm.

The portion of Braemar Terrace adjacent the subject site and within the immediate locality is relatively flat, running along the land contour on a north east to south west orientation. The land rises steeply on the northern side of Braemar Terrace and falls more gradually to the southern side. As a result of the topography and the influence of mature vegetation, dwellings on the northern side of Braemar Terrace, are more visually defined than those to the south. Many of the surrounding dwellings both within

and outside the immediate locality share similar characteristics to the proposed dwelling, with split level or two-storey designs built to respond to the slope of the land.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Country Living Zone - Country Living (Stirling And Aldgate) Policy Area which applies to a large portion of the Country Living Zone.

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

*Objectives: 1*

*PDCs: 1*

Objective 1 and PDC 1 of the Policy Area seek for development to be consistent with the desired character of the Policy Area. The Desired Character Statement for the Stirling and Aldgate Policy Area envisages:

- Residential land use as the primary and most anticipated form of development;
- Development that reflects and responds to the eclectic design, size, style and material use exhibited by dwellings throughout the Policy Area;
- Development that responds to its streetscape context through responsive setbacks, heavily landscaped gardens and low front fences;
- Responsive design that considers site topography and ways to minimise earthworks through building siting and split level design; and
- The retention of the natural setting.

The proposal as a residential dwelling is an anticipated and envisaged form of development within the Policy Area. It is noted that the land has been vacant for some time, nonetheless it was earmarked for residential development during the deliberations surrounding the Boundary Realignment (referenced in Section 3), where an indicative building envelope was submitted.

The Desired Character Statement acknowledges that the design of buildings throughout the Policy Area varies considerably. This is favourable with respect to the proposed dwelling, which as described takes design queues from both modern and traditional architectural styles. The scope to which development should respond to the residential character of the Policy Area is further expanded by the Desired Character's acknowledgement that dwellings also feature materials of a wide variety.

How a proposal responds to the streetscape context forms an important consideration within the Policy Area. This is considered a key response area for the subject proposal, as it is acknowledged that the visual presence of the dwelling post construction will likely be prominent within the immediate locality. Nonetheless, it is considered that through a combination of careful siting, responsive design, comprehensive landscaping, and front boundary features, that the proposal adequately responds to its streetscape context and the desires of the Policy Area. It is also anticipated that as the proposed landscaping establishes, the prominence of the building will diminish within the immediate locality.

The following are the relevant Zone provisions:

*Objectives:* 1, 2 & 3

*PDCs:* 1, 6, 7, 9 & 10

Objectives 3 and PDC 6 seek for development to contribute to the desired character of the Zone. The Desired Character Statement acknowledges that the Zone contains traditional designs and materials but envisages that new dwellings will incorporate modern designs and building materials. Based on this excerpt the dwelling is considered to portray characteristics that satisfy the intent of the Desired Character Statement, by incorporating modern design elements and materials which will be of appropriate colours to complement the landscape.

This Statement also acknowledges the importance of energy efficient design and it is noted that the central courtyard with no roofing, allows for good passive design outcomes. This includes improved natural ventilation for the entire upper level, solar access to the main living areas in the winter months to assist with heating and during the summer months, the courtyard with the pergola and attached virginia creeper combination and the deep planting bed and vegetation within it, will provide adequate shading to reduce solar heat load and will have a natural cooling effect. This demonstrates that the design of the dwelling is responsive to its broader setting and natural context by carefully integrating important aspects of energy efficient design, most notably passive design principles.

The Desired Character Statement also seeks that development respond sensitively to site topography. Similarly, PDCs 7 and 9 seek for development to be designed and sited to relate to the slope of the land so that the bulk and scale of the built-form does not dominate the landscape and the visual impact to adjoining dwellings and public spaces is minimised. It is noted that the design will result in a large amount of cut, however this is considered acceptable as it will largely be concealed from the public realm behind the lower and upper levels. In addition, the central siting of the bulk of the floor area on both the lower and upper levels is considered a good outcome, particularly given the challenging nature of the site topography, whereby bringing the house closer to the street would have resulted in the need for less cut, r this would not however have achieved the large front setback requirements of the Zone. The proposal therefore achieves a good balance between cut and fill to reduce the bulk of the building as viewed from Braemar Terrace, whilst careful design ensures that most of those works are concealed internally to the site.

In relation to impacts on views from adjoining dwellings, as acknowledged the proposed development will have some level of visual impact within the immediate locality. In considering this outcome, it is worth reflecting that the dwelling largely meets the site coverage and height parameters, suggesting that the proposal is of a bulk and scale that is envisaged and anticipated in the Zone.

The below table provides a summary of the key quantitative design parameters relevant to the proposal as expressed by PDC 9:

<b>PARAMETER</b>	<b>DEVELOPMENT PLAN</b>	<b>PROPOSAL</b>
Front Setback	8m	9.5m (5.5m)
Rear Setback	8m	3.56-3.75m
Side Setback (wall heights below 3m)	2m	1-2.345m (West) 3.1m (East)
Side Setback (wall height above 6m)	3m (plus 1 m for every metre of wall above 6m)	1m-2.345m (West) 6.4m (East)
Site Coverage	50%	45%
Building Height	2 storeys and 9m	2 storeys and 7.2m
Private Open Space	80sqm	~143sqm
Onsite Parking	2	2

The proposal has been assessed against the quantitative parameters as expressed by PDC 9, and on balance it is deemed to be appropriate despite three parameters exhibiting minor shortfalls, these all relate to setback considerations.

It is noted that the main building line of the dwelling complies with the 8m minimum recommended front setback requirement. However, it is acknowledged that the upper-level balcony does intrude within this setback area. This is considered acceptable on account of the balcony integrating with and enhancing the overall aesthetic of the frontage of the dwelling, adding both articulation and visual interest in that does not excessively exacerbate the overall bulk and scale of the building as viewed from Braemar Terrace by its open sided nature.

The rear setback shortfall is notable and falls roughly 4.5 metres shy of the minimum. A dispensation is being afforded to this shortfall on account of the context of the neighbouring dwelling at 7 Ridge Road (adjoining the rear boundary of the subject site), which overlooks the rear of the subject site through direct views from both lower and upper-level windows. As acknowledged the central courtyard is a key feature of the design and not only does it improve the liveability and performance of the proposed dwelling, but it also provides an outdoor area that is private. To achieve this the northern end of the upper-level design has been sited further back to wrap around and allow adequate space (4.5 metres) for the central courtyard to be realised. The impact of this shortfall on the neighbouring property at 7 Ridge Road, is negligible as this dwelling's lower ground level appears equal to or slightly below the proposed northern upper-level roof line.

Both the upper and a small portion of the lower western side setback fall marginally short of achieving the recommended minimums. For portions of the dwelling considered single storey most of the western elevation achieves the required two metres, and the minor shortfall in the south west corner is considered tolerable on

account of the limited extent of the wall that exceeds the minimum and the likelihood of it being screened from the neighbouring property by either fencing or vegetation. For similar reasons, the upper-level setback shortfall is considered minor and unlikely to have any unreasonable impact on the neighbouring property, particularly when limited site line opportunity and the limited extent of this portion of the dwelling are considered.

With regards to PDC 10, existing vegetation will be retained where possible particularly along the eastern boundary to assist with screening.

Considering the above the proposal adequately responds to the following issues raised by the representors:

- Character and appearance
- Building height
- Building setbacks to boundaries
- Private open space
- Site coverage

*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 the positive aspects of the local environment and built form.
- Orderly and economic development that creates a safe, convenient, and pleasant environment in which to live in.
- A diverse range of dwelling types and sizes available to cater for changing demographics.

The following are the relevant Council Wide provisions:

Design and Appearance

*Objectives: 1*

*PDCs: 1, 3, 7, 9, 18, 20 & 28*

Objective 1 seeks that development is of a high design standard, whilst PDC 1 seeks for proposed buildings to reflect the desired character of the locality whilst incorporating contemporary designs which have regard for mass and proportion, external materials, roof pitch, façade articulations and detailing.

It is considered that the proposed dwelling achieves an appropriate design standard which incorporates the use of non-reflective finishes and lighter natural tones. The front gable design while contemporary, is a feature that is more commonly seen in this locality, and it has become a common design style throughout the hills more generally. It is noted that the proposed dwelling will sit below the height of the adjacent two storey dwelling at 7 Ridge Road and complies with quantitative height provisions.



As mentioned, from a streetscape perspective the bulk and scale of the dwelling is acceptable and is also generally consistent with quantitative requirements pertaining to setbacks stipulated in the Policy Area and Zone, except for the rear and side setback requirements. On balance the proposal is therefore considered sufficiently consistent with Objective 1 and PDC 1.

In terms of the visual impact of the proposal within the Braemar Terrace streetscape, it is considered that the proposed dwelling will not have a significant nor unreasonable impact on neighbouring views. When the impact is considered with respect to the existing vegetation and the general ambience of the immediate locality, it is acknowledged that the transition from a vacant allotment to a residential property will cause a degree of interruption to the existing views. However it is noted that when the land division proposal was considered it was anticipated that the site would eventually be developed for residential purposes. The design and placement of the dwelling is considered appropriate and responsive to the site topography, consistent with PDC 7.

PDC 18 seeks that development minimises direct overlooking of the main internal living areas and areas of private open space of neighbouring properties by offsetting the location of balconies and windows so that the views are oblique rather than direct, by setting the building away from boundaries and by incorporating screening where appropriate. It is noted that the height of the attached front balcony triggered the need for public notification. In respect to the neighbouring property to the east at 1 Ridge Road, it is noted that the vegetation along the common boundary will be retained to maintain screening of the rear yard of this property. The effectiveness of this screening will be enhanced by the separation distance between the eastern extent of the proposed balcony and the eastern boundary (12.9m). This outcome is considered to largely diminish the opportunity for direct views into the neighbouring allotment. To the west the allotments at 7A Braemar Terrace is currently vacant, and any future dwelling will have an opportunity to respond to any perceived overlooking should this be a concern. Mature vegetation within Braemar Terrace and within front yards will obscure direct views into dwellings on the southern side of Braemar Terrace. The proposal is therefore considered to reasonably address the overlooking considerations expressed by PDC 18.

With respect to the relationship to the public realm and setbacks to the primary street, it is considered that on balance and with regard to the site constraints and context that the proposal will contribute positively to the Braemar Terrace streetscape. The dwelling is likely to be diminished by: its position on the lower side of the ridge line, existing mature vegetation surrounding the dwelling, its light and complimentary colour scheme, and the softening to be provided by proposed screen planting. Based on all of the above the qualitative guidance provided by PDCs 20 and 28 are sufficiently addressed.

#### Energy Efficiency

*Objectives: 1*

*PDCs: 1, 2, 3*

The proposed dwelling responds well to passive design principles, largely through the integration of the central courtyard. The lack of eaves is likely to add to summer heat

loads but given the typical cooler summer climate in Stirling this is likely to be largely offset. The applicant has also confirmed that all proposed windows and glass doors will comprise double glazing.

The roof orientation will maximise exposure to direct sunlight for any future solar collectors. Citing the above the proposal is considered to reasonably satisfy Objective 1 and PDCs 1, 2 and 3.

#### Hazards

*Objectives: 5*

*PDCs: 7 & 8*

There is no mapped flood risk to the property.

Although a formal referral to the CFS is not required under Schedule 8 for this proposal as the land is within a Medium Bushfire Risk Area, the proposal is still required to demonstrate consistency with the requirements of the Ministers Code: Undertaking development in Bushfire Protection Areas. In this regard the rear of the dwelling is located within 30 metres of Braemar Terrace and a 2000L rainwater tank will provide a dedicated water supply for firefighting purposes. This achieves consistency with the relevant sections of the Ministers Code.

At present, the subject land is a vacant open allotment. Tall grass fills the area of the allotment, and with the exception of the Pine Tree located at the front boundary of the property, there are no native or mature tree to be removed. As such, it is considered that there is unacceptable risk in relation to vegetation in proximity to the proposed dwelling.

#### Landscaping, Fences and Walls

*Objectives: 1*

*PDCs: 1, 2, 4*

The proposal demonstrates that landscaping will play an important part in softening the built form and ensuring that the development integrates sensitively with the natural setting within the locality. To ensure landscaping occurs as planned, the landscaping schedule is included into the application documentation (refer to recommended condition 1).

With regard to retaining walls as discussed, the majority will be concealed internally to the site as a result of the retention of excavation. The front stone wall, balustrade fencing, and wooden gates will further contribute to the overall aesthetic exhibited by the dwelling and will assist in clearly defining the public and private realm. Citing the above the proposal is considered to reasonably satisfy Objective 1 and PDCs 1, 2 and 4.

### Natural Resources

*Objectives: 1*

*PDCs: 8, 11, 13 & 14*

The site is located within the Mount Lofty Ranges Watershed Area 2 and the applicant has submitted a stormwater management plan to demonstrate appropriate use and discharge of water resources. The plan for the subject land demonstrates that all roof captured stormwater will be directed to the lower-level stormwater tanks with overflow being discharged to Braemar Terrace. The 1000L capacity of retention will be plumbed into the house for re-use in the ensuite or laundry. A large portion of the tank capacity is dedicated to stormwater detention including a sub-surface water storage pipe capturing surface water prior to discharging to the street. These measures will ensure that the rate of discharge from the site as it existed in pre-development conditions are not exceeded.

Engineering is satisfied with the method of stormwater management and as such it is considered that proposal is consistent with PDCs 11, 13 and 14.

A weakness of the proposal is that it does not explore more opportunities to integrate water sensitive design, particularly for use in landscaping. This results in the proposal only marginally addressing PDC 8.

### Orderly and Sustainable Development

*Objectives: 1 & 4*

*PDCs: 1*

The subject land is located in Country Living Zone which anticipates residential use of land in the form of single and two storey dwellings. The proposal is therefore considered to be consistent with Objectives 1 and 4, and PDC 1. PDC 9 states that development should take place on land which is suitable for the intended use having regard to the location and the condition of that land. As noted, this Zone is anticipated to accommodate a range of residential dwellings and the associated land division was approved in expectation of such development.

### Residential Development

*Objectives: 1 & 2*

*PDCs: 9, 10, 13, 15, 17, 18, 19 & 27*

Objective 1 seeks safe, convenient, sustainable and healthy living environment whilst Objective 2 seeks a diverse range of dwelling types and sizes to cater for changing demographics. The proposed dwelling is considered to achieve both of these objectives by expanding the residential offering in the Zone and also incorporating a contemporary dwelling design that provides a modern and adaptive open plan living arrangement with lift access.

The dwelling is designed with living rooms and outdoor areas that take advantage of external outlooks. The entry to the dwelling will be clearly visible from the street ensuring a coherent relationship to the public realm. This ensures consistency with PDCs 9 and 10.

The site coverage of the proposal is modest and equates to approximately 45% of the allotment, below the quantitative guide of 50%. This allows for appropriate dwelling configuration and space for private open space and landscaping, to accord with PDC 17.

Private Open Space will be provided in surplus of the qualitative and quantitative criteria under PDCs 18 and 19. Based on the site plan, the private open space provided will be approximately 143m<sup>2</sup>, including 10m<sup>2</sup> for the upper-level balcony, and is well above the 80m<sup>2</sup> requirement. Minimum dimension and accessibility criteria are also met.

It is not considered the proposal introduces the potential for undue overlooking or the reduction of visual privacy to neighbouring private open space or habitable room windows. As discussed, the dwelling to the east is screened by existing vegetation and aided by sight-line separation distance in the order of 50 metres. This is in addition to the topography of the land, whereby these factors combine to prevent direct overlooking into habitable spaces. In addition, all upper-level side facing windows have a minimum sill height of 1.8 metres or obscured glass. At the upper-level, a glass door and outdoor staircase on the eastern elevation extending from the sunroom provide only limited opportunities for overlooking towards the western garden area of the neighbouring property at no. 1 Ridge Road. These areas are not spaces which facilitate large levels of overlooking, and it is noted that the natural slope of the land somewhat enables these sorts of views regardless. It is therefore considered the proposal accords with the intent of PDC 27.

#### Transportation and Access

*Objective: 2*

*PDCs: 25, 32 & 34*

The Council's Engineering staff have not raised concerns in respect of the grade of the access driveway. The garage provides for two undercover car parking spaces with two further on-site visitor car parking spaces possible forward of the garage. This ensures the proposal complies with Objective 2 and PDCs 25, 32 and 34.

Having regard to the above the proposal is considered to adequately respond to the following issues raised by the representors:

- Character and appearance
- Private open space
- Site coverage
- Landscaping
- Car parking
- Overlooking and privacy
- Stormwater

### Other Considerations

Some of the representors have indicated that the use of the first-floor balcony would generate unacceptable levels of noise. In this regard it is noted that the dwelling will only be used for residential purposes as anticipated in the Zone and Policy Area. As such, noise typical of a residential use is reasonably anticipated in the locality.

One representor raised concern about the easements over the land. The applicant has confirmed that following a site survey, the accurate location of the easements is now shown on the revised survey plan which differs from the Certificate of Title. The applicant has confirmed an intention to update the Certificate of Title in due course.

In addition, it is noted that the proposed deck and stairs will encroach over one of the abovementioned easements (land marked 'M' on the revised survey plan), however all other easements remain unaffected by the proposal including the right of way. To ensure easement infrastructure is not damaged and access is not prevented, the deck is proposed to be constructed in a manner that requires minimal excavation within any easements.

In respect of this matter, advice has been sought from Reinhard Struve of the Department of Energy and Mining, and Angela Clark of SA Power Networks. It has been advised that the easement is a private electricity cable in favour of the rear neighbouring property at 7 Ridge Road, Stirling. It is noted that the Applicant has attained an agreement of encroachment within the easement from the owner of 7 Ridge Road.

## **7. SUMMARY & CONCLUSION**

The development proposal to construct a two-storey detached dwelling and associated earthworks at 9 Braemar Terrace, Stirling demonstrates a reasonable consistency with the relevant provisions of the Development Plan.

Despite the notable opposition from neighbouring residents exhibited through the public notification process, the proposal is considered to adequately respond to and address the relevant concerns, in particular matters relating to character and amenity impacts.

Further, the proposal is considered to represent an appropriate form of development for the site that responds to the site conditions. The proposed dwelling is designed to respond to the topography of the site, the visual impact is anticipated based on the bulk and scale of nearby dwellings and the site will be landscaped to soften the proposal and to provide screening.

For the above reasons, 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 20/1198/473 by Sasha & Gary Holland for Two storey detached dwelling, deck (maximum height 4.12m), combined fence & retaining walls (maximum height 3.4m), swimming pool & associated barriers, masonry fence, associated earthworks & landscaping at 9 Braemar Terrace Stirling 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 (Lower Floor) drawn by In Property Design Sheet 01 of 07 Rev E (received by Council dated 09 April 2021)
- Amended Site Plan (Upper Floor) drawn by In Property Design Sheet 02 of 07 Rev E (received by Council dated 09 April 2021)
- Amended Floor Plan (Ground Level) drawn by In Property Design Sheet 03 of 07 Rev E (received by Council dated 09 April 2021)
- Amended Floor Plan (Upper Level) drawn by In Property Design Sheet 04 of 07 Rev E (received by Council dated 09 April 2021)
- Amended Elevations (Front / Side / Pool) drawn by In Property Design Sheet 05 of 07 Rev E (received by Council dated 09 April 2021)
- Amended Elevations (Rear / Side) drawn by In Property Design Sheet 06 of 07 Rev E (received by Council dated 09 April 2021)
- Amended Streetscape Elevation drawn by In Property Design Sheet 05 of 07 Rev E (received by Council dated 09 April 2021)
- Amended Section Plan (Section Along Driveway Floor Levels) by In Property Design Drawing No. 626020 - C2 Issue A dated Oct 2020 (received by Council dated 24 March 2021)
- Amended Siteworks and Stormwater Drainage Plan by In Property Design Drawing No. 626020 - C1 Issue B dated Oct 2020 (received by Council dated 24 March 2021)
- Amended Concept Plan (Landscaping) drawn by RS of Stirling Garden Design Studio dated 14 April 2021 (received by Council dated 15 April 2021)
- Easement Identification Plan (received by Council dated 18 January 2021);
- Amended Site Stormwater Calculations by Nigel Hallett and Associates dated March 2021 (received by Council dated March 2021);
- Cover Letter written by Sasha and Gary Holland dated 06 November 2020 (received by Council dated 06 November 2020), and;
- Letter of Agreement (Consent to Build Over and Within Easement) written by Paul Collins dated 29 April 2021 (received by Council dated 04 May 2021).

### (2) Residential Access Point – SD13

The vehicle access point(s) and cross over shall be constructed in accordance with Adelaide Hills Council standard engineering detail SD13 - residential vehicular crossing paved for sealed road with kerb and SD16 – allowable crossover locations, within 3 months of occupation/use of the development

**(3) External Finishes**

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

**WALLS:** Scyon Wall Cladding - Hayes Colour Expressions, Pale Mushroom 4 or similar

**ROOF:** Windspray or similar

**(4) Soil Erosion Control**

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

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

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

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

**(6) Stormwater Overflow Directed To Street**

All roof run-off generated by the development hereby approved shall be directed to a rainwater tank with overflow to the street (via a pump if necessary) or a Council drainage easement to the satisfaction of Council within one month of the roof cladding being installed. All roof and hard paved water runoff shall be managed to prevent trespass onto adjoining properties and into the effluent disposal area where an on-site waste control system exists.

Overflow from rainwater tanks is to be directed to the street (via a pump if necessary) or managed on-site to the satisfaction of Council using design techniques to the satisfaction of Council.

**(7) Swimming Pool Backwash Water**

Backwash water from swimming pool filter(s) shall be directed to the sewer.

## 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 Consent must be applied for prior to the expiry of the DPC and lodged through the PLANSA portal unless a private certifier was engaged prior to 19 March 2021. The time period may be further extended by Council agreement following written request and payment of the relevant fee.

(2) **Public Utility Services**

Public utility services including light poles and conduits may be present in the road reserve area and it is the property owner's responsibility to ensure these services are not damaged as a result of the development. It is the property owner's responsibility to negotiate the alteration of services in the road reserve. All services within the road reserve should be located prior to any excavation.

(3) **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.

(4) **Sewer Connection**

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

(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) **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.

(7) **Surveyed Boundaries**

The onus of ensuring that any wall or fence is located in the approved position on the correct allotment is the responsibility of the land owner/applicant. This may necessitate a boundary survey being undertaken by a licensed land surveyor prior to the work commencing and when the wall is complete.



**(8) Requirement for SA Water Approval To Fill Swimming Pool**

**New pools or spas may only be filled under the authority of a permit from SA Water. The applicant is advised to obtain a permit to fill the pool with water from SA Water before proceeding with the installation of the swimming pool.**

**SA Water advises that a permit will not be granted unless proof is provided that a cover has been purchased to prevent water loss through evaporation.**

**(9) Swimming Pool Chemicals**

**No spillage of waste shall occur from the storage or use of pool chemicals. Disposal of any chemicals shall only occur at the EPA Household Hazardous Waste Depot (Ph 8204 1947) or through a licensed waste contractor.**

**(10) Swimming Pool Pumps & Filters**

**Pumps and filters must be located and operated so as not to emit noise levels in excess of the applicable Environment Protection (Noise) Policy 2007. The maximum noise level shall not exceed 45db(A) from 10:00 p.m. on any night until 7:00 a.m. the following morning.**

**9. ATTACHMENTS**

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

Respectfully submitted

Concurrence

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**Damon Huntley**  
**Statutory Planner**

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**Deryn Atkinson**  
**Assessment Manager**

## COUNCIL ASSESSMENT PANEL MEETING

12 May 2021

### AGENDA – 8.2

<b>Applicant:</b> Troy Searle	<b>Landowner:</b> H A Power
<b>Agent:</b>	<b>Originating Officer:</b> Sarah Davenport
<b>Development Application:</b>	19/859/473
<b>Application Description:</b> Domestic outbuilding, freestanding carport, retaining walls (maximum height 1.2m), 2 x 22,500L water tanks and associated earthworks	
<b>Subject Land:</b> Lot:11 Sec: P90 DP:2167 CT:5173/135	<b>General Location:</b> 22 Banksia Drive Bridgewater  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 8 August 2019 <b>Map AdHi/30</b>	<b>Zone/Policy Area:</b> Country Living Zone - Country Living (Bridgewater) Policy Area
<b>Form of Development:</b> Merit	<b>Site Area:</b> 1083m <sup>2</sup>
<b>Public Notice Category:</b> Category 2 Merit	<b>Representations Received:</b> 4  <b>Representations to be Heard:</b> 2

#### 1. EXECUTIVE SUMMARY

The purpose of this application is to construct a 60m<sup>2</sup> outbuilding 24.5m<sup>2</sup> carport and associated retaining wall (maximum height 1.2m). The application has changed since initial lodgement and undergoing public notification.

The subject land is located within the Country Living Zone - Country Living (Bridgewater) Policy Area and the proposal is a merit form of development. Three representations in opposition and one representation in support of the proposal were received during the Category 2 public notification period.

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

The main issues relating to the proposal were initially the extent of retaining and scale of the shed, but as a result of numerous revisions the final amended plans have reduced both the retaining and scale of the shed.

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:

- Construction of Outbuilding
- Construction of Carport
- Retaining walls , between 600mm to 1.2m retaining fill
- 2x water tanks

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
8 December 1994	94/527/330	Alteration of Carport to Sunroom
29 September 2003	03/84/473	Additions to detached dwelling
8 September 2017	16/301/473	Dwelling alterations, demolition of existing verandah & carport & construction of replacement verandah and carport

The proposal has substantially changed since initially lodged in October 2019. Initially the application was for a 135m<sup>2</sup> outbuilding/ garage with associated retaining measuring in excess of 2m. Following a site inspection and review of the initial proposal Council advised that the original proposal was not supported by Council and a redesign was requested. Since initial lodgement, the design has been amended to reduce the size of the outbuilding and break up the carport and outbuilding into separate structures. The amendments were made as a result of both the council request and the representations received during the public notification process. The retaining walls have been drastically reduced in size and the earthworks have been terraced to reduce the extent of fill.

The publically notified plans are provided within the attachments.

## 4. REFERRAL RESPONSES

No referrals were required for this application.

## 5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with Zone Procedural Matters where a retaining wall exceeds 1.5 metres above natural ground. Four (4) representations were received. Of these two (2) representations are opposing the proposal, and two (2) are in support of the proposal. All were from adjacent properties.

The following representors wish to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Kelly & Callum Cameron	24 Shannon Court Bridgewater	Darren Starr
Ian Richard Kelly	22 Shannon Court Bridgewater	Ian Richard Kelly

The applicant will be in attendance.

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

- Use of the building
- Extent of retaining
- Managing stormwater/ drainage
- Bulk/ scale of building
- Noise from stormwater pump

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

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

## 6. PLANNING & TECHNICAL CONSIDERATIONS

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

- The Site's Physical Characteristics  
The subject land is a 1083m<sup>2</sup> quadrilateral allotment and slopes steeply to the rear (western) boundary. The site has an established 2 storey dwelling which has undergone a number of additions since it was established in the 1980's. The land gains access from Banksia Drive, a Council maintained bitumen road and is modestly vegetated with a mixture of native and exotic species.
- The Surrounding Area  
The immediate locality is characterised by low density residential use on regular shaped sloping allotments. Allotments are generously vegetated with a mixture of native and exotic species. Housing within the streetscape originates from varying eras and scale; there are examples of both single storey and double storey dwellings within immediate vicinity.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

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

- *A zone dedicated for very low density residential development*
- *Residential development which is sympathetic to the topography of the land and will not negatively impact the natural environment*
- *Development which contributes to the desired character for the zone*

*The development has addressed each objective by reducing the extent of retaining and the overall scale of the structures.*

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

*Objectives: 1*

*PDCs: 1*

The following are considered to be the relevant Zone provisions:

*Objectives: 1, 3*

*PDCs: 1, 2, 5, 6, 7, 8, & 12*

*Accordance with Zone*

The desired character statement envisages development which will maintain the residential use of the land at very low density and maintain the orderly, grid-like allotment pattern. Domestic structures are envisaged within the zone, particularly where they are sited to the rear or side of the dwelling and will not dominate the streetscape. Objective 3 and PDC 2 and 6 reinforce the overall intent of the desired character statement.

The proposed development aligns with the abovementioned objectives for the zone as the work will not impact on the density of residential development and will enable the better enjoyment of the land, in accordance with PDC 5 the structures are to be ancillary to the existing dwelling on the land.

PDC7 and 8 designate that garages and other similar outbuildings should be designed to limit the extent of cut/fill and be sited to limit visual impact from the road and adjoining allotments. The proposed shed and carport are well set back from front and rear boundaries and will not require excessive earthworks or retaining walls. In alignment with PDC 8 the carport has been set back and will not occupy more than 50% of the allotment frontage.

PDC 12 designates the numerical parameters that new outbuildings should be developed around. The proposed carport and outbuilding are individually well below the envisaged floor area, height recommendations and have observed the projected setback requirements with the exception of the setback from the northern boundary which is less than the suggested 2metres. Due to the width of the allotment and alignment of the driveway, the shortfall is not considered fatal to the allotment. It is also acknowledged that the dwelling on the allotment to the North is set back approximately 12m from the Northern boundary.

#### Form of Development

PDC 1 for the zone specifically envisages outbuildings and carports – the proposal satisfies the PDC.

#### Appropriateness of Proposal in Locality

The subject land is a generously sized residential allotment where setbacks are able to be achieved. The structures will not exceed the envisioned floor area and heights outlined within PDC12. Both structures are to be set back from the primary street and are of such a scale that it is not anticipated the development will negatively impact neighbouring allotments.

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

#### Residential Development

*Objectives:* -

*PDCs:* 13, 14, 15 & 17

The proposed development is deemed to align with PDC's 13, 14 and 15 as the outbuildings are to be ancillary to an established dwelling, will be well set back from the front boundary to avoid detracting from the amenity of the streetscape. PDC 15 designates numerical assessment criteria where the zone/ policy area doesn't specify, the proposed development satisfies both the zone and general numerical guides with the exception of the side setback requirements.

#### Design and Appearance

*Objectives:* 1

*PDCs:* 1, 2, 3 & 9

Objective 1 and PDC 1 call for development which is of a high design standard and will complement the surrounding locality with regard to scale, roof form and colours. PDC 3, further emphasises the need for neutral colour schemes to avoid glare. The proposed development satisfies the above provisions by utilizing dark grey Colorbond and occupying a modest floor area.

PDC 9 calls for development which does not require substantial alteration of the land to facilitate the development. From the initial proposal, the development proposal has dramatically reduced the extent of fill and retaining to support the development. As the site slopes quite steeply to the west, the site will be terraced to create 2 level portions and reduce the need for excessive retaining and filling.

### Other Matters

As mentioned throughout the report, the application in its current form would not warrant the undertaking of public notification or be presented to the panel for a decision based on the very low scale of the proposal. As the application attracted a number of representations, some of whom requested to be heard despite the redesign of the proposal, the panel is the delegated decision maker. Due to the size of the structures, 2x 22,500L rain water tanks are considered more than sufficient for stormwater management.

## **7. SUMMARY & CONCLUSION**

The purpose of this application is to construct a 60m<sup>2</sup> outbuilding, a 24.5m<sup>2</sup> carport and associated retaining walls (maximum 1.2m). The application has drastically changed since initial lodgement and undergoing public notification. The scale of the proposal is now considered to be of a minor nature. The structures will not exceed the envisioned floor area and heights outlined within the Development Plan. Both structures are to be set back from the primary street and are of such a scale that it is not anticipated the development will negatively impact on neighbouring allotments

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 19/859/473 by Troy Searle for Domestic outbuilding, freestanding carport, retaining walls (maximum height 1.2m), 2 x 22,500L Water Tanks and associated earthworks at 22 Banksia Drive 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:**

- **Shed Elevations, prepared by Tarney Design and Drafting, dated 3 March 2021**
- **Carport Elevation, prepared by Tarney Design and Drafting, dated 17 February 2021**
- **Site Plan, prepared by Tarney Design and Drafting, dated 17 February 2021**

### **(2) Carport Shall Remain Open**

**The carport shall remain open and shall not be enclosed in any way.**

### **(3) Restriction on Use of Outbuilding**

**The building shall not be used for human habitation, commercial or industrial purposes. Any such activity may constitute a change in use and will require separate development approval.**

## NOTES

(1) **Development Plan Consent Expiry**

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 the appeal is determined.

Building Consent must be applied for prior to the expiry of the DPC and lodged through the PLANSA portal unless a private certifier was engaged prior to 19 March 2021. The 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) **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  
Representation  
Applicant's response to representations  
Publically Notified Plans

Respectfully submitted

Concurrence

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Sarah Davenport  
Statutory Planner

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Deryn Atkinson  
Assessment Manager



## COUNCIL ASSESSMENT PANEL MEETING

12 May 2021

### AGENDA – 8.3

<b>Applicant:</b> Peter Corner	<b>Landowner:</b> P R & B C Corner
<b>Agent:</b> N/A	<b>Originating Officer:</b> Ashleigh Gade
<b>Development Application:</b>	21/48/473
<b>Application Description:</b> Two storey dwelling alterations & additions, deck (maximum height 2.5m), in-ground swimming pool & associated barriers, retaining walls (maximum height 1m) & associated earthworks	
<b>Subject Land:</b> Lot:78 Sec: P748 DP:92679 CT:6135/636	<b>General Location:</b> 8 Carroll Road Heathfield  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 8 August 2019 <b>Map AdHi/34-35 &amp; 80-81</b>	<b>Zone/Policy Area:</b> Watershed (Primary Production) Zone - Rural Landscape Policy Area
<b>Form of Development:</b> Merit	<b>Site Area:</b> 3.16 ha
<b>Public Notice Category:</b> Category 2 Merit	<b>Representations Received:</b> 1  <b>Representations to be Heard:</b> 1

#### 1. EXECUTIVE SUMMARY

The purpose of this application is the alteration and additions to an existing two storey detached dwelling, including a deck attached to the dwelling with a maximum height of 2.5m above natural ground level, installation of an in-ground swimming pool with associated safety barriers ,and associated earthworks. The alterations would involve the partial demolition of external and internal walls, relocation of the kitchen area, removal of two bathrooms and relocation of the master bedroom and include the addition of an open-plan living, kitchen and dining area and a master bedroom suite with walk-in-robe, ensuite and private ‘retreat’ living area. The proposed attached decking is to be sited to the rear of the existing dwelling and between the extended living and bedroom areas.

The subject land is located within the Watershed (Primary Production) Zone and the Rural Landscape Policy Area. The proposal is a merit form of development and pursuant to the procedural matters for the Zone was subject to Category 2 public notification. The application received one (1) representation during the public notification period and the representor wishes to be heard in support of their representation.

As per the CAP delegations, the CAP is the relevant authority for Category 2 applications where a representor wishes to be heard.

The main issues relating to the proposal are overlooking and visual privacy, earthworks, and siting.

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:

- Alterations and additions to an existing two storey detached dwelling, the additions comprising a new living room area and master bedroom suite with walk-in-robe, ensuite and retreat/private living space. The dwelling additions are to be clad in Scyon 'Stria' Cladding or Scyon 'Axon' Cladding with Scyon 'Axent' Trim in light cream and roof in Colorbond 'Basalt', to match the existing dwelling.
- A deck attached to the dwelling with a maximum height of 2.5m above natural ground level.
- An in-ground swimming pool with associated safety barriers.
- Retaining walls surrounding the in-ground swimming pool area, to a maximum height of 1m.

The proposed plans are included as **Attachment – Proposal Plans**.

## 3. BACKGROUND AND HISTORY

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
7 October 2020	19/965/473	Carport, attached to existing dwelling.
29 March 2016	16/143/473	Demolition of existing outbuilding and construction of domestic outbuilding, retaining walls (maximum height 860mm) and associated earthworks.

## 4. REFERRAL RESPONSES

The application was subject to a mandatory referral to the SA Country Fire Service pursuant to Section 37 of the Act and Schedule 8 of the Development Regulations 2008, as the proposed development is situated within the High Bushfire Risk Zone as provided in Bushfire Protection Area Figure AdHi(BPA)/1.

- **CFS**  
The Country Fire Service (CFS) has assessed the Bushfire Attack Level (BAL) as 12.5 and have no objections to the proposal, subject to standard conditions (refer conditions 7-11).

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

## 5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with Principle of Development Control (PDC) 72 for the Watershed (Primary Production) Zone, pursuant to the height of the deck above natural ground level. One representation in opposition to the proposed development was received during the notification period. The

representor has indicated that they wish to be heard. The CAP is the relevant authority for Category 2 applications where representors wish to be heard and the hearing of representations is at the discretion of the CAP.

The following representor wishes to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Mr Paul Good	10 Carroll Road, Heathfield	Self

The applicant may be in attendance.

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

- That appropriate care and monitoring is undertaken with any works involving asbestos-containing materials, in particular the existing roofing materials, and;
- That construction work will be undertaken on weekdays during appropriate hours.

It is noted that the representors concerns pertain to activities that are controlled under other legislation outside of the *Development Act 1993*, under which this application was lodged, and outside of the currently operative *Planning, Development and Infrastructure Act 2016*. The applicant has provided a response to the representor advising of their intention to operate in accordance with the *Work Health & Safety Act 2012* and the Environment Protection Authority (EPA) construction noise policy.

On 22 April 2021, to clarify the legislative requirements, Staff provided the representor with further information pertaining to Chapter 8 of the *Work Health & Safety Regulations 2012* which deals with the way asbestos must be managed, and Part 6 Division 1 of the *Environment Protection (Noise) Policy 2007* which identifies appropriate construction hours as being between 7:00am and 7:00pm Monday to Saturday. This correspondence is included in the attached documents as detailed below.

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 an irregularly shaped 3.1 hectare allotment located on the western side of Carroll Road. The land currently contains a two storey detached dwelling and a number of associated outbuildings. The topography of the land is undulating and slopes away from Carroll Road at the north-eastern corner of the subject site, in a south-westerly direction down to the southern side boundary.

The site is vegetated with a mixture of both native and exotic trees. There are a number of native trees toward the western boundary of the subject site and a row of native trees along the front boundary adjacent Carroll Road, with most of this vegetation being on the Council verge. The immediate dwelling site has been largely cleared of native vegetation and is currently surrounded by predominantly exotic plant species.

There is a lower-order seasonal creek which traverses the subject land toward its south-western corner, well separated from the existing dwelling.

The subject site is serviced by SA Water for both mains water and mains sewer.

ii. The Surrounding Area

The surrounding locality has a distinct rural character with a notable mixture of land uses. The subject site itself is sited on the interface with the Rural Fringe Policy Area, which forms part of the wider Watershed (Primary Production) Zone, and typically contains allotments used for residential purposes. Along the southern boundary the site is adjacent the Public Purpose Zone and the Heathfield Stone Reserve, a large reserve owned by Adelaide Hills Council. Further north-east of the subject land, across Carroll Road is land situated within the Rural Living Policy Area of the Watershed (Primary Production) Zone and featuring rural residential allotments of varying sizes and configuration.

The dwellings in the locality do not display any consistent setback or siting pattern and examples of dwellings both positioned close to site and road boundaries and well set back from site boundaries can be found. Dwellings within the locality are typically detached and single or double storey in height. Typically, where setbacks allow, planted or native vegetation along boundaries and roads in the locality screen dwellings and associated outbuildings from surrounding roads and public spaces.

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:

- That development enhance amenity and landscape value through preservation and restoration of native vegetation.
- That the long-term sustainability of primary production activities be protected.
- That rural living land uses be low density and not be incompatible with primary production land uses in the area.

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

*Objectives: 1, 2, 3, 4 & 6*

*PDCs: 2 & 6*

The proposal includes alterations and additions to an existing dwelling on a low density rural living allotment. The subject land is not of sufficient size or configuration to undertake primary production activity. Consistent with other allotments in the locality the subject land has historically been used for residential purposes, in accordance with Objectives 1 & 2 and PDC 2.

The proposal seeks to retain the existing pleasant rural character and will not cause the dwelling, which will continue to be well set-back from site boundaries, to become visually apparent from beyond the subject land. The choice of colours and materials is

intended to blend the additions with the existing dwelling. No native vegetation is to be cleared in association with the proposal. It is therefore considered the proposal addresses the intent of Objectives 3 & 4 and PDC 6.

The applicant has reasonably addressed the bushfire risk of the locality in accordance with Objective 6. This is discussed in further detail later in the report.

The following are considered to be the relevant Zone provisions:

*Objectives:* 4 & 5

*PDCs:* 1, 2, 3, 7, 11, 14 & 29

It is noted that the proposal is for the alteration of and addition to, an existing dwelling which is already sited away from site boundaries and is well screened from the primary street frontage of Carroll Road. The existing dwelling and proposed addition is sited away from stands of native vegetation on or, surrounding the subject land, and where buildings are already clustered together on the subject land. The proposal will not bring the dwelling within close proximity to any site boundaries nor involve the clearance of any native vegetation or the alteration to vegetation which currently screens the development site. It is therefore considered that the proposal continues to align the dwelling with Objectives 4 & 5 and PDCs 1, 11, 14 & 29.

In accordance with PDCs 2 & 7, the proposed additions remain consistent with the profile, form and materials of the existing dwelling and respond to the contours of the land to reduce associated earthworks and overall resulting building mass. It is noted that the existing ground floor level of the dwelling is set into the natural slope of the land and that the dwelling presents from the south-east as single storey in nature. The decking at its maximum elevation above ground level follows the line of the existing upper storey and is visually consistent with the existing upper level balcony. The in-ground swimming pool has been terraced and sited comparative to the ground level of the dwelling, which further reduces the overall visual bulk of the proposal.

The subject site is serviced by mains water and sewer, consistent with PDC 3.

*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 the positive aspects of the local environment and built form.
- Orderly and sustainable development that creates a safe, convenient and pleasant environment in which to live.
- Development that avoids incompatible land uses.

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

*Design and Appearance*

*Objectives:* 1

*PDCs:* 1, 3, 8, 9 & 18

Objective 1 seeks that development be of a high design standard and appearance that responds to and reinforces positive aspects of the local environment and built form. It is noted that the proposed additions seek to respond to the standards and appearance of the existing dwelling and ensure consistency of built form between the existing dwelling and proposed additions. The design, including the selected external materials and colours, are therefore considered consistent and appropriate for the subject site and generally in accordance with Objective 1 and PDCs 1, 3 & 8.

The proposed dwelling additions follow the topography of the land and the proposed decking is raised on piers. This reduces the need for excessive earthworks, particularly filling of the land, in association with the proposal. In order to provide an appropriate site for the in-ground swimming pool, earthworks will be undertaken immediately surrounding the pool area resulting in a retaining wall to a maximum height of 1m. It is considered the proposal reduces earthworks where possible in accordance with PDC 9.

It is sought by PDC 18 that direct overlooking from raised structures such as decking be minimised to ensure privacy to the adjacent dwelling's private open space and main internal living areas. The proposed decking is oriented to the north-west toward the land of the northern neighbour. The deck area is however sited over 30m from the subject site boundary and will directly look toward a dense stand of trees that run adjacent the neighbour's southern side boundary. In addition to this, beyond these trees the nearest open space on the neighbouring allotment is approximately 80m from the proposed decking and the nearest point of the neighbouring dwelling is approximately 125m from the proposed decking. It is therefore not considered that the decking will introduce the potential to directly overlook neighbouring habitable room windows or private open space. The proposal is therefore considered consistent with PDC 18.

*Hazards*

*Objectives:* 2 & 5

*PDCs:* 7, 8 & 10

The existing dwelling is sited over 30m from Carroll Road and therefore on-site access and manoeuvring areas for firefighting vehicles demonstrated on the proposal plans are in accordance with the Ministers Code. The subject site has an existing 100,000L rainwater tank available for CFS firefighting purposes and the application documentation also demonstrates the availability of the swimming pool water for further firefighting supply.

As discussed earlier in the report, the proposal required formal referral to the CFS in accordance with Schedule 8 of the *Development Regulations 2008*. The CFS have no objections to the proposal subject to standard conditions The Bushfire Attack Level (BAL) for the dwelling has been identified as 12.5.

The proposal is therefore considered consistent with the above listed Objectives and PDCs pertaining to bushfire hazard.

Orderly and Sustainable Development

*Objectives:* 4, 9

*PDCs:* 1

Notwithstanding that the subject land is sited within a rural area and a Zone intended for primary production, the Policy Area and character of the locality demonstrate an existing rural residential character and the appropriateness of residential development. The subject land is not an appropriate size or configuration for primary production nor is the surrounding land in the immediate locality.

The continued use of the land for residential purposes is considered to be consistent with Objectives 4 & 9 and PDC 1.

Residential Development

*Objectives:* 1

*PDCs:* 9, 16, 17, 18 & 27

The proposal represents a reasonable expansion to an existing dwelling to meet the needs of the land owners, consistent with the intent of Objective 1.

The proposed addition and existing dwelling space retains an external outlook in living areas and access to private open space from proposed living areas is intended, via the proposed attached deck. As a result of the proposal, including all existing outbuildings, the subject land will have a total site coverage of approximately 3% which is consistent with the rural residential character. Ample private open space accessible from the dwelling is retained. The proposal is therefore considered to be in accordance with PDCs 9, 17 & 18.

The proposed swimming pool is ancillary to the dwelling and sited in proximity to both the existing and proposed areas of the dwelling. The nearest adjacent dwelling will be approximately 70m from the swimming pool and associated equipment, as sought by PDC 16.

PDC 27 seeks screening to protect visual privacy where a deck will overlook habitable room windows or private open space of adjacent dwellings. As discussed in Design & Appearance earlier in the report, the proposed deck is sited to the rear of the dwelling and is not considered able to overlook adjacent private open space or habitable room windows. The decking is oriented north-west and is sited approximately 30m from the nearest boundary to the north. On the neighbouring land to the north a mature stand of planted trees prevents views beyond the boundary. Furthermore, the private open space and nearest point of the adjacent dwelling are over 80m and 125m from the proposed decking respectively. It is therefore considered that screening to the deck as described in PDC 27 is not required to protect visual privacy, as landscape features already ensure this.

Siting and Visibility

Objective: 1

PDCs: 3 & 4

In accordance with Objective 1 and PDC 3, the proposed additions retain the existing landscape character of the subject site as viewed from public places including Carroll Road and the adjacent public reserve. The generous setbacks to site boundaries, existing vegetation to the west of the site, trees along the Carroll Road frontage, and other intermittent vegetative screening trees on the subject land and adjacent sites ensure that the proposed additions will be unobtrusive in their siting.

The overall extent of earthworks in association with the proposal has been limited to the filling required to provide a suitable, flat site for the in-ground swimming pool. The dwelling additions follow the contour of the land and the proposed decking is to be elevated on poles. The proposal is therefore considered to address PDC 4.

## 7. SUMMARY & CONCLUSION

This application seeks consent for the alteration of an existing dwelling and the construction of dwelling additions, including living areas and a master bedroom suite, an attached deck and an in-ground swimming pool with associated safety barriers, at 8 Carrol Road, Heathfield. During the public notification period, one representation was received by Council in objection to the proposal. The objection raised concerns with alterations to areas containing asbestos materials and the management of that asbestos, as well as the potential hours of construction should the proposal be approved. It is noted that management of these concerns falls outside the ambit of the *Development Act 1993* or the *Planning, Development and Infrastructure Act 2016* and the applicant provided confirmation to the representor that mandatory requirements under the *Work Health & Safety Regulations 2012* (asbestos) and *Environment Protection (Noise) Policy 2007* (construction hours) would be adhered to.

The proposal has been assessed against the provisions of the Adelaide Hills Development Plan, and is considered to constitute reasonable residential development within an established rural residential area. Furthermore, the proposed additions are considered reasonable and consistent with the form, scale and design of the existing dwelling. There is limited impact to the natural surrounds including to the native vegetation found in the west of the subject land. It is considered that a fairly neutral impact to surrounding amenity can be anticipated, given the setback of the development site from boundaries, the presence of screening vegetation between sites, and the screen of native vegetation along Carroll Road, all of which reduce the potential for the development to be particularly visible from beyond the subject land.

The proposal is therefore considered to be 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 21/48/473 by Peter Corner for Two storey dwelling alterations & additions, deck (maximum height 2.5m), in-ground swimming pool & associated barriers, retaining walls (maximum height 1m) & associated earthworks at 8 Carroll Road Heathfield 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:

- Location Plan P01 prepared by 3D Design & Drafting dated 22 February 2021 and received by Council 23 February 2021.
- Proposed Site Plan P02 prepared by 3D Design & Drafting dated 22 February 2021 and received by Council 23 February 2021.
- Existing Site Plan P03 prepared by 3D Design & Drafting dated 22 February 2021 and received by Council 23 February 2021.
- Existing Lower & Ground Floor Plan P04 prepared by 3D Design & Drafting dated 22 February 2021 and received by Council 23 February 2021.
- Proposed Ground Floor Plan P05 prepared by 3D Design & Drafting dated 22 February 2021 and received by Council 23 February 2021.
- Proposed Lower Ground Floor Plan P06 prepared by 3D Design & Drafting dated 22 February 2021 and received by Council 23 February 2021.
- North & East Elevations P07 prepared by 3D Design & Drafting dated 22 February 2021 and received by Council 23 February 2021.
- South & West Elevations P08 prepared by 3D Design & Drafting dated 22 February 2021 and received by Council 23 February 2021.

### (2) Stormwater Roof Runoff to Existing System

All roof runoff generated by the development hereby approved shall be connected to the existing stormwater management system, to the reasonable satisfaction of Council. All stormwater overflow management shall be designed so as not to permit trespass into any effluent disposal area. Stormwater should be managed on site with no stormwater to trespass onto adjoining properties.

### (3) Residential Lighting

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

### (4) External Finishes

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

WALLS: 'Scyon Stria' Cladding, 'Scyon Axon' Cladding, 'Scyon Axent' Trim in light cream, or similar

ROOF: Colorbond 'Basalt', or similar

**(5) Soil Erosion Control**

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

**(6) Swimming Pool Backwash Water**

Backwash water from swimming pool filter(s) shall be directed to the sewer.

**(7) CFS Access Requirements**

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

- Access to the building site shall be of all-weather construction, with a minimum formed road surface width of 3 metres and must allow forward entry and exit for large fire-fighting vehicles.
- The all-weather road shall allow fire-fighting vehicles to safely enter and exit the allotment in a forward direction by incorporating either:
  - i. A loop road around the building, OR
  - ii. A turning area with a minimum radius of 12.5 metres, OR
  - iii. A 'T' or 'Y' shaped turning area with a minimum formed length of 11 metres and minimum internal radii of 9.5 metres.
- Private access shall have minimum internal radii of 9.5 metres on all bends.
- Understorey vegetation either side of the access road shall be reduced to a maximum height of 10cm for a distance of 3 metres. Mature trees within this fuel reduced zone may remain.
- Access shall provide safe passage to the turning area and shall not be obstructed by any solid structure (such as a carport) and/or any other structure.

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

Access to dedicated and accessible water supply shall be made available at all times for fire-fighting, in accordance with the following requirements:

- The water supply outlet shall be easily accessible and clearly identifiable from the access way and at a distance of no greater than 30 metres from the proposed dwelling.
- The dedicated water supply and its location should be identified with suitable signage (i.e. blue sign with white lettering "FIRE WATER").
- Access to the dedicated water supply shall be of all-weather construction, with a minimum formed road surface width of 3 metres.
- Provision shall be made adjacent to the water supply for a flat hardstand area (capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes) that is a distance equal to or less than 6 metres from the water supply outlet (or 3m to edge of pool if not plumbed to an outlet).
- SA CFS appliance inlet is rear mounted; therefore the outlet/water storage shall be positioned so that the SA CFS appliance can easily connect to it rear facing.
- A gravity fed water supply outlet may be remotely located from the tank to provide adequate access.
- All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.

- All water supply pipes for draughting purposes shall be capable of withstanding the required pressure for draughting.
- Ideally a remote water supply outlet should be gravity fed, where this is not possible the following dimensions shall be considered as the maximum capability in any hydraulic design for draughting purposes:
  - The dedicated water supply outlet for draughting purposes shall not exceed 5 metre maximum vertical lift (calculated on the height of the hardstand surface to the lowest point of the storage) and no greater than 6 metre horizontal distance.
  - The suction outlet pipework from the tank shall be fitted with an inline non return valve of nominal internal diameter not less than that of the suction pipe and be located from the lowest point of extract from the tank. All fittings shall be installed to allow for easy maintenance.

**(9) CFS Water Supply**

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

- A minimum supply of 22,000 litres of water shall be available at all times for bushfire fighting purposes.
- The minimum requirement of 22,000 litres may be combined with domestic use, providing the outlet for domestic use is located above the 22,000 litres of dedicated fire water supply in order for it to remain as a dedicated supply.
- The bushfire fighting water supply shall be clearly identified and fitted with an outlet of at least 50mm diameter terminating with a compliant SA CFS fire service adapter, which shall be accessible to bushfire fighting vehicles at all times.
- The water storage facility (and any support structure) shall be constructed of non-combustible material.
- The dedicated fire-fighting water supply shall be pressurised by a pump that has –
  - i. A minimum inlet diameter of 38mm, AND
  - ii. Is powered by a petrol or diesel engine with a power rating of at least 3.7kW (5hp), OR
  - iii. A pumping system that operates independently of mains electricity and is capable of pressurising the water for fire-fighting purposes.
- The dedicated fire-fighting water supply pump shall be located at or adjacent to the habitable building to ensure occupants safety when operating the pump during a bushfire. An 'Operations Instruction Procedure' shall be located with the pump control panel.
- The fire-fighting pump and any flexible connections to the water supply shall be protected by a non-combustible cover that allows adequate air ventilation for efficient pump operation.
- All bushfire fighting water pipes and connections between the water storage facility and a pump shall be no smaller in diameter than the diameter of the pump inlet.
- All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.
- A fire-fighting hose (or hoses) shall be located so that all parts of the building are within reach of the nozzle end of the hose and if more than one hose is required

they should be positioned to provide maximum coverage of the building and surrounds (i.e. at opposite ends of the habitable building).

- All fire-fighting hoses shall be capable of withstanding the pressures of the supplied water.
- All fire-fighting hoses shall be of reinforced construction manufactured in accordance with AS2620 or AS 1221.
- All fire-fighting hoses shall have a minimum nominal internal diameter of 18mm and a maximum length of 36 metres.
- All fire-fighting hoses shall have an adjustable metal nozzle, or an adjustable PVC nozzle manufactured in accordance with AS 1221.
- All fire-fighting hoses shall be readily available at all times.

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

Landscaping shall include bushfire protection features which will prevent or inhibit the spread of bushfire and minimise the risk of life and/or damage to buildings and property. A vegetation management zone (VMZ) shall be established and maintained within 20 metres of the habitable building (or to the property boundaries – whichever comes first) as follows:

- i. The number of trees and understorey plants existing and to be established within the VMZ shall be reduced and maintained such that when considered overall a maximum coverage of 30% is attained, and so that the leaf area of shrubs is not continuous. Careful selection of the vegetation will permit the 'clumping' of shrubs where desirable, for diversity, and privacy and yet achieve the 'overall maximum coverage of 30%.
- ii. Reduction of vegetation shall be in accordance with SA Native Vegetation Act 1991 and SA Native Vegetation Regulations 2017.
- iii. Trees and shrubs shall not be planted closer to the building(s) than the distance equivalent to their mature height.
- iv. Trees and shrubs must not overhang the roofline of the building, touch walls, windows or other elements of the building.
- v. Shrubs must not be planted under trees and must be separated by at least 1.5 times their mature height.
- vi. Grasses within the zone shall be reduced to a maximum height of 10cm during the Fire Danger Season.
- vii. No understorey vegetation shall be established within 1 metre of the habitable building (understorey is defined as plants and bushes up to 2 metres in height).
- viii. Flammable objects such as plants, mulches and fences must not be located adjacent to vulnerable parts of the building such as windows, decks and eaves.
- ix. The VMZ shall be maintained to be free of accumulated dead vegetation.

**(11) CFS Conditions to Be Completed Prior to Occupation**

The Country Fire Service (CFS) Bushfire Protection Conditions (Conditions 7-10) shall be substantially completed prior to the occupation of the building and thereafter maintained in good condition.

## NOTES

(1) **Development Plan Consent Expiry**

Development Plan Consent (DPC) is valid for a period of twenty four (24) months commencing from the date of the decision or, if an appeal has been commenced the date on which the appeal is determined.

Building Consent must be applied for prior to the expiry of the DPC and lodged through the PLANSA portal unless a private certifier was engaged prior to 19 March 2021. The time period may be further extended by Council agreement following written request and payment of the relevant fee.

(2) **Erosion Control During Construction**

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

(3) **CFS Bushfire Attack Level**

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

The Bushfire hazard for the area has been assessed as BAL 12.5.

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

(4) **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](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.

(6) **Requirement for SA Water Approval to Fill Swimming Pool**

**New pools or spas may only be filled under the authority of a permit from SA Water. The applicant is advised to obtain a permit to fill the pool with water from SA Water before proceeding with the installation of the swimming pool. SA Water advises that a permit will not be granted unless proof is provided that a cover has been purchased to prevent water loss through evaporation.**

**(7) Swimming Pool Pumps & Filters**

**Pumps and filters must be located and operated so as not to emit noise levels in excess of the applicable Environment Protection (Noise) Policy 2007. The maximum noise level shall not exceed 45db(A) from 10:00pm on any night until 7:00am the following morning.**

**(8) Swimming Pool Chemicals**

**No spillage of waste shall occur from the storage or use of pool chemicals. Disposal of any chemicals shall only occur at the EPA Household Hazardous Waste Depot (Ph 8204 1947) or through a licensed waste contractor.**

**9. ATTACHMENTS**

- Locality Plan
- Proposal Plans
- Referral Responses
- Representation
- Applicant's response to representations

Respectfully submitted

Concurrence

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**Ashleigh Gade**  
**Statutory Planner**

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**Deryn Atkinson**  
**Assessment Manager**

## COUNCIL ASSESSMENT PANEL MEETING

12 May 2021

### AGENDA – 8.4

<b>Applicant:</b> Ryan & Rebeka Probert	<b>Landowner:</b> R A & R Probert
<b>Agent:</b> N/A	<b>Originating Officer:</b> Sarah Davenport
<b>Development Application:</b>	21/60/473
<b>Application Description:</b> Single storey detached dwelling, two water tanks (22,500L) & associated earthworks & change of use of existing dwelling to domestic outbuilding	
<b>Subject Land:</b> Sec: 882 HDP:105500 CT:5383/693	<b>General Location:</b> 44 Orana Drive Mylor  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 8 August 2019 <b>Map AdHi/3 &amp; 42</b>	<b>Zone/Policy Area:</b> Watershed (Primary Production) Zone - Rural Landscape Policy Area
<b>Form of Development:</b> Merit	<b>Site Area:</b> 4.84 hectares
<b>Public Notice Category:</b> Category 1	<b>Representations Received:</b> N/A  <b>Representations to be Heard:</b> N/A

#### 1. EXECUTIVE SUMMARY

The purpose of this application is to obtain Development Plan Consent for the development of a new single storey detached dwelling along with the decommissioning and conversion of the existing dwelling to be a domestic outbuilding.

The subject land is located within the Watershed (Primary Production) Zone - Rural Landscape Policy Area and the proposal is a Category 1 'consent on merit' form of development, therefore no public notification process is required or permitted.

As per the Adelaide Hills Council Instrument of Delegation "D" made pursuant to the *Planning, Development and Infrastructure Act 2016*, the CAP is the relevant authority, in all circumstances where a development application is lodged for a staff member, elected member or person engaged by Council, and the Assessment Manager determines the matter warrants delegation to the CAP. The application has been considered by the Assessment Manager who has determined delegation to the Council Assessment Panel should be exercised to ensure the decision process is transparent.

The main issue relating to the proposal is a transparent process with regards to a new development proposed by a staff member. In all other respects the proposal of a *detached dwelling and domestic outbuilding*, is a 'merit' form of development in the zone, and are contemplated by planning policy.

In consideration of all the information presented, and following an assessment against the relevant zone and Council Wide provisions within the Development Plan, staff are recommending that the proposal be **GRANTED** Development Plan Consent, subject to conditions

#### 2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- Single-storey detached dwelling.
- Two additional Water Tanks of 22,500 litres.
- Associated earthworks for the dwelling site.
- De-commissioning of the existing detached dwelling and conversion for use as a domestic outbuilding.

The proposed dwelling is dimensioned 23.68 metres in length x 12.51 metres in width (overall dimensions include under main roof double garage and alfresco) with a height of 5.0 metres above natural ground level and 4.0 metres from the finished pad level to the topmost point of the skillion roof. The proposed building is to be upon a prepared pad on the gently sloping site with a maximum of 1.0 metre of fill at the north-eastern aspect of the dwelling's footprint and a small proportion of excavation at the dwelling's south-western corner.

The dwelling is to be situated some 57 metres from the Orana Drive frontage, approximately 89 metres from the nearest part of the eastern side boundary, 86 metres from the western side boundary and approximately 167 metres from the northern (rear) property boundary.

The proposed dwelling maintains separation distances of approximately 15 metres from the existing dwelling (to be converted to domestic outbuilding), approximately 58 metres to the existing outbuilding to the north and approximately 40 metres to the existing shed to the south-west.

The proposed building is to be finished in a composite of external materials and finishes including weathertex 'weathergroove' vertically expressed plank external cladding in 'natural' (timber texture and appearance) finish with window & door frames, external posts, panel lift door, downpipes and trims in Colorbond © 'monument' and roof sheeting in Colorbond © 'monument'.

The existing dwelling on the site is to be retained, in a decommissioned state, with plumbing services and kitchen/bathroom fixtures to be removed such that it can be converted to, and used as a domestic outbuilding for domestic storage.

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
22/9/2020	783/20	Domestic outbuilding



#### 4. REFERRAL RESPONSES

The applicant provided a pre-lodgement advice from the SA Country Fire Service (CFS) with their application. The Council therefore use this advice instead of undertaking a referral pursuant to Section 37 of the Act and Schedule 8 of the *Development Regulations 2008*, as the proposed development is situated within the High Bushfire Risk Zone as provided in Bushfire Protection Area Figure AdHi(BPA)/1.

- **CFS**

The applicant has undertaken formal pre-lodgement consultation with the SA Country Fire Service pursuant to Section 37AA of the Act, the details and the response are accordingly included as part of the lodgement detail pursuant to Section 37 and Schedule 8.

The CFS have assessed the Bushfire Attack Level of the site as BAL 19 and assessed the plans and details for the proposal raising no objection to the proposal subject to a group of standard conditions (refer recommended conditions 5-8).

- **AHC EHU**

Council's Environmental Health Officer has granted approval to install a waste water treatment system (refer 21/W055/473).

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

#### 5. CONSULTATION

The application was categorised as a Category 1 form of development not requiring formal public notification pursuant to Schedule 9 Part 1 (2)(a).

#### 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 4.84 hectares in area and contains an existing dwelling, outbuildings and shed. The land is gently sloping with a gradient of approximately 1:8 with the land sloping away from its high point in the south-eastern corner to its low point in the north-eastern corner.

The land is generally cleared featuring intermittent vegetation, with the exception of established vegetation about the existing & proposed dwellings location and along part of the eastern side boundary. The latter appears to be part of an artificial drainage course from a dam adjacent to the south (Allotment 2 in FP11712).

- ii. The Surrounding Area

The surrounding locality exhibits undulating land and allotments of similar proportions in the size range of 0.5 of a hectare to 4 hectares typically. The locality exhibits areas of substantial vegetation, more prominent and dense in the steeper hillsides on the northern side of Leslie Creek Road.

Allotments typically exhibit single detached dwellings, domestic and rural related outbuildings upon the large land holdings and often have dams associated with hobby farming activities, horse keeping and low intensity horticulture.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

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

- *to maintain and enhance natural resources of the Mount Lofty Ranges particularly water resources.*
- *to protect the long term sustainability of primary production activities.*
- *to enhance amenity and landscape value through preservation and restoration of native vegetation.*
- *to support and develop the tourism industry with accommodation, attractions & facilities and increase visitation and overnight stays in the region; and*
- *to support Primary Production and low density rural living land uses within the Policy Area and exclude incompatible land uses in these areas.*

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

*Objectives: 1, 2, 3 & 4*

*PDCs: 2, 5 & 6*

The following are considered to be the relevant **Watershed (Primary Production) Zone** [W (PP)] provisions:

*Objectives: 4 & 5*

*PDCs: 1, 2, 3, 8, 9, 11, 14, 15, 16, 23, 29, 39 & 70*

*Accordance with the Watershed (Primary Production) Zone and Policy Area*

The proposal is not offensive or prejudicial to the intent of the W(PP) zone and it is aligned with the Rural Landscape Policy Area provisions which actively seek to establish rural living type land uses amongst more dedicated primary production land uses provided that proposed developments are compatible and maintain desired characteristics and amenity of the locality.

The building will not impair the amenity of the locality as the dwelling itself is low profile and incorporates dark natural colours and low reflectivity finishes which will blend in with the surrounding natural and built environment.

The existing dwelling, which is to be converted to an outbuilding and used for domestic storage, is of little consequence to the overall development and is substantially concealed behind the existing vegetation on the property's front boundary.

The applicant's indication that the existing dwelling structure is to be demolished in the future should not be relied upon as the building is proposed to be formally converted in Planning and Building rules respects in this application. Accordingly a condition is recommended to limit the use of the existing building as an outbuilding (refer to recommended condition 4).

#### Form of Development

Development of dwellings in the subject Zone and Policy area is clearly contemplated by the Development Plan, specifically by PDC 23 and where development will contribute to a *scenically attractive, and pleasant rural character*.

The proposal will establish a detached dwelling with adequately low profile and contemporary built form which will be situated inconspicuously within the rural / semi-rural environment.

#### Appropriateness of Proposal in Locality

The proposed development is highly unlikely to present any dissimilar or conflicting land use issues within the nearby or broader locality as it shares similar characteristics of rural living land uses, and contains detached dwellings and outbuildings developed on the surrounding land parcels.

#### Appearance of Land and Buildings

PDCs 1, 2, 11 & 14 seek buildings that have a high standard of design, with respect to external appearance, choice of materials and colours, being sited to blend with, preserve and enhance the character and amenity of the locality which is considered to be satisfied by the proposed new dwelling's design, appearance and siting.

#### Conservation

The proposed development does not represent any conflicts with the conservation values of the Zone or Policy Area. A small proportion of vegetation is to be affected by the siting of the building. However, this vegetation appears to have been established with, and generally about the same time as the existing dwelling and is not considered to be of a high conservation value.

Notably the existing landscaping/vegetation at the site frontage includes non-native species, feral blackberry, fruit trees, poplar, prickly pear and Aleppo pine trees, some of which are invasive or *declared* pest species in the Landscapes SA Adelaide Hills and Mt Lofty Natural Resources Management area.

#### b) *Council Wide provisions*

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

- *appropriate design and appearance standards for buildings.*
- *orderly and sustainable development.*
- *avoidance of incompatible land uses.*
- *residential development meeting appropriate standards.*

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

Design and Appearance

Objectives: 1

PDCs: 1, 3, 9 & 18

Interface between Land Uses

Objectives: 1

PDCs: 2 & 15

Hazards

Objectives: 1, 2 & 5

PDCs: 1, 7 & 8

Orderly and Sustainable Development

Objectives: 1, 3, 4 & 6

PDCs: 1 & 2

Residential Development

Objectives: 1 & 2

PDCs: 9, 13 & 14

Siting and Visibility

Objectives: 1

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

The proposal does not intend to change the land use as there has been long established residential development on the subject land. The proposal does however better accord with the Council Wide provisions of the Development Plan through improved siting of the new dwelling. This includes increased setbacks from larger trees and heavier vegetation which could pose a risk to the siting of the existing dwelling from a bushfire perspective, and by developing a much higher standard of design and finish of the built form in the locality.

It is noted that the siting of the proposed new dwelling will be substantially concealed from clear and direct view and similarly, the existing dwelling which is to be retained and used as a domestic outbuilding, is also concealed by existing vegetation.

The proposal provides for all necessary requirements for residential development including augmenting the existing water supply associated with the existing shed and dwelling which will ensure both potable domestic and firefighting water supplies are adequate for the development.

The site affords more than adequate space for an on-site wastewater treatment system and disposal areas to be established on the land and does not represent any risk to water resources, with the nearest watercourse situated some 450 metres to the north, on the opposite side of Leslie Creek Road. The nearest dam is also in excess of 100 metres from the proposed development and wastewater infrastructure, with other dams in the order of 200 metres from the wastewater disposal area.

The proposed dwelling is not considered to address risk from a bushfire. However, the CFS advice identifies a bushfire attack level of BAL 19 which can be adequately satisfied with conventional building work. As a result of development on the site and renewed residential use, the land is likely to be managed to a higher degree with adequate measures to reduce the bushfire risk in the areas immediately surrounding the new dwelling, shed and outbuilding. The proposal is therefore considered to address the above Council Wide provisions related to design and appearance, interface between development uses, hazards, orderly and economic development, residential development and siting and visibility.

The proposed development provides clustered and inconspicuous development of the land in a manner which is consistent with the intent of the Zone and particularly the Policy Area and is complimentary to the development and land uses in the surrounding locality.

*c) Other Considerations*

The existing dwelling is to be converted to a domestic outbuilding and is proposed to be adequately decommissioned by way of removal of the internal fixtures, such as the laundry, kitchen and bathroom fittings, and capping of the plumbing and drainage.

The existing wastewater system will also be decommissioned in accordance with the relevant environmental health requirements.

## 7. SUMMARY & CONCLUSION

The proposal assessed against the provisions of the Adelaide Hills Development Plan is considered to demonstrate considerable merit insofar that it vastly improves upon the existing form and appearance of the dwelling, notwithstanding the existing dwelling will be retained for domestic outbuilding use/storage.

The proposal otherwise suitably blends within the surrounding rural/semi-rural environment in which it will be situated, is of a high standard of design and appearance and is considered highly unlikely to create any interface issues with surrounding land uses.

The proposed development neither establishes any unreasonable risk or susceptibility to bushfire and will not propagate or perpetuate any risk to the environmental values of the Watershed Protection Area.

The proposal is therefore considered to be 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 21/60/473 by Ryan & Rebeka Probert for Single storey detached dwelling, two water tanks x (22,500L) & associated earthworks & change of use of existing dwelling to domestic outbuilding at 44 Orana Drive Mylor 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:

- Maxwell Consulting Engineers plans SD1 and S1 amended 31 March 2021
- E Design Plans - Sheets 1.1, 1A, 1B, 2.1, 3.1, 4.1, 5.1, 6.1 and 7 all amended 27 February 2021

### (2) External Finishes

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

WALLS:            Weathertex 'weathergroove' or similar  
ROOF:             Colorbond © 'monument' or similar

### (3) Driveways

Driveways shall be constructed with hard-standing, all-weather materials and designed to provide safe and convenient all weather access.

### (4) Restriction On the Use of the Outbuilding

The converted outbuilding shall not be used for human habitation, commercial or industrial purposes. Any such activity may constitute a change in use and will require separate development approval.

### SA Country Fire Services Conditions of Consent:

### (5) Access to Dwelling

Access to the building site shall be of all-weather construction, with a minimum formed road surface width of 3 metres and must allow forward entry and exit for large fire-fighting vehicles.

The all-weather road shall allow fire-fighting vehicles to safely enter and exit the allotment in a forward direction by incorporating either:

- A loop road around the building, OR
- A turning area with a minimum radius of 12.5 metres, OR
- A 'T' or 'Y' shaped turning area with a minimum formed length of 11 metres and minimum internal radii of 9.5 metres.

Private access shall have minimum internal radii of 9.5 metres on all bends.

**Vegetation overhanging the access road shall be pruned to achieve a minimum vehicular clearance of not less than 4 metres in width and a vertical height clearance of 4 metres.**

**(6) Access to dedicated water supply**

**The water supply outlet shall be easily accessible and clearly identifiable from the access way and at a distance of no greater than 30 metres from the proposed dwelling:**

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

**(7) Water Supply**

**A minimum supply of 22,000 litres of water shall be available at all times for bushfire fighting purposes.**

- **The minimum requirement of 22,000 litres may be combined with domestic use, providing the outlet for domestic use is located above the 22,000 litres of dedicated fire water supply in order for it to remain as a dedicated supply.**
- **The bushfire fighting water supply shall be clearly identified and fitted with an outlet of at least 50mm diameter terminating with a compliant SA CFS fire service adapter, which shall be accessible to bushfire fighting vehicles at all times.**
- **The water storage facility (and any support structure) shall be constructed of non-combustible material.**
- **The dedicated fire-fighting water supply shall be pressurised by a pump that has –**
  - i. **A minimum inlet diameter of 38mm, AND**
  - ii. **Is powered by a petrol or diesel engine with a power rating of at least 3.7kW (5hp), OR**
  - iii. **A pumping system that operates independently of mains electricity and is capable of pressurising the water for fire-fighting purposes.**
- **The dedicated fire-fighting water supply pump shall be located at or adjacent to the habitable building to ensure occupants safety when operating the pump during a bushfire. An ‘Operations Instruction Procedure’ shall be located with the pump control panel.**

- The fire-fighting pump and any flexible connections to the water supply shall be protected by a non-combustible cover that allows adequate air ventilation for efficient pump operation.
- All bushfire fighting water pipes and connections between the water storage facility and a pump shall be no smaller in diameter than the diameter of the pump inlet.
- All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.
- A fire-fighting hose (or hoses) shall be located so that all parts of the building are within reach of the nozzle end of the hose and if more than one hose is required they should be positioned to provide maximum coverage of the building and surrounds (i.e. at opposite ends of the habitable building).
- All fire-fighting hoses shall be capable of withstanding the pressures of the supplied water.
- All fire-fighting hoses shall be of reinforced construction manufactured in accordance with AS2620 or AS 1221.
- All fire-fighting hoses shall have a minimum nominal internal diameter of 18mm and a maximum length of 36 metres.
- All fire-fighting hoses shall have an adjustable metal nozzle, or an adjustable PVC nozzle manufactured in accordance with AS 1221.
- All fire-fighting hoses shall be readily available at all times.

**(8) Vegetation**

A vegetation management zone (VMZ) shall be established and maintained within 20 metres of the habitable building (or to the property boundaries – whichever comes first) as follows:

- i. The number of trees and understorey plants existing and to be established within the VMZ shall be reduced and maintained such that when considered overall a maximum coverage of 30% is attained, and so that the leaf area of shrubs is not continuous. Careful selection of the vegetation will permit the 'clumping' of shrubs where desirable, for diversity, and privacy and yet achieve the 'overall maximum coverage of 30%'.
- ii. Reduction of vegetation shall be in accordance with SA Native Vegetation Act 1991 and SA Native Vegetation Regulations 2017.
- iii. Trees and shrubs shall not be planted closer to the building(s) than the distance equivalent to their mature height.
- iv. Trees and shrubs must not overhang the roofline of the building, touch walls, windows or other elements of the building.
- v. Shrubs must not be planted under trees and must be separated by at least 1.5 times their mature height.
- vi. Grasses within the zone shall be reduced to a maximum height of 10cm during the Fire Danger Season.
- vii. No understorey vegetation shall be established within 1 metre of the habitable building (understorey is defined as plants and bushes up to 2 metres in height).
- viii. Flammable objects such as plants, mulches and fences must not be located adjacent to vulnerable parts of the building such as windows, decks and eaves
- ix. The VMZ shall be maintained to be free of accumulated dead vegetation.



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

## NOTES

(1) **Development Plan Consent Expiry**

Development Plan Consent (DPC) is valid for a period of twenty four (24) months commencing from the date of the decision or, if an appeal has been commenced the date on which the appeal is determined.

Building Consent must be applied for prior to the expiry of the DPC and lodged through the PLANSA portal unless a private certifier was engaged prior to 19 March 2021. The 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](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  
Referral Responses



Respectfully submitted

Concurrence

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**Sarah Davenport**  
**Statutory Planner**

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**Deryn Atkinson**  
**Assessment Manager**

## COUNCIL ASSESSMENT PANEL MEETING

12 May 2021

### AGENDA – ITEM 8.5

<b>Applicant:</b> Andrew Granger	<b>Landowner:</b> A R Granger & K M Jones
<b>Agent:</b> Michael Lock	<b>Originating Officer:</b> Damon Huntley
<b>Development Application:</b>	20/1332/473 20/D061/473
<b>Application Description:</b> Land division - Boundary re-alignment (2 into 2) (non-complying)	
<b>Subject Land:</b> Allotment:2 Sec: P1166 FP:100364 CT:5097/888 Allotment:54 Sec: P1166 FP:130408 CT:5557/184	<b>General Location:</b> 200 & 204 Institute Road, Montacute  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 08 August 2019 <b>Map</b> AdHi/9 & AdHi/47	<b>Zone/Policy Area:</b> Hills Face Zone Map AdHi/9
<b>Form of Development:</b> Non-complying	<b>Site Area:</b> 200 Institute Road: 4.001 hectares 204 Institute Road: 9,600m <sup>2</sup>
<b>Public Notice Category:</b> Category 1	<b>Representations Received:</b> N/A <b>Representations to be Heard:</b> N/A

#### 1. EXECUTIVE SUMMARY

The purpose of this application is to undertake a minor boundary realignment in order to correct an anomaly in relation to the position of buildings established over neighbouring boundaries.

An existing carport, access track and 20,000L water storage tank believed to be established within existing Allotment 2 (the southern Allotment) has been confirmed by survey to be located within existing Allotment 54. These structures are patently critical to the access and functionality of the dwelling located on existing Allotment 2, including a private bushfire bunker appurtenant to the dwelling on existing Allotment 2.

The subject land is located within the Hills Face Zone within which the proposal is prescribed as a non-complying form of development. The proposal, being a boundary re-alignment resulting in the same number of allotments as the existing, is a Category 1 form of development pursuant to Schedule 9 Part 1 (3)(c) of the Development Regulations 2008, and accordingly, the application has not been subject to public notification.

The proposal is fundamentally based upon the need to re-align the common boundary to address an anomaly in the historic location and construction of existing buildings, and in this respect represents a logical and desirable outcome which creates little to no impact in respect of the Adelaide Hills Council Development Plan Policy or upon the natural environment.

The main issues relating to the proposal are as follows:

- Preservation of the natural character of the Hills Face Zone
- Orderly pattern of allotments within the Hills Face Zone
- High Bushfire Risk bushfire protection
- Impact on native vegetation

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

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

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 and Land Division Consent, subject to conditions.

## 2. DESCRIPTION OF THE PROPOSAL

The proposed development seeks consent for the re-alignment of the common boundary between existing Allotment 2 and existing Allotment 54, retaining independent Torrens Titled land parcels, specifically to address an anomaly concerning the position of existing buildings established over boundaries, situated on adjacent property.

The proposed boundary re-alignment redistributes approximately 2660 metres<sup>2</sup> of land from the larger existing Allotment 54 (the northern Allotment) which is currently 4.001 Ha, to increase the size of existing Allotment 2 (the southern Allotment) to become 1.082 Ha, and to resolve the encroachment of the incorrectly sited historic structures.

The resulting Allotments have the following attributes:

### Existing Allotments

Allotment	Area (ha)	Currently containing
Allotment 54	4.001 Ha	Dwelling, Driveway, Garage, Water Storage Tanks (x1), Swimming Pool.  <b>Incorrectly positioned structures servicing Allotment 2: Carport (x1), Water Storage Tank (x1), Bushfire Shelter &amp; Driveway / vehicular access.</b>
Allotment 2	0.816 Ha	Dwelling, Outbuilding, Water Tanks (x3).

### Proposed Allotments

Allotment	Area (ha)	Containing
Allotment 2	3.739 Ha	Dwelling, Driveway, Garage, Water Storage Tank (x1), Swimming Pool.
Allotment 1	1.082 Ha	Dwelling, Outbuilding, Water Storage Tanks (x4), Bushfire shelter ( <i>one tank of which would be formally transferred from existing Allotment 54</i> ).

		Carport (x1), Bushfire Shelter, Driveway / vehicular access (formally transferred from existing Allotment 54).
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An existing vehicular access point is located at the southern end of existing Allotment 54, which provides a right-of-passage to the carport that is incorrectly positioned on the land. As part of the proposed boundary re-alignment, the vehicle access at the southern end of existing Allotment 54 is to be formally transferred to proposed Allotment 1.

The plan of division includes the relevant detail of the buildings currently encroaching from existing Allotment 2 into existing Allotment 54 and the proposed adjusted boundary to rectify the encroachments.

The Statement of Support prepared by Heynen Planning Consultants can be read in conjunction with the proposed plan of division to assist interpretation.

Whilst the southern portion of existing Allotment 54 and the northern portion of existing Allotment 2 are both filled with a dense spread of native trees, the proposed re-alignment of the boundary does not seek to incorporate the removal of any trees, thus maintaining the extent of native vegetation that is currently present.

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
23 July 1998	98/695/473	Domestic Shed (200 Institute Road)
20 December 2000	00/1261/473	Tree removal – 3 Cherry Plum Trees (200 Institute Road)
23 February 2004	03/626/473	Addition to detached dwelling (class 1a) (200 Institute Road)
14 May 2004	04/463/473	Carport attached to detached dwelling (200 Institute Road)
14 August 2013	11/1101/473	Demolition of existing domestic outbuilding and water storage tanks (x 2) and dwelling alterations and additions and construction of non-habitable domestic outbuilding (measuring 12m x 6m x 2.4m) and the construction of underground water storage tanks (204 Institute Road)
06 January 2016	14/222/473	Two storey dwelling alterations & additions & carport (6m x 5.3m x 3.1m post height (non-complying) (204 Institute Road)
Application Withdrawn	20/1019/473	Fence (200 Institute Road)

#### 4. REFERRAL RESPONSES

The application was referred to the following referral agencies:

- **SCAP Consultation Report**  
Standard response from SCAP provided in relation to providing a final plan complying with the requirements for plans as set out in the Manual of Survey Practice (refer to SCAP Land Division Condition 1).
- **SA Water Corporation**  
SA Water has advised that they have no requirements as per the Section 33 of the Development Act.
- **Department of Environment and Water (Native Vegetation Branch)**  
The Native Vegetation Branch have advised that they have no objection to the proposed boundary re-alignment. Should the land owner intend to fence the boundary, they are required to notify the NVC prior to establishment of a fence (refer to Development Plan Consent Note 1).

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

#### 5. CONSULTATION

The application was determined to be a Category 1 form of development in accordance with Schedule 9 Part 1 (3)(c) of the Development Regulations 2008, which provides that:

3. Any development classified as non-complying under the relevant Development Plan which comprises—
- (a) .....
  - (b) .....
  - (c) the division of land where the number of allotments resulting from the division is equal to or less than the number of existing allotments.

As the proposal purports a boundary realignment resulting in the same number of Allotments to that which currently exist, the proposal is determined to be a Category 1 form of development and accordingly the application has not been subject to public notification processes.

#### 6. PLANNING & TECHNICAL CONSIDERATIONS

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

- i. The Site's Physical Characteristics  
The subject Allotments are currently 4.001 Ha and 0.816 Ha in area respectively, and will result in adjusted Allotments of 3.739 Ha and 1.082 Ha respectively, with a transfer of 2660 m<sup>2</sup> occurring within proposed Allotment 1.

Both Allotments are used for residential purposes, each containing a dwelling, and each with an associated outbuilding. Both Allotments are accessed via an independent access point directly from Institute Road. However, proposed Allotment 1 does not have a legal right-of-way to access the freestanding carport located in existing Allotment 2. The proposed re-alignment seeks to remedy this anomaly between opposing titles. Both Allotments have moderately undulating terrain, and both comprise vast areas of dense native trees.

ii. The Surrounding Area

The surrounding locality provides a range of allotment sizes varying from 6.72 Ha to 9,600m<sup>2</sup>. Whilst Existing Allotment 2 may represent the smallest of the allotments within the locality, in all other respects the allotment exhibits comparable characteristics to the broader locality (for example: sloping topography and dense covering of native trees).

The realignment of boundaries also largely retains 'status quo', in terms of allotment size, increasing Allotment 2 by a small degree, towards the characteristic average allotment size within the locality.

iii.

Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Hills Face Zone. No policy area applies to this assessment. The Hills face zone provisions seek to preserve and enhance the natural characteristics of land in the area for its aesthetic and biodiversity value whilst accommodating sensitive forms of development and low intensity rural / agricultural land uses.

The zone also emphasises protection and enhancement of native vegetation and acknowledges the importance of development incorporating fire protection measures to minimize bushfire risk.

*Objectives:* 1, 2

*PDCs:* 1, 3(d) & (m) (i), 15, & 22

Accordance with Zone

The relevant zone provisions illustrate the intention for development to remain unobtrusive and to preserve the natural environment. The proposed boundary realignment preserves existing native vegetation, with intent to maintain all intact native vegetation. The position of the proposed boundary is capable of avoiding clearance. The applicant has confirmed that no fencing currently exists between the properties and there is no intention to install any future fence(s) subsequent to this application.

The proposal seeks to re-align a section of the side boundary between existing Allotments 54 and 2 by re-aligning this boundary to capture an additional area of 2,660sqm. This boundary change will incorporate part of the existing access path / driveway for the freestanding carport currently on existing Allotment 2 into proposed Allotment 1.

The establishment of the re-aligned boundary will not increase visibility of any of the buildings concerned with either allotment. As highlighted previously within this report, the re-alignment is fundamentally to address the anomaly of historically developed buildings incorrectly positioned on the land and encroaching over the adjacent boundary.



The proposal is not considered to be prejudicial to the natural landscape amenity of the locality. As such, the proposal is considered to be consistent with the pertinent objectives of the zone.

*b) Council Wide provisions*

The Council Wide provisions of relevance to this proposal seek to reinforce safety of life and property from natural hazards, in this instance, bushfire risk, and continue to preserve and enhance the natural environment. The fine balance of these matters is critical to the achievement of the Development Plan intent and development must be carefully considered.

The Council Wide land division provisions seek to ensure that the arrangement of land is orderly and does not result in improper arrangement of boundaries, or land parcels inappropriate for their intended use.

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

Hazards

*Objectives: 1, 2, & 5*

*PDCs: 8 & 13*

Objective 5 seeks for development to be located so that it minimises the threat and impact of bushfire on life and property while protecting natural and rural character. As mentioned earlier in the report, the main purpose behind the boundary re-alignment is to facilitate legal access to the carport, water tanks used dedicated for fire-fighting purposes, and an existing fire bunker.

Elements of access, and water supply are existing and established, only the arrangement of the dividing boundary and the tenure of the land and buildings are to be rectified and accordingly represents no further impact to the environment other than the establishment of the new boundary alignment.

The proposal is therefore considered to achieve the intent of Objective 5 in that it will help the owners maintain access to critical infrastructure in the event of a bushfire.

Land Division

*Objectives: 1, 2, & 4*

*PDCs: 2, 5, 6(c), 7, & 11(d)*

The proposal is for a minor boundary re-adjustment between two allotments which will not result in the creation of an additional allotment or impact on the existing or future uses of the land. The proposal is therefore considered to be orderly, and therefore consistent with Objective 1, and PDCs 2 and 7.

PDC 6(c) states that the design of a land division should incorporate safe and convenient access for each allotment to an existing or proposed road or thoroughfare. Whilst this PDC refers more to the provision of appropriate access to a public road, it can be applied more broadly to access for land generally, particularly in high bushfire

risk bushfire protection areas. Given that one of the main purposes of the boundary re-alignment is to allow for legal access to a carport, the proposal is considered to be consistent with the general intent of PDC 6(c). As mentioned earlier in the report, the re-alignment of the boundary will not result in clearance of any vegetation. The proposal is therefore considered to accord with PDCs 5 and 11(d).

Natural Resources

*Objectives: 8, 10, 13, & 14*

*PDCs: 6 & 38*

The proposal will not perpetuate any additional development within the area, nor will it be contrary to the aims and objections of the Hills Face Zone and Council Wide natural resources provisions that generally seek protection of the natural landscape and biodiversity value.

Whilst the boundary re-alignment does not propagate any new or increased development opportunity for the subject sites, it does give rise to some potential of alteration or clearance of native vegetation for the creation of boundaries / fencing (which may or may not occur and in any case would need to comply with Native Vegetation Act standards / limitations for clearance), and for maintenance of an appropriate asset protection zone for bushfire safety of the existing buildings. In respect of the existing buildings, it is noted that the asset protection areas will inherently remain with the position of the existing structures, irrespective of the position of the boundary between adjoining Allotments.

In regards to the boundary re-alignment, the proposal seeks to regularise the connection between the established access point/driveway, the additional water supply, and the existing bushfire shelter, with the dwelling within existing Allotment 2. These ancillary structures were intentionally developed solely for the residential use and function of this property. No further adverse impacts from vegetation clearance for building is proposed as a result of this application, and therefore avoids any further incremental impact upon the natural environment.

The potential impact of the proposed boundary re-alignment upon natural resources is considered minimal and, in such case, would be much the same as the impact that could occur in respect of the fencing of the existing boundary alignment. In light of this, the Native Vegetation Council have stated the following in their referral response:

“Should the proposed boundary realignment be approved and the boundary between proposed allotment 1 & 2 fenced, similar amounts of vegetation clearance could occur that are already possible along the current shared boundary between allotments 54 & 2.”

It is noted that the Native Vegetation Branch does not object to the proposal in its current form and suggests that if the landowners intend to fence the boundary they are made aware of the requirement to notify the Native Vegetation Council prior to establishment of a fence.

Re-connecting the existing garage, water tank, driveway and bushfire shelter ensures against further clearance of native vegetation if it were necessary to establish new equivalent access, water supply or bushfire shelter on the land.

## 7. SUMMARY & CONCLUSION

The proposal as assessed against the relevant provisions of the Adelaide Hills Council Development Plan is considered to demonstrate appropriate merit in order for it to be supported.

The fundamentally functional nature of the proposal does not purport any unreasonable impacts to the natural environment or the amenity of the area, but importantly re-establishes essential access, water supply and the bushfire shelter with the dwelling as it was historically intended to exist.

The proposal is therefore considered to be 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 to GRANT Development Plan Consent and Land Division Consent to Development Application 20/1332/473 (19/D061/473) by Andrew Granger for Land division - boundary re-alignment (2 into 2) (non complying) at 200 and 204 Institute Road, Montacute subject to the following conditions:**

### Planning Conditions

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

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

- Plan of division prepared by Lock Surveys Licenced and Engineering Surveys, reference 20016, dated 26 February 2020, and;
- Statement of support prepared by Gregg Jenkins of Heynen Planning Consultants dated 18 February 2021 (stamped by Council dated 18 February 2021).

### Planning Notes

#### (1) Department of Environment and Water (DEW) – Native Vegetation Council

This applicant is advised that any proposal to clear, remove limbs or trim native vegetation on the land, unless the proposed clearance is subject to an exemption under the Regulations of the Native Vegetation Act 1991, requires the approval of the Native Vegetation Council. For further information visit:

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

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

### Council Land Division Requirements

Nil

**Council Land Division Notes**

**(1) Land Division Development Approval Expiry**

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

**SCAP Land Division Requirements**

**(1) Requirement For Certified Survey Plan**

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

**8. ATTACHMENTS**

Locality Plan  
Proposal Plans  
Application Information  
Referral Responses

Respectfully submitted

Concurrence

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**Damon Huntley**  
Statutory Planner

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**Deryn Atkinson**  
Assessment Manager