

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 12 JANUARY 2022  
63 MOUNT BARKER ROAD, STIRLING  
AND  
ZOOM VIRTUAL MEETING ROOM**

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**In Attendance**

**Presiding Member**

Geoff Parsons

**Members**

Ross Bateup

David Brown

Paul Mickan

John Kemp

**In Attendance**

Deryn Atkinson

Melanie Scott

Marie Molinaro

Doug Samardzija

Karen Savage

Assessment Manager  
Senior Statutory Planner  
Statutory Planner  
Statutory Planner  
Minute Secretary

**1. Commencement**

The meeting commenced at 6.30pm

**2. Opening Statement**

“Council acknowledges that we meet on the traditional lands and waters of the Peramangk and Kurna people. We pay our respects to Elders past, present and emerging as the Custodians of this ancient and beautiful land. Together we will care for this country for the generations to come”.

**3. Apologies/Leave of Absence**

**3.1 Apologies**

Nil

**3.2 Leave of Absence**

Nil

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**4. Previous Minutes**

4.1 Meeting held 10 November 2021

**The minutes were adopted by consensus of all members (1)**

**That the minutes of the meeting held on 10 November 2021 be confirmed as an accurate record of the proceedings of that meeting.**

**5. Presiding Member's Report**

Nil

**6. Declaration of Interest by Members of Panel**

Paul Mickan advised that he has recently been engaged by The Barossa Council to undertake a planning project, to review policies which affect a small portion of the Adelaide Hills Council area, which includes the area south of Kersbrook which is within the Barossa Valley Character preservation district. As neither of the applications before the CAP are within this area he does not believe he has any conflict of interest in either matter and will remain in the room and vote.

Additionally, Paul advised that, in relation to Item 9.1, he is connected with the applicant's Planning Consultant, Emma Barnes, through social media. He has not connected with Emma in recent times, and has not discussed the subject application nor any other application with her. He does not believe there to be a conflict of interest and will remain in the room and vote on the matter.

The Presiding Member also advised that, in relation to Item 9.1, the organisation he works for has a contract with Planning Studio to undertake development assessment services. This is a professional relationship and will not impair his ability to remain impartial, and he will remain in the room and vote on the matter.

**7. Matters Lying on the Table/Matters Deferred**

7.1 Matters Lying on the Table

Nil

7.2 Matters Deferred

Nil

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8. **Development Assessment Applications – Development Act**  
Nil

9. **Development Assessment Applications – Planning, Development and Infrastructure Act**

- 9.1 **Development Application 21027668 by Planning Studio Pty Ltd and Vinteloper Wines to convert former dwelling to shop for the sale and tasting of wine with associated building alterations and additions, associated car parking and landscaping at 589 Cudlee Creek Road, Cudlee Creek**

9.1.1 **Representations**

<b>Name of Representor</b>	<b>Address of Representor</b>	<b>Nominated Speaker</b>
Annette Mason	10 Berry Hill Road Lobethal	Annette Mason
Jason Draper	632 Cudlee Creek Road Lobethal	Jason Draper

The applicants' representatives, David Bowley and Emma Barnes (Planning Studio), addressed the Panel.

9.1.2 **Decision of Panel**

**The following was adopted by consensus of all members (2)**

**The Council Assessment Panel resolved that:**

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
- 2) Development Application Number 21027668, by Planning Studio Pty Ltd and Vinteloper Wines for conversion of former dwelling to shop for the sale and tasting of wine with associated building alterations & additions, associated car parking and landscaping is GRANTED Planning Consent subject to the following conditions:

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**CONDITIONS**

**Planning Consent**

- 1) **Development in Accordance with Approved Plans**  
The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).
- 2) **Commercial Lighting**  
Flood lighting shall be restricted to that necessary for security purposes only and shall be directed and shielded in such a manner as to not cause nuisance to adjacent properties.
- 3) **External Finishes**  
The external finishes to the building herein approved shall be as follows:  
**WALLS:** Mixture of existing brick walls, pre-cast concrete panels and pre-colour treated steel in Colorbond 'Monument' colour or similar.  
**ROOF:** Zinc cladding in 'Pigmento Red' colour & Colorbond 'Monument' or similar.
- 4) **Prior to Building Consent – Provision of Carparking Plan Designed In Accordance with Australian Standard AS 2890.1:2004**  
Prior to Building Consent being granted a final car parking plan which complies with Australian Standard AS2890.1:2004 shall be provided and approved by Council.
- 5) **Construction & Maintenance of Car-Parking**  
All car parking spaces, driveways and manoeuvring areas shall be constructed and line-marked in accordance with AS 2890.1:2004. Line marking and directional arrows shall be clearly visible and maintained in good condition at all times. Driveways, vehicle manoeuvring and parking areas shall be constructed of compacted gravel prior to the opening of the shop and thereafter be maintained in good condition at all times to the reasonable satisfaction of Council.
- 6) **Car Parking Directional Signage**  
Directional signs indicating the location of car parking spaces shall be provided on the subject land and maintained in a clear and legible condition at all times.

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- 7) **Unloading and Storage of Materials and Goods**  
All materials and goods shall at all times be loaded and unloaded within the confines of the subject land. Materials and goods shall not be stored on the land in areas delineated for use as car parking.
- 8) **Opening Hours**  
The opening hours of the shop shall be Friday-Monday and public holidays from 11:00am to 5:00pm.
- 9) **Overall Capacity**  
At any one time, the overall capacity of the premises shall be limited to a maximum of 40 persons. This includes the associated outdoor areas.
- 10) **Entertainment**  
Amplified music shall be limited to within the shop building.
- 11) **Sale & Tasting of Alcoholic Beverages Restricted to Licensee's Own Product**  
Sales and tasting shall be limited to the licensee's own product, and shall be primarily produced within the Mount Lofty Ranges Region.
- 12) **Timeframe for Landscaping to be Planted**  
Landscaping detailed on the approved landscaping plan shall be planted in the next available planting season following the opening of the shop. Landscaping shall thereafter be maintained in good health and condition at all times. Any landscaping that dies or becomes seriously diseased shall be replaced in the next available planting season.
- 13) **Stormwater Roof Runoff & Car-Park Runoff to be Dealt With On-Site**  
All roof run-off and run-off from the car park shall be managed on-site in accordance with the approved stormwater plan to the satisfaction of Council.
- 14) **Prior to Building Consent – Provision of an amended Site Plan with Waste Storage**  
Prior to Building Consent being granted a final site plan with the location of the solid waste area and associated screening of the area from Cudlee Creek Road and Berry Hill Road, shall be provided and approved by Council staff.

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- 15) **Removal & Storage of Solid Waste**  
All solid waste of any kind shall be stored in a closed container having a closed fitting lid, and that container shall be stored in the screened area.
- 16) **Ancillary Food**  
Individual meals may not be offered to patrons, with the exception of light snacks such as platters.

**ADVISORY NOTES**

- 1) This Planning Consent is valid for a period of twenty four (24) months commencing from the date of the decision. Building Consent must be applied for prior to the expiry of the DPC.
- 2) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
- 3) Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
- 4) A separate development application is required for any signs or advertisements (including flags and bunting) associated with the development herein approved.
- 5) This approval does not in any way imply compliance with the Food Act SA 2001 and/or Food Safety Standards. It is the responsibility of the owner or other person operating the food business from the building to ensure compliance with the relevant legislation before opening the food business on the site.

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**9.2 Development Application 21018753 by Kate Bishop for tourist accommodation and associated free standing advertisement at 159 Ridge Road, Ashton**

**9.2.1 Representations**

<b>Name of Representor</b>	<b>Address of Representor</b>	<b>Nominated Speaker</b>
Kym & Sophie Nitschke	Lot 39 (141) Ridge Road Ashton	Sydney McDonald Botten Levinson

The applicant's representative, Mark Kwiatkowski (Planning Consultant), addressed the Panel.

**9.2.2 Decision of Panel**

The following was lost for want of a Seconder

Moved John Kemp Lost  
S/- (3)

The Council Assessment Panel resolved that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
- 2) Development Application Number 21018753 by Kate Bishop and Bella Casa Ashton for Tourist Accommodation & associated free standing advertisement at 159 Ridge Road Ashton is GRANTED Planning Consent subject to the following conditions:

**CONDITIONS**

**Planning Consent**

- 1) Development in Accordance with Approved Plans  
The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).

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2) Flood Lighting

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

3) External Finishes

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

WALLS: Vertical wood panelling in a timber-look finish or similar.

ROOF: Colorbond Monument or similar.

4) Use of Building

The person(s) having the benefit of this consent shall refrain from permitting the use of the building (or any part thereof) for provision long term accommodation or as a separate dwelling. The tourist accommodation unit shall be used and operated on a short term rental arrangement with a maximum of a one week stay per occupancy.

A logbook shall be kept of all occupancies for each calendar year and made available for inspection by the Council upon request.

5) Stormwater Overflow

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

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

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

6) External Colours of Signage

The external colours of the sign herein approved shall be comprised of non-reflective materials and finishes.

Any lighting associated with the sign shall be switched off at midnight on each day and shall not be switched back on before sunrise the following day.



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7) Landscaping

The southern and south-eastern aspects of the tourist accommodation herein approved, including the associated rainwater tank and car parking, shall be landscaped either with:

- An appropriate landscaped margin peripheral to the development site,  
OR
- Augmented landscape screening along the southern (Ridge Road) boundary and north-west aspect of the main (existing) driveway

Utilising appropriate locally suitable and indigenous landscaping species, to attenuate clear and direct view of the building from public outlook directly from the south and from the south-east approach on Ridge Road.

Conditions imposed by South Australian Country Fire Service under Section 122 of the Act:

1) Siting

'The Planning and Design Code' Hazards (Bushfire – High Risk) Overlay (Performance Objective 2.1, 4.2, 4.3) details the mandatory requirements for buildings and structures to be located away from areas that pose an unacceptable bushfire risk in order to provide sufficient defensible space for occupants and fire fighters; ensure radiant heat levels at the buildings are minimised in line with the assessed bushfire attack level & construction level; whilst maintaining reduced fuel loads and ensuring it can be maintained in perpetuity by the occupants:

- Outbuildings and other ancillary structures shall be sited no closer than 6m from the habitable building, unless built to building code requirements for associated structures in Bushfire Prone Areas.

2) Access to Habitable Building

'The Planning and Design Code' Hazards (Bushfire – High Risk) Overlay (Performance Objective 6.2) details the mandatory requirements for 'Private' roads and driveways to facilitate safe and effective firefighting, evacuation where required. These requirements apply when the path of travel to the furthest point of the building is more than 60m from the nearest public road:

- A clear and unobstructed vehicle or pedestrian pathway shall be provided; no greater than 60 metres in length between the most distant part of the habitable building and the nearest part of the formed public access way.

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- The driveway shall be connected to a formed, all-weather public road with the transition area between the road and driveway having a gradient of not more than 7 degrees (1-in-8).
- 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, to within 60m of the furthest point of the building; OR
- 4m where the gradient of the driveway is steeper than 12 degrees (1-in-4.5).
- The all-weather road shall allow fire-fighting vehicles to safely enter and exit the allotment in a forward direction by incorporating either:
  1. A loop road around the building, OR
  2. A turning area with a minimum radius of 12.5 metres, OR
  3. A 'T' or 'Y' shaped turning area with a minimum formed length of 11 metres and minimum internal radii of 9.5 metres, OR
  4. A 'U' shaped 'drive-through' option.
- Private access shall have minimum internal radii of 9.5 metres on all bends.
- Private access shall provide overhead clearance of not less than 4.0m horizontally and vertically between the driveway surface and overhanging branches or other obstructions, including buildings and/or structures.
- Private access shall provide overhead clearances of not less than 4.0m horizontally and vertically between the driveway surface and overhanging branches or other obstructions, including buildings and/or structures.
- The all-weather road shall incorporate passing bays. The combined width of the passing bay & access track shall be 6m, and a minimum formed length of 17 metres. The passing bays should be constructed at 200 metre intervals along the road or driveway. Where it is necessary to provide adequate visibility, such as the nearest point to the public road or other passing bay, passing bays may be required at intervals of less than 200 metres.
- The gradient of the access road shall not exceed 16 degrees (1-in-3.5) at any point along the driveway. In steep terrain exceeding 10 degrees the surface should be sealed.
- The cross fall-off of the driveway shall be not more than 6 degrees (1-in-9.5) at any point along the driveway. In steep terrain roads shall be widened and appropriate guard rails and visibility markers should be installed on sides where a steep downslope is present.
- Solid crossings over waterways shall be provided to withstand the weight of large bushfire appliances (GVM 21 tonnes).

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3) Water Supply & Access (to dedicated water supply)

Ministerial Building Standard MBS008 “Designated bushfire prone areas – additional requirements” July 2020, as published under the *Planning, Development and Infrastructure Act 2016*, provides the technical details of the dedicated water supply for bushfire fighting for the bushfire zone.

‘The Planning and Design Code’ Hazards (Bushfire – High Risk) Overlay (Performance Objective 4.3) details the mandatory requirements for the site to provide a dedicated hardstand area in a location that allows fire fighting vehicles to safely access the dedicated water supply.

Where a water storage facility is required to have a fire authority fitting, the following will apply:

- The water supply outlet shall be easily accessible and clearly identifiable from the access way and at a distance of no greater than 60 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 the water supply for a nominally level 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’s 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:
  1. The dedicated water supply outlet for draughting purposes shall not exceed 5 metres maximum vertical lift (calculated on the height of the hardstand surface to the lowest point of the storage) and no greater than 6 metres horizontal distance.

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2. 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.

Pools are permissible as the dedicated fire-fighting water supply, if the following can be achieved:

- Provision shall be made adjacent to the water supply for a nominally level 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 3m to edge of water source; OR
- A gravity fed outlet can be incorporated into the design of the plumbing; AND
- Is unobstructed by associated landscaping and barriers.

Access via a removable inspection opening is permissible if the following can be achieved:

- Provision shall be made adjacent to the water supply for a nominally level 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 3m to edge of the tank, AND
- The opening is a minimum of 200mm wide and is not more than 1.5m above ground level and no lower than 5m to the lowest point of the water source, AND
- Is unobstructed by associated landscaping and barriers.

4) Vegetation Management

'The Planning and Design Code' Hazards (Bushfire – High Risk) Overlay (Performance Objective 4.2) details the mandatory requirements to establish and maintain an asset protection zone. As such, landscaping shall include bushfire protection features that will prevent or inhibit the spread of bushfires and minimise the risk to life and/or damage to buildings and property and maintain a fuel reduced zone for safe movement of occupants and fire-fighters.

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:

- 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

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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%'.

- Reduction of vegetation shall be in accordance with SA Native Vegetation Act 1991 and SA Native Vegetation Regulations 2017.
- Trees and shrubs shall not be planted closer to the building(s) than the distance equivalent to their mature height.
- Trees and shrubs must not overhang the roofline of the building, touch walls, windows or other elements of the building.
- Shrubs must not be planted under trees and must be separated by at least 1.5 times their mature height from the trees' lowest branches.
- Grasses within the zone shall be reduced to a maximum height of 10cm during the Fire Danger Season.
- 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).
- 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.
- The VMZ shall be maintained to be free of accumulated dead vegetation.

#### ADVISORY NOTES

##### General Notes

- 1) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
- 2) Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
- 3) A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate:
  - a) Until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
  - b) If an appeal is commenced:

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- i. until the appeal is dismissed, struck out or withdrawn; or
- ii. until the questions raised by the appeal have been fully determined (other than any question as to costs).

Planning Consent

- 1) This Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision.

Building Consent must be applied for prior to the expiry of the DPC.

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

Advisory Notes imposed by Environment Protection Authority under Section 122 of the Act

- 3) The applicant/owner/operator are reminded of its general environmental duty, as required by section 25 of the *Environment Protection Act 1993*, to take all reasonable and practicable measures to ensure that activities on the site and associated with the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm.

- 4) More information about the Environment Protection Authority and the Environment Protection Act and policies can be found at: [www.epa.sa.gov.au](http://www.epa.sa.gov.au)

Advisory Notes imposed by South Australian Country Fire Service under Section 122 of the Act

- 5) Building Considerations  
Ministerial Building Standard MBS008 "Designated bushfire prone areas - additional requirements" 2020, as published under the Planning, Development and Infrastructure Act 2016 applies to this site.

Please refer to the National Construction Code (NCC), relevant standards and state provisions for construction requirements and performance provisions.

A site Bushfire Attack Level (BAL) assessment is a requirement in accordance with the NCC and Australian Standard™3959 (AS3959) "Construction of Buildings in Bushfire Prone Areas".

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- 6) The subject land is known to be within 500m of a former landfill site where there is a site contamination audit being undertaken on behalf of the Adelaide Hills Council (Council). Landfill gas has been detected on the former landfill site. However, the source (anthropogenic or natural) and extent of this gas is subject to ongoing monitoring and further analysis. At this stage, it is unknown whether or not landfill gas is migrating offsite, noting that testing for landfill gas has so far only occurred within the site of the former landfill. While the Environment Protection Authority (EPA) has not issued any formal advice or direction to the Council in relation to the proposed development, its general advice suggests that in the absence of site-specific risk information, an effective control measure is a 500m buffer between new development and a landfill, measured from the outer boundary of the area containing waste: see EPA Information Sheet 'Landfill gas and development near landfills – advice for planning authorities and developers' issued February 2021.

The applicant is reminded that if they elect to proceed with the development in the absence of site-specific risk information:

1. They do so entirely at their own risk.
2. Under the Environment Protection Act 1993, a developer may be considered to have caused site contamination if the development creates a risk to future residents or occupiers from landfill gas.
3. The Council accepts no responsibility for any harm to persons, or any harm or damage to, or loss of property, or any other detriment resulting from the applicant's actions.

It is the applicant's responsibility to ensure that all appropriate steps are undertaken to minimise the potential harm or damage to property or persons arising from this situation.

Any queries in regards to landfill gas migration or site contamination should be directed to the EPA Hotline on 1800-729-175.

**The following was adopted by consensus of all members**

**(4)**

**The Council Assessment Panel DEFERS consideration of Development Application Number 21018753 by Kate Bishop and Bella Casa Ashton for Tourist Accommodation & associated free standing advertisement at 159 Ridge Road Ashton to enable the applicant to provide:**

- 1) A detailed site and contour plan with location of access to tourist pod, CFS turnaround, detailed sign position and proposed landscaping.**

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- 2) **Site specific elevations taking into account the nature of the site and any cut and fill.**

10. **Development Assessment Applications – Review of Decisions of Assessment Manager**  
Nil

11. **ERD Court Appeals**  
Nil

12. **Policy Issues for Advice to Council**  
Nil

13. **Other Business**

13.1 Deryn advised that the term of the Council Assessment Panel expires on 31 May 2022, and Council will be advertising in February or early March for Expressions of Interest for a decision to be made at the Council meeting on 26 April 2022. The current Panel members were invited to submit EOLs to extend their appointment.

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

15. **Confidential Item**  
Nil

16. **Next Meeting**  
The next ordinary Council Assessment Panel meeting will be held on Wednesday 9 February 2022.

17. **Close meeting**  
The meeting closed at 9.03pm.