

DEVELOPMENT NO.:	21041304
APPLICANT:	RL Scott Estate
ADDRESS:	206 PRAIRIE RD CUDLEE CREEK SA 5232
NATURE OF DEVELOPMENT:	Boundary Realignment (4 lots into 4 lots)
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none">• Productive Rural Landscape <p>Overlays:</p> <ul style="list-style-type: none">• Environment and Food Production Area• Hazards (Bushfire - High Risk)• Hazards (Flooding - Evidence Required)• Limited Land Division• Mount Lofty Ranges Water Supply Catchment (Area 2)• Native Vegetation• Prescribed Water Resources Area• Water Resources
LODGEMENT DATE:	30 Dec 2021
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	Operative Version 2021.16 - (17 December 2021 to 19 January 2022).
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed – All-Other Code Assessed Development
NOTIFICATION:	No
RECOMMENDING OFFICER:	Aaron Wilksch (Consultant Planner) for Melanie Scott - Senior Statutory Planner
REFERRALS STATUTORY:	South Australian Water Corporation SPC Planning Services
REFERRALS NON-STATUTORY:	Council Property Department

CONTENTS:

ATTACHMENT 1: CAP Locality Map

ATTACHMENT 2: Proposal Plans

ATTACHMENT 3: Planning and Design Code Rules

DETAILED DESCRIPTION OF PROPOSAL:

The proposal involves realignment of boundaries of four (4) existing allotments into four (4) proposed allotments configured largely around the existing buildings. The purpose of the boundary realignment is to resolve existing encroachments such that each allotment can 'stand independently' of one another, where the former contiguous holding did not create any concern.

The proposed boundary realignment denoted as Revision C in the plan of division dated 14/04/2022, creates allotments with the following attributes:

Existing Lot / Parcel		Area	Frontage(s)	Attributes
A1 FP14366		1.30 Ha (approx.)	244.73 m (Prairie Rd & Isaac Rd)	Contains existing dwelling and horticulture activities
A2 FP14366		4850 m ² (approx.)	214.34 m (Prairie Rd) 37.0 m (Isaac Rd)	Vacant
A4 FP14366	Northern Piece	22.4 Ha (approx.)	512.7 m (Isaac Rd)	Contains Existing Dwelling (wholly) and sheds (encroaching upon Lot F), open pastoral land and some horticulture land
	Southern Piece	43.2 Ha (approx.)	No Formal Road Frontage **Land-Locked Parcel**	Vacant – accessed over land in the same ownership (F130200) which is not part of this application.
Lot F R81A (R1793ACC)		5770 m ² (approx.)	201.8 m (Prairie Rd)	Formerly closed road reserve, contains eastern half of sheds encroaching from Lot 4

Proposed Lot / Parcel		Area	Frontage(s)	Attributes
Lot 30		1.03 Ha	100.43 m (Prairie Rd & Isaac Rd)	Contains existing dwelling and horticulture activities
Lot 31		1.58 Ha	284.13 m (Prairie Rd) 267.1 m (Isaac Rd)	Vacant
Allotment Comprising	Piece 41* (north)	21.8 Ha (approx.)	282.6 m (Isaac Rd)	Contains Existing Dwelling and sheds (encroachment resolved), open pastoral land and some prepared horticulture land
	Piece 42* (south)	43.2 Ha (approx.)	No Formal Road Frontage **Land-Locked Parcel**	Vacant – accessed over land in the same ownership (F130200) which is not part of this application
Lot 33		5906 m ²	10.0 m (Prairie Rd)	Vacant (encroachment resolved)

It is acknowledged that the arrangement of existing Lot 4 is identified as comprising two separate pieces of land and although not defined as 'pieces' in the Land Title or in File Plan FP14366, the land parcels – Formerly Section 6088 and Section 6371 in Hundred Plan HP105900 were previously independent parcels separated by a former road (see following extract in Figure 1 from FP14366 with 'X X X X X' marking the closed road).

It is noted that the former road reserve now identified as Lot 46 in FP130200 on SA.Gov SAPPA mapping is recognised as being common to 206 Prairie Road (the subject land) and shares the same Valuation number as the other allotments involved in this proposal.

In future the use of the subject land, particularly the proposed allotment comprising pieces 41* and 42*, will require the applicant to ensure access to the southern piece of land across their allotment 46 by Right of Way, or the further realignment of boundaries. Noting a Right of Way can be registered on an allotment and extinguished at any time, staff have requested the Right of Way is identified. Both pieces form the one allotment, piece 42 cannot exist alone and the proposal is not altering the existing access arrangements from Lot 46, which is also in the applicant's ownership. The applicant does not wish to have the Right of Way surveyed.

Figure 1 – FP14366 identifying the former Sections, Sec 6088 (north) and Sec 6371 (south), comprised in existing Lot 4.

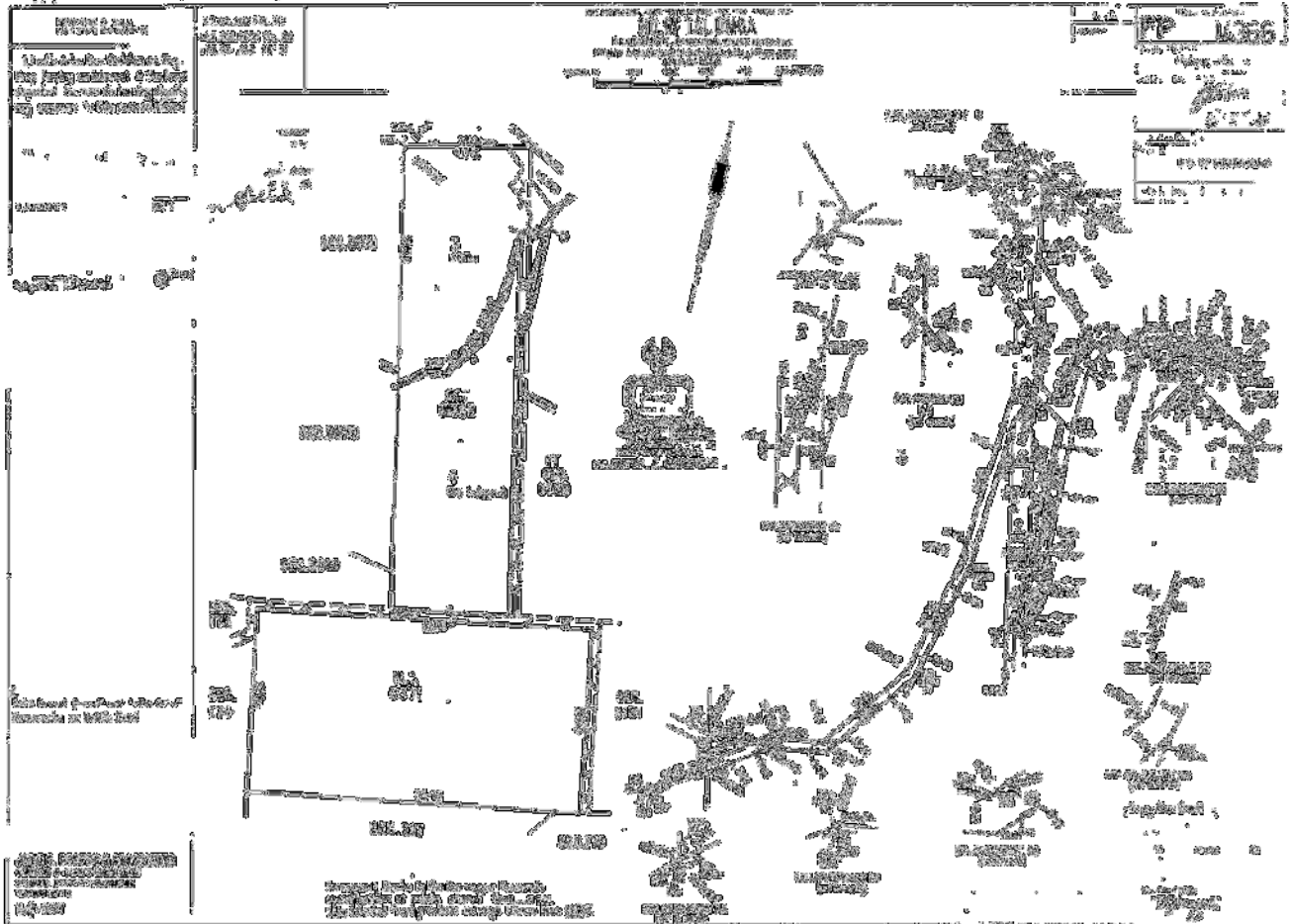
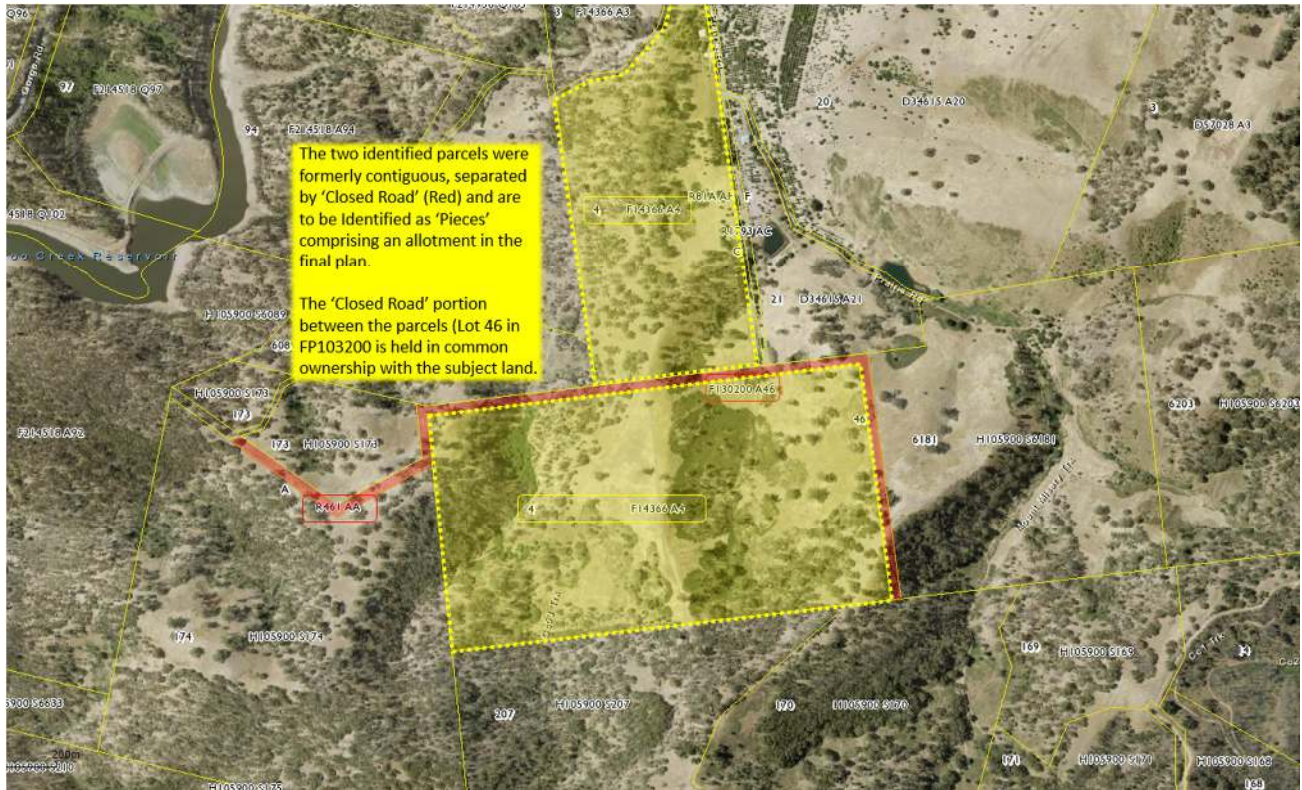


Figure 2 – Land parcels as shown on SA.Gov SAPPA mapping, also identifying the Closed Road Segment, now identified as Lot 46 in Filed Plan FP130200 with R461 AA to the western side.

CAP MEETING – 11 MAY 2022
ITEM 9.1



The relationship of former road reserve 'Lot F' in the proposed boundary realignment, which is to become proposed Lot 33, reduces its existing (approximate) 201.8 metres eastern frontage to Prairie Road, to obtain an approximate 10.0 metre frontage (subject to final survey) ensuring appropriate avoidance and separation distance from the stobie pole and overhead powerline infrastructure as demonstrated in the following image:

Figure 3 – Formal frontage of proposed Lot 33 to Prairie Road to avoid obstructions



BACKGROUND:

The initial concepts for the proposed boundary realignment converted two road reserves, Lot 2 and Lot F into parcels for possible rural residential development of approximately 7500m² in the intersection between Isaac and Prairie Road. There is a second application to further realign 6 other titles in the family name which remains on hold. All proposals form part of the settlement of a family estate.

The amended composition of land subject of this assessment remains part of a multiple land parcel holding of the applicant, which has been identified as requiring the boundaries to be adjusted to mitigate a number of building encroachments, predominantly over Existing Lot 4 and Lot F (proposed Lot 32 and Piece 41* respectively). The proposal rationalises the shape and composition of the allotments to enable future un-encumbered use and a more orderly arrangement of land parcels.

Existing Lot 1 contains an historic dwelling and established, small-scale horticultural (orchard) activities. Lot 4 (with encroachments) has an established dwelling, numerous farm buildings and evidence of a former orchard area, which are rationalised with encroachments upon existing 'Lot F' resolved in this proposal.

There is no recorded development application history for any of these allotments.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 206 PRAIRIE RD CUDLEE CREEK SA 5232

Title ref.: CT 5473/858 **Plan Parcel:** F14366 AL1

Location reference: 206 PRAIRIE RD CUDLEE CREEK SA 5232

Title ref.: CT 5474/178 **Plan Parcel:** F14366 AL2

Location reference: 206 PRAIRIE RD CUDLEE CREEK SA 5232

Title ref.: CT 5474/460 **Plan Parcel:** F14366 AL4

Location reference: 206 PRAIRIE RD CUDLEE CREEK SA 5232

Title ref.: CT 5463/903 **Plan Parcel:** R81A ACF

The site is comprised of four allotments which collectively form a total of approximately 68 Ha of generally open and sparsely wooded pastoral land. A small portion of the land has established or previous horticulture activity in isolated areas.

The land is moderate-to-steeply undulating, exhibiting variation of approximately 440 metres in elevation across the entire property, from approximately 270 metres AHD in the north of existing Lot 1 to approximately 510 metres AHD in the south-eastern corner of Lot 4 with steep slopes of 1:3 and greater in the hills' escarpments and gullies.

A small section of first-order creek lines in two branches cross the southern piece of existing Lot 4 in its north-western corner flowing north/north-west to the Kangaroo Creek Reservoir.

Access to the land is via formed, un-sealed Prairie Road and Isaac Road linking to the north to the Cudlee Creek settlement. The formed nature of both roads terminates adjacent the southern-most dwellings on adjacent lots that are not part of this application.

Locality

The locality is generally equivalent in terms of topography to the subject land, with notable flatter, plateau areas directly east of Prairie Road in the vicinity of the subject land and north of the northern piece of existing Lot 4. There is a prevalence of steeper land to the south-west with hills and gullies leading to the southern extent of the Kangaroo Creek Reservoir and Mount Crawford Forest.

Land in the locality exhibits similarly open and sparsely wooded pastoral land in the steeper areas and horticulture (orchards) established in the flatter areas, particularly adjacent to the east of the subject land. In this respect Prairie Road presents a strong rural characteristic with few dwellings influencing the character.

CONSENT TYPE REQUIRED:

Planning and Land Division Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:** Boundary realignment: Code Assessed - Performance Assessed - All-Other Code Assessed Development
- Land division
Land Division within the Limited Land Division Overlay: Code Assessed - Performance Assessed - All-Other Code Assessed Development
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed - All-Other Code Assessed Development
- **REASON**
The P & D Code does not define any prescribed assessment pathway within *Performance Assessed* or *Restricted* development pathways and land division is not *Accepted* or *DTS* development.

Productive Rural Landscape Zone *Table 4 – Restricted Development*, identifies that Land division within the Limited Land Division Overlay areas (*relevant to the subject land*) would be a *Restricted* form of development, other than where it is undertaken in the form of a boundary realignment as proposed.

Accordingly, being excluded from Restricted Development and having no other defined assessment pathway, the application defaults to *Performance Assessed - All-Other Code Assessed Development*.

PUBLIC NOTIFICATION

- **REASON**

Public Notification is not required, being exempted by *Productive Rural Landscape Zone*, Table 5, Item 2 (m) in Column A, without exception in Column B.

AGENCY REFERRALS

- South Australian Water Corporation

SA Water provided its referral response on 5 January 2022, providing a 'No comment to make' response, based upon no services provided to the subject land or the area generally.

- SPC Planning Services

The State Planning Commission provided its referral response / Consultation report on 4 January 2022 providing advice with comments, conditions and notes to be applied to any approval as follows:

Condition 1

A final plan complying with the requirements for plans 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 Planning Commission for Land Division Certificate purposes.

INTERNAL REFERRALS

- Internal referral was made to the Council Property Department – comment was provided in respect of the history of the complex closed roads and the conversion to allotments in freehold tenure in this locality.

Advice indicates the closure of numerous roads, including Lot F and Lot C in approximately 1931 and disposed / purchased by the landowner of the day, Mr. W. Redden on 2 October 1982. This appears to correspond with Filed Plan FP14366, and likely involved the closure and disposal of former road reserves 'R461 AA' and Lot 46 in FP130200 (and possibly others).

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in **Attachment 4**.

Desired outcomes

Desired outcomes are policies designed to aid the interpretation of performance outcomes by setting a general policy agenda for a zone, subzone, overlay or general development policies module. Where a relevant authority is uncertain as to whether or how a performance outcome applies to a development, the desired outcome(s) may inform its consideration of the relevance and application of a performance outcome, or assist in assessing the merits of the development against the applicable performance outcomes collectively.

Performance outcomes

Performance outcomes are policies designed to facilitate assessment according to specified factors, including land use, site dimensions and land division, built form, character and hazard risk minimisation.

Designated performance features

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a *designated performance feature* or DPF).

A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

Zone & Sub Zone:

Productive Rural Landscape Zone

Desired Outcomes	
DO1	A diverse range of land uses at an appropriate scale and intensity that capitalise on the region's proximity to the metropolitan area and the tourist and lifestyle opportunities this presents while also conserving the natural and rural character, identity, biodiversity and sensitive environmental areas and scenic qualities of the landscape.
DO2	A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the sale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes its regional identity.
DO3	Create local conditions that support new and continuing investment while seeking to promote co-existence with adjoining activities and mitigate land use conflicts.
Performance Outcomes /Designated Performance Feature (DPF) criteria	
PO/DPF 1.1 (b)(g)(i)(l), 2.1, 5.1, 12.1, 12.2	

The Productive Rural Landscape Zone seeks to facilitate a *diverse range of land uses at an appropriate scale and intensity that capitalise on the region's proximity to the metropolitan area and the tourist and lifestyle opportunities, while also conserving the natural and rural character*. The zone also substantively supports *agriculture, horticulture, value adding opportunities, farm gate businesses, consumption of food and beverage and tourist development and accommodation opportunities*, as referenced in the Desired Outcomes for the Zone.

The subject land, in its current format is generally reflective of the Code objectives for development in this locality – it contains existing residences upon two of the allotments which can potentially function within the ambit of the envisaged forms of development and land uses identified in Zone PO/DPF 1.1 (b), (g), (i) & (l). The land uses include small-scale horticulture (Lot 1), continuation of pastoral / farming activities upon the larger allotments and potential for rural-related value-adding activity along with rural lifestyle (residential) uses (Zone PO/DPF 5.1).

The land remains accessible as a result of the proposed realignment noting there is no change the existing access anomaly for what will now be known as piece 42* (previously the southern portion of Lot 4).

The design of the boundary realignment is considered by the writer to fall short of particularly meritorious outcomes in respect of proposed Allotment 33 and also the relationship between proposed pieces 41* and 42* with the closed road reserve Lot 46 in FP103200, which could have produced a superior outcome in terms of land use potentials and access. However those allotment arrangements remain largely unchanged. Of particular note Lot 33 was Lot F and did transect some buildings. It is considered the unsatisfactory access arrangement which existed for the two pieces of the old Lot 4 is continuing unchanged. This application offers an improvement in that the two separate portions of old Lot 4 are now identified as the two pieces 41* and 42*.

No further fragmentation of land in the zone occurs and the existing character of the land and locality remain intact irrespective of the proposed realignment and resulting development potential, which remains equivalent to that which already exists.

Overlays:

The proposal is influenced by a series of planning policy Overlays, of which a number have no relevance to the realignment of boundaries proposed in this application.

In this instance, the land is identified as being substantially elevated with considerable contour to gullies and watercourses and not considered to be at any risk of flooding or inundation and therefore is not being assessed against the provisions of the *Hazards (Flooding - Evidence Required) Overlay*.

Similarly, the proposal does not influence the arrangement of existing dwellings, or their actual or potential use, and with no further allotments being created within the *Mount Lofty Ranges Water Supply Catchment Overlay* areas, the proposed boundary realignment does not propagate any further influence upon the quality, volume or conveyance of water resources within the catchment.

In respect of the *Prescribed Water Resources Area Overlay* and the *Water Resources Overlay*, the proposed boundary realignment does not alter the existing land uses which would give rise to water resource considerations. The proposed boundaries do not interact with watercourses which would be of concern in respect of the quality, quantity or natural flow paths of watercourses, including for instance where required access or egress routes coincide with water courses.

The following are considered to be the most pertinent overlay provisions relevant to the proposed boundary realignment:

Environment and Food Production Area Overlay

Desired Outcomes	
DO1	Protection of valuable rural, landscape, environmental and food production areas from urban encroachment.
Performance Outcomes & Designated Performance Feature (DPF) criteria	
PO/DPF 1.1	

The proposed development does not represent any further fragmentation of rural land within the EFPA. The arrangement of Existing Lot F (proposed Lot 33) is such that it resolves the existing farm buildings (sheds) encroachment from Existing Lot 4 (Piece 41*) and otherwise maintains the ‘status quo’ in this proposal.

Similarly the adjustment of boundaries between existing Lots 1 and 2 (Proposed Lots 30 and 31) rationalise the overlap of the existing small allotments and also acquires a portion of existing Lot 4 in the realignment to produce allotments of 1.03 Ha and 1.5 Ha respectively which are capable of containing small scale horticultural activities (as exists on existing Lot 1) or could support other rural-related value adding activities identified as appropriate in Zone PO/DPF 1.1, including a dwelling or workers accommodation.

As the proposal does not create any additional allotments the proposal satisfies The Desired Outcome DO 1 and Performance Outcome PO 1.1.

Hazards (Bushfire – High Risk) Overlay

Desired Outcomes	
DO1	Development, including land division is sited and designed to minimise the threat and impact of bushfires on life and property with regard to the following risks: (a) potential for uncontrolled bushfire events taking into account the increased frequency and intensity of bushfires as a result of climate change (b) high levels and exposure to ember attack (c) impact from burning debris (d) radiant heat (e) likelihood and direct exposure to flames from a fire front.
DO2	Activities that increase the number of people living and working in the area or where evacuation would be difficult is sited away from areas of unacceptable bushfire risk.
Performance Outcomes & Designated Performance Feature (DPF) criteria	
PO/DPF 5.1, 5.2, 5.5	

The proposed realignment of boundaries does little to impact or alter the existing arrangement of land uses and buildings, in respect of their bushfire safety, however ensures that all allotments obtain appropriate direct local road access and in the case of proposed allotment comprising pieces 41* and 42* (as is for existing Lot 4), provides connectivity and access over the applicant’s common property, with the existing dwelling being located on proposed piece 41, which has direct access to Prairie Road.

As foreshadowed in the *Proposal* section of this report discussing the arrangement and tenure of land relative to future development of southernmost Piece 42*, for which the applicant will be responsible for formal frontage and appropriate access across their allotment 46 (F130200) (to the standards anticipated by the Code) by appropriate means such as a Right of Way, or the further realignment of boundaries.

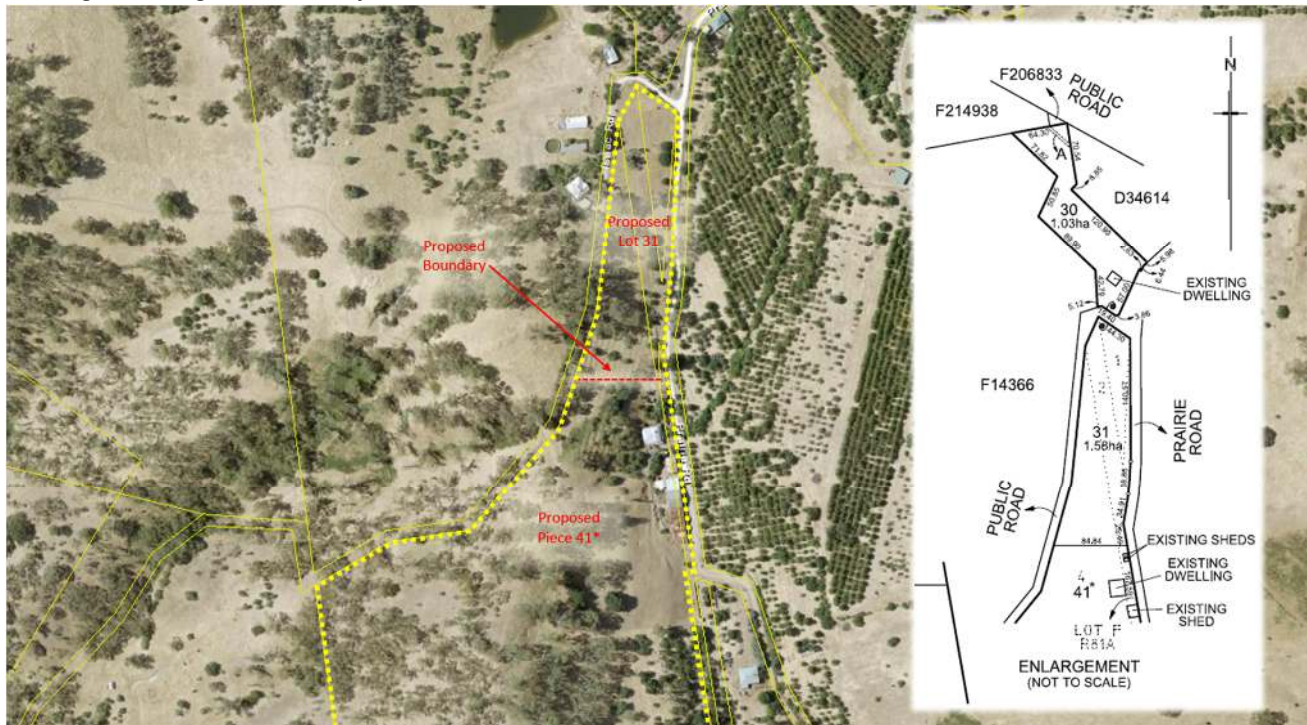
As this future potential use is speculative only, they do not fundamentally form part of this assessment, notwithstanding the issues have been identified and conveyed to the applicant.

Native Vegetation Overlay

Desired Outcomes	
DO1	Areas of <u>native vegetation</u> are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystem services, carbon storage and amenity values.
Performance Outcomes & Designated Performance Feature (DPF) criteria	
PO/DPF 1.1, 2.1	

The proposed boundary realignment avoids any impact upon native vegetation. The proposal places one segment of new boundary between proposed lots 31 and Piece 41* across primarily open land where it will avoid any of the few, sparsely distributed trees in that portion of the land (*shown Below in Figure 4*). There is a second new segment of boundary at the northern end of proposed Lot 33 where it terminates near Prairie Road, which also avoids the existing native vegetation immediately north of the intended access point and frontage (*shown in Figure 3*).

Figure 4 – Proposed boundary between Proposed Lot 31 and Piece 41* crosses sparsely wooded land and is capable of avoiding native vegetation entirely



General Development Policies:

The following are considered to be the most relevant of the Assessment Provisions (AP) from the General Development Policies of the Code:

Infrastructure and Renewable Energy Facilities

Desired Outcomes	
DO1	Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity.
Performance Outcomes & Designated Performance Feature (DPF) criteria	
PO/DPF 12.2	

The proposal eliminates the encroachment of buildings and related site features (i.e. the curtilage of the dwelling), the wastewater treatment and disposal, infrastructure servicing of the dwelling and ensures all is contained wholly within its own allotment boundaries.

The land and dwellings contained within proposed Lot 30 and Piece 41* are considered to have adequate area for their intended uses including access and utilities / servicing.

Land Division

Desired Outcomes	
DO1	Land division: (a) creates allotments with the appropriate dimensions and shape for their intended use (b) allows efficient provision of new infrastructure and the optimum use of underutilised infrastructure (c) integrates and allocates adequate and suitable land for the preservation of <u>site</u> features of value, including significant vegetation, watercourses, water bodies and other environmental features (d) facilitates solar access through allotment orientation (e) creates a compact urban form that supports active travel, walkability and the use of public transport (f) avoids areas of high natural hazard risk.
Performance Outcomes & Designated Performance Feature (DPF) criteria	
PO 1.1, PO/DPF 1.2, PO 2.4, 2.8, 3.4, PO/DPF 4.2	

The proposed boundary realignment is considered to largely maintain the status quo within the context of the existing configuration of land parcels and within their existing arrangement in the Zone. The proposal sets out with four (4) existing allotments, with two parcels of land, being existing Lot 1 and Lot 4 having 'pieces' of land physically separated from one another by Isaac Road and the former road reserve Lot 46 in FP103200.

The resulting pattern of realigned allotments produces four allotments, resolving existing building encroachments shared by existing Lot 4 and former road reserve Lot F. The proposal consolidates land and buildings in the form of proposed Lot 30 containing an existing dwelling with small scale horticultural activity. The allotment comprising pieces 41* and 42* will contain an existing dwelling, a series of sheds and farm buildings adjacent to the eastern boundary frontage along Prairie Road.

The resulting allotment 33, derived of 'Lot F', remains substantively the same in its composition (and arguable lack of association with any particular use), remaining vacant, but is shortened from its northern extent to alleviate the abovementioned encroachments, whilst assuring it maintains lawful frontage and practical accessibility from Prairie Road.

Proposed Lot 31, substantively occupies its 'existing site', albeit excluding the southward triangular appendage of existing Lot 1 and consolidating that portion of the land south of the Isaac Road and Prairie Road intersection as a vacant allotment.

The proposed allotments are of a configuration which makes them appropriate for appropriate uses identified by Productive Rural Landscape Zone PO/DPF 1.1 including horticulture, rural-related value adding activities and associated residences and are of appropriate size to contain necessary infrastructure and servicing, without creating more intensive development potential than offered by the existing four allotments.

The proposed allotments are therefore considered to contextually accord with and respond to the existing land uses and composition, resolving existing anomalies of the sites and rationalising the layout of the allotments, and in this respect is considered to appropriately satisfy the General, Land Division Desired Outcomes (DO) and performance values.

Proposed Lot 31, at 1.5 Hectares is capable of being utilised for future uses supported by the Productive Rural Landscape Zone PO/DPF 1.1 subject to the site contamination issues referenced in the following section being addressed.

Site Contamination

Desired Outcomes	
DO1	Ensure land is suitable for the proposed use in circumstances where it is, or may have been, subject to site contamination.
Performance Outcomes & Designated Performance Feature (DPF) criteria	
PO/DPF 1.1(a)	

The initial concepts for boundary realignment incorporated six (6) of the applicant’s allotments within the subject landholding (including previously discussed Lot 46 in FP103200 as well as Sections 173 and 6089 in HP105900 and Pieces 91* and 92* in FP216139, which lie west of the existing Lot 4 land parcels, which arguably created a series of ‘smaller allotments’ with little other prospect than rural living or lifestyle (residential type) uses, required an assessment to satisfy that allotments would not present site contamination risk to future development.

Notwithstanding the proposal (as amended) does not specifically create any additional allotments or propose any new residential or sensitive forms of development on the resulting allotments, and the existing dwellings fundamentally remain contained upon their existing ‘sites’ within the realigned land parcels, the proposal has been accompanied by a Preliminary Site Investigation (PSI) prepared by a qualified environmental consultancy in respect of site contamination investigations.

A Preliminary Site Investigation (PSI) has undertaken the required analysis of the site from appropriate records, historic imagery records of the site and evidence of the existing and former uses of the land and site features relevant to farming and horticulture activities on the land, and identifies that:

while there were class 2 and class 3 PCAs identified as having possibly occurred onsite, these activities are either isolated to specific areas onsite, or are easy to manage during residential redevelopment of specific areas of the site.

Environmental Projects did not consider these activities pose a significant risk to residential redevelopment of the site. Due to the topography of the site, it is unlikely the entire site will be suitable for residential use, regardless of the outcome of a site history assessment or soil sampling.

If specific areas are proposed for residential development in the future, shallow soil sampling may be required in the areas specifically proposed for residential use (especially if they are proposed in the former orchard areas or in the location of existing sheds/buildings and other identified risks such as burial areas or spray races) to confirm the suitability for sensitive use.

As provided by the Environmental Report, *If specific areas are proposed for residential development in the future, shallow soil sampling may be required in the areas specifically proposed for residential use (especially if they are proposed in the former orchard areas or in the location of existing sheds/buildings and other identified risks such as burial areas or spray races) to confirm the suitability for sensitive use,* and this is considered to be a reasonable planning expectation for any further development and should be included with advisory noted if approved, informing future prospective owners or developers of the necessity to further investigate site contamination where any future sensitive land uses are proposed.

CONCLUSION

The proposal is considered to appropriately accord with the Planning and Design Code Desired outcomes and Performance Outcome values applicable to the boundary realignment within this locality, and whilst it does not seek to propagate any substantive change to the configuration or the use of existing Lot F (proposed Lot 33) and existing Lot 4 (proposed Pieces 41* and 42*), the realignment resolves long-standing existing encroachments and produces a more orderly arrangement of land parcels within the land holding.

Importantly, it is recognised (with a degree of sensitivity) that this proposal is the product of resolving an estate, and it is somewhat likely that further realignments of the land boundaries could occur in the future to recognise new land use potentials or investment options. However in respect of this proposal, the proposed boundary realignment seeks to maintain the 'status quo' but rectifies encroachment.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve 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 21041304, by RL Scott Estate for boundary realignment (4 lots into 4 lots) at 206 Prairie Rd Cudlee Creek SA 5232 is granted Planning Consent and Land Division Consent subject to the following conditions:**

CONDITIONS

Planning Consent

- 1) 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) Any easement or right of way required for the electricity Infrastructure to be contained within Lot 33 shall be granted to the relevant Electricity Infrastructure Administrator.**
- 3) New vehicle access point(s) and/or cross-overs shall be located a minimum of 500mm from any existing or proposed verge features (i.e. crossing places, trees, stormwater connections, lighting or stobie poles) and requires a separate approval under section 221 of the Local Government Act.**

Land Division Consent

Conditions imposed by SPC Planning Services under Section 122 of the Act

A final plan complying with the requirements for plans 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 Planning Commission for Land Division Certificate purposes.

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) This consent or approval will lapse at the expiration of 2 years from its operative date, subject to the below or subject to an extension having been granted by the relevant authority.**
- 4) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).**
- 5) 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—**
 - i. until the appeal is dismissed, struck out or withdrawn; or**
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).**

ADVISORY NOTES

Land Division Consent

- 1) Any future land use applications for sensitive type land uses, i.e., residential or other habitable uses, may necessarily be the subject of further Site Investigation processes in respect of site contamination.**

OFFICER MAKING RECOMMENDATION

Name: Aaron Wilksch for Melanie Scott
Title: Consultant Planner/Senior Statutory Planner