



ORDINARY COUNCIL MEETING

NOTICE OF MEETING

To: Mayor Jan-Claire Wisdom

Councillor Kirrilee Boyd
Councillor Adrian Cheater
Councillor Nathan Daniell
Councillor Pauline Gill
Councillor Chris Grant
Councillor Malcolm Herrmann
Councillor Lucy Huxter
Councillor Leith Mudge
Councillor Mark Osterstock
Councillor Kirsty Parkin
Councillor Louise Pascale
Councillor Melanie Selwood

Notice is given pursuant to the provisions under Section 83 of the *Local Government Act 1999* that the next meeting of the Council will be held on:

Tuesday 24 January 2023
6.30pm
63 Mt Barker Road Stirling

A copy of the Agenda for this meeting is supplied under Section 83 of the Act.

Meetings of the Council are open to the public and members of the community are welcome to attend. Public notice of the Agenda for this meeting is supplied under Section 84 of the Act.

A handwritten signature in blue ink, appearing to read 'David Waters', with a long horizontal flourish extending to the right.

David Waters
Chief Executive Officer



ORDINARY COUNCIL MEETING

AGENDA FOR MEETING
Tuesday 24 January 2023
6.30pm
63 Mt Barker Road Stirling

ORDER OF BUSINESS

1. COMMENCEMENT

2. OPENING STATEMENT

Council acknowledges that we meet on the traditional lands and waters of the Peramangk and Kaurna people. They are Custodians of this ancient and beautiful land and so we pay our respects to Elders past, present and emerging. We will care for this country together by ensuring the decisions we make will be guided by the principle that we should never decrease our children's ability to live on this land.

3. APOLOGIES/LEAVE OF ABSENCE

- 3.1. Apology
Apologies were received from
- 3.2. Leave of Absence
- 3.3. Absent

4. MINUTES OF PREVIOUS MEETINGS

Council Meeting – 20 December 2022

That the minutes of the ordinary meeting held on 20 December 2022 as supplied, be confirmed as an accurate record of the proceedings of that meeting.

5. DECLARATION OF CONFLICT OF INTEREST BY MEMBERS OF COUNCIL

6. MAYOR'S OPENING REMARKS

7. QUESTIONS ADJOURNED/LYING ON THE TABLE

7.1. Questions Adjourned

7.1.1. Options to reduce traffic congestion and improve child safety adjacent to Bridgewater Primary

Note: debate on the adjourned motion must recommence prior to any other motions being moved.

Adjourned motion from 27 September 2022:

11.1.1 Options to reduce traffic congestion Bridgewater Primary School – Traffic Study

Moved Cr John Kemp
S/- Cr Pauline Gill

A traffic study covering the local area surrounding Bridgewater Primary School be conducted to consider traffic congestion arising from the school's own enrolment pressures and assessing the performance of the existing one-way zones, as well as pedestrian movements to and from the school. A report be presented to Council on the results of the traffic study with concepts and costings for any recommended treatments identified that could then be considered as part of a future Annual Business Plan and Budget.

Formal Motion

Moved Cr Malcolm Herrmann
S/- Cr Leith Mudge

253/22

That item 11.1.1, Options to reduce traffic congestion Bridgewater Primary School – Traffic Study, be adjourned until the January 2023 meeting of Council.

Carried

Council Members who have spoken to the motion prior to the adjournment: Cr John Kemp and Cr Pauline Gill.

- 1. That the report be received and noted.*
- 2. That following the completion of the Child Care Development, and in liaison with the Department for Education, Council Staff will assess the need for a Traffic Monitoring Study of the local road network in the vicinity of Bridgewater Primary School*

7.2. Questions Lying on the Table
Nil

8. PETITIONS / DEPUTATIONS / PUBLIC FORUM

8.1. Petitions
Nil

8.2. Deputations
Nil

8.3. Public Forum

9. PRESENTATIONS (by exception)

Nil

10. QUESTIONS ON NOTICE

Nil

11. MOTIONS ON NOTICE

11.1. Aldgate Main Street Amenity Upgrade – Stage 2 – Cr Mark Osterstock

1. *A report be prepared for Council's consideration on the feasibility [including costings] of:*
 - a. *Refurbishing [high pressure cleaning, realignment, reseating and replacement where necessary] the paved footpath on the western side of Mount Barker Road, from Euston Road to Kingsland Road [landscaping, plantings, bin replacement, street furniture replacement, signage replacement], consistent with that of the recently completed Aldgate Main Street Amenity Upgrade – Stage 1.*
 - b. *Maintenance [including yet not limited to, landscaping, plantings, signage replacement] of the Aldgate roundabout, consistent with that of the Stirling roundabout.*
 - c. *Refurbishment [high pressure cleaning and sealing of the limestone supporting structures, including yet not limited to, replacement landscaping, plantings and signage] of the Aldgate Railway Bridge and its approaches.*
2. *That the funding source for these works will be the Local Roads and Community Infrastructure Program [Phase 4], and where possible, and within existing budgetary parameters and commitments, the use of in-house staff for these proposed works, as opposed to external contractor/s.*
3. *That the subject report be presented to Council for consideration in March 2023, or earlier, depending on the Local Roads and Community Infrastructure Program [Phase 4] requirements and guidelines.*

11.2. First Nations use of Surplus Land – Cr Leith Mudge

1. *The CEO investigates options for providing preference to traditional custodians and other Aboriginal and Torres Strait Islander stakeholders who live, work or have a strong connection to the Adelaide Hills, to purchase, lease or use vacant land that is:*
 - a. *owned by Council; or*
 - b. *crown land under the care and control of Council, that is surplus to Council's needs.*
2. *The Adelaide Hills Reconciliation Working Group (AHRWG), traditional custodians and other Aboriginal and Torres Strait Islander stakeholders who live, work or have a strong connection to the Adelaide Hills be consulted as part of this investigation.*
3. *The outcomes of the investigation be discussed at a workshop and a report including recommended changes to relevant policy be presented to Council for consideration not later than 30 June 2023.*

11.3. First Nations and Australia Day – Cr Melanie Selwood

1. *Reaffirms its commitment to being an inclusive council that respects First Nations culture and values*
2. *Acknowledges the 26th of January is a day of mourning for many First Nations people*
3. *Requests the Chief Executive Officer to prepare a report for Council's consideration on the proposal to move citizenship ceremonies, award ceremonies and related events to a date other than Australia Day from 2024 onwards*

12. ADMINISTRATION REPORTS – DECISION ITEMS

12.1. Adelaide Hills Reconciliation Working Group - AHC Representative

Decision 1

1. *That the report be received and noted.*
2. *That the Reconciliation Update – January 2023, as contained in Appendix 2, be received and noted.*
3. *To continue to be a member of the Adelaide Hills Reconciliation Working Group under the current Terms of Reference, as contained in Appendix 1.*
4. *To determine that the method of selecting the Adelaide Hills Reconciliation Working Group Member to be by an indicative vote to determine the preferred person for the Elected Member position utilising the process set out in this Agenda report.*
5. *To adjourn the Council meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote to determine the preferred person for the Adelaide Hills Reconciliation Working Group Member role and for the meeting to resume once the results of the indicative vote have been declared.*

Decision 2

1. *That _____ be appointed to the Reconciliation Working Group for the term 28 February 2023 to 28 February 2025*

12.2. Nomination for Premier's Climate Change Council

Decision 1

1. *That the report be received and noted.*
2. *To determine that the method of selecting a Council Member to be nominated for the Premier's Climate Change Council be by an indicative vote utilising the process set out in this Agenda report.*
3. *To adjourn the Council meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote to determine the preferred person for nomination for the Premier's Climate Change Council and for the meeting to resume once the results of the indicative vote have been declared.*

Decision 2

1. *To nominate _____ for the Premier's Climate Change Council and authorise the Chief Executive Officer to lodge the completed nomination form to the Local Government Association.*

- 12.3. Submission to the Expert Panel Planning System Implementation Review
1. *That the report be received and noted.*
 2. *To approve the Adelaide Hills Council submission on the Expert Panel Planning Implementation Review as contained in Appendices 1 & 2.*
 3. *That the Acting Chief Executive Officer be authorised to make any additional non-substantive technical additions and minor editorial amendments to the submission prior to lodgement with the State Planning Commission no later than 30 January 2023.*
- 12.4. Request to Waive Land Management Agreement Requirement for Building Setback at 9 Woodland Way Teringie
1. *That the report be received and noted.*
 2. *That pursuant to clause 9.2 of the Land Management Agreement registered on Certificate of Title Volume 5391 Folio 572, known as 9 Woodland Way Teringie, Council agrees to the waiver of the land owner's obligations in relation to clause 2 for building setbacks, subject to the Council Assessment Panel granting Planning Consent to Development Application 22022313 for the two storey dwelling addition.*
 3. *The Acting Chief Executive Officer be authorised to provide written communication of Council's agreement to the waiver of Land Management Agreement obligations above to the land owner.*
- 12.5. 37 Yanagin Road Greenhill – Revocation of Community land classification and land swap with Yanagin Reserve
1. *That the report be received and noted.*
 2. *That Council commence a revocation of community land process for the land identified in Appendix 2 including consultation in accordance with Council's Public Consultation Policy and the Local Government Act 1999 with the intention of undertaking a land swap with the owners of 37 Yanagin Road, Greenhill, together with varying the existing Heritage Agreement over Yanagin Reserve.*
 3. *That a report be brought back to Council following completion of the Community Consultation process.*
- 12.6. Status Report – Council Resolutions Update
- Refer to Agenda Item*

13. ADMINISTRATION REPORTS – INFORMATION ITEMS

Nil

14. QUESTIONS WITHOUT NOTICE

15. MOTIONS WITHOUT NOTICE

16. REPORTS

- 16.1. Council Member Function or Activity on the Business of Council
- 16.2. Reports of Members/Officers as Council Representatives on External Organisations
- 16.3. CEO Report

17. REPORTS OF COMMITTEES

- 17.1. Council Assessment Panel – 14 December 2022
That the minutes of the CAP meeting held on 14 December 2022 as supplied, be received and noted.
- 17.2. Audit Committee
Nil
- 17.3. CEO Performance Review Panel
Nil
- 17.4. Boundary Change Committee
Nil

18. CONFIDENTIAL ITEMS

- 18.1. Appointment to Adelaide Hills Region Waste Management Authority Audit & Risk Committee

19. NEXT MEETING

Tuesday 14 February 2023, 6.30pm, 63 Mt Barker Road, Stirling

20. CLOSE MEETING



Council Meeting & Workshops 2023

DATE	TYPE	LOCATION	MINUTE TAKER
FEBRUARY 2023			
Mon 6 February	Workshop	Woodside	N/A
Wed 8 February	CAP	Stirling	Karen Savage
Tues 14 February	Council	Stirling	Pam Williams
Mon 20 February	Audit	Stirling	TBA
Tues 21 February	Professional Development	Stirling	N/A
Tues 28 February	Council	Stirling	Pam Williams
MARCH 2023			
Mon 6 March	Workshop	Woodside	N/A
Wed 8 March	CAP	Stirling	Karen Savage
Tues 14 March	Council	Stirling	Pam Williams
Tues 21 March	Professional Development	Stirling	N/A
Tues 28 March	Council	Stirling	Pam Williams
APRIL 2023			
Mon 3 April	Workshop	Woodside	N/A
Tues 11 April	Council	Stirling	Pam Williams
Wed 12 April	CAP	Stirling	Karen Savage
Mon 17 April	Audit	Stirling	TBA
Tues 18 April	Professional Development	Stirling	N/A
Wed 26 April *moved from ANZAC Day	Council	Stirling	Pam Williams

Meetings are subject to change, please check agendas for times and venues. All meetings (except Council Member Professional Development) are open to the public.

Community Forums 2023

6.00 for 6.30pm

(dates and venues to be confirmed)

DATE	LOCATION

Conflict of Interest Disclosure Form

CONFLICTS MUST BE DECLARED VERBALLY DURING MEETINGS

Date: _____

Meeting Name (please tick one)

- | | | | |
|------------------------------|--------------------------|---------------------------|--------------------------|
| Ordinary Council | <input type="checkbox"/> | Audit Committee | <input type="checkbox"/> |
| Special Council | <input type="checkbox"/> | Boundary Change Committee | <input type="checkbox"/> |
| CEO Performance Review Panel | <input type="checkbox"/> | Other: _____ | <input type="checkbox"/> |

Item No **Item Name:**

(Only one conflict of interest entry per form)

I, Mayor / Cr _____ have identified a conflict of interest as:

GENERAL

MATERIAL

GENERAL

In considering a General Conflict of Interest (COI), an impartial, fair-minded person might consider that the Council Member’s private interests might result in the Member acting in a manner that is contrary to their public duty.

MATERIAL

In considering a Material Conflict of Interest (COI), a member of a council has a material conflict of interest in a matter to be discussed at a meeting of the council if a class of persons as defined in s75(1)(a-l) in the Act would gain a benefit, or suffer a loss, (whether directly or indirectly and whether of a personal or pecuniary nature) depending on the outcome of the consideration of the matter at the meeting.

The nature of my conflict of interest is as follows:

(Describe the nature of the interest, including whether the interest is direct or indirect and personal or pecuniary)

I intend to deal with my conflict of interest in the following transparent and accountable way:

- I intend to **stay** in the meeting (please complete details below)
- I intend to **stay** in the meeting as exempt under s75A (please complete details below)
- I intend to **leave** the meeting (*mandatory if you intend to declare a Material conflict of interest*)

The reason I intend to stay in the meeting and consider this matter is as follows:

(This section must be completed and ensure sufficient detail is recorded of the specific circumstances of your interest.)

Office use only: Council Member voted FOR / AGAINST the motion.

8. DEPUTATIONS

For full details, see Code of Practice for Meeting Procedures on www.ahc.sa.gov.au

1. A request to make a deputation should be made by submitting a Deputation Request Form, (available on Council's website and at Service and Community Centres) to the CEO seven clear days prior to the Council meeting for inclusion in the agenda.
2. Each deputation is to be no longer than ten (10) minutes, excluding questions from Members.
3. Deputations will be limited to a maximum of two per meeting.
4. In determining whether a deputation is allowed, the following considerations will be taken into account:
 - the number of deputations that have already been granted for the meeting
 - the subject matter of the proposed deputation
 - relevance to the Council agenda nominated – and if not, relevance to the Council's powers or purpose
 - the integrity of the request (i.e. whether it is considered to be frivolous and/or vexatious)
 - the size and extent of the agenda for the particular meeting and
 - the number of times the deputees has addressed Council (either in a deputation or public forum) on the subject matter or a similar subject matter.

8.3 PUBLIC FORUM

For full details, see Code of Practice for Meeting Procedures on www.ahc.sa.gov.au

1. The public may be permitted to address or ask questions of the Council on a relevant and/or timely topic.
2. The Presiding Member will determine if an answer is to be provided.
3. People wishing to speak in the public forum must advise the Presiding Member of their intention at the beginning of this section of the meeting.
4. Each presentation in the Public Forum is to be no longer than five (5) minutes (including questions), except with leave from the Council.
5. The total time allocation for the Public Forum will be ten (10) minutes, except with leave from the Council.
6. If a large number of presentations have been requested, with leave from the Council, the time allocation of five (5) minutes may be reduced.
7. Any comments that may amount to a criticism of individual Council Members or staff must not be made. As identified in the Deputation Conduct section above, the normal laws of defamation will apply to statements made during the Public Forum.
8. Members may ask questions of all persons appearing relating to the subject of their presentation.

Item 4 Minutes of Council

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
TUESDAY 20 DECEMBER 2022
63 MT BARKER ROAD STIRLING**

In Attendance

Presiding Member: Mayor Jan-Claire Wisdom

Members:

Councillor Kirrilee Boyd
Councillor Adrian Cheater
Councillor Pauline Gill
Councillor Chris Grant
Councillor Lucy Huxter
Councillor Leith Mudge
Councillor Mark Osterstock
Councillor Kirsty Parkin
Councillor Melanie Selwood

In Attendance:

David Waters	Acting Chief Executive Officer
Terry Crackett	Director Corporate Services
David Collins	Acting Director Infrastructure & Operations
Natalie Armstrong	Director Development & Regulatory Services
Rebecca Shepherd	Acting Director Community Capacity
Lachlan Miller	Executive Manager Governance & Performance
Karen Cummings	Manager Property Services
Jen Blake	Manager Communications, Engagement & Events
Renee O'Connor	Coordinator Sport & Recreation
Josh Spier	Community & Social Planning Officer
Steven Watson	Governance & Risk Coordinator
Pam Williams	Minute Secretary

1. COMMENCEMENT

The meeting commenced at 6.02pm.

2. OPENING STATEMENT

Council acknowledges that we meet on the traditional lands and waters of the Peramangk and Kurna people. They are Custodians of this ancient and beautiful land and so we pay our respects to Elders past, present and emerging. We will care for this country together by ensuring the decisions we make will be guided by the principle that we should never decrease our children's ability to live on this land.

Mayor Jan-Claire Wisdom welcomed Cr Adrian Cheater to his first meeting of the Adelaide Hills Council.

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
TUESDAY 20 DECEMBER 2022
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3. Apology

Cr Nathan Daniell

3.1 Leave of Absence

- Malcolm Herrmann 6 December – 22 December 2022, approved 29 November 2022
- Louise Pascale 19 December – 6 January 2023, approved 29 November 2022

Moved Cr Chris Grant

S/- Cr Kirsty Parkin

289/22

- 1 That a Leave of Absence from all duties of office be granted to Cr Pauline Gill from 16 January to 20 January 2023.**
- 2 That any committee, panel or advisory group membership currently held by Cr Pauline Gill be undertaken by the Deputy during the leave of absence.**

Carried Unanimously

3.2 Absent

Nil

4. MINUTES OF PREVIOUS MEETINGS**4.1 Council Meeting – 29 November 2022**

Moved Cr Lucy Huxter

S/- Cr Pauline Gill

290/22

That the minutes of the Ordinary Council meeting held on 29 November 2022 as supplied, be confirmed as an accurate record of the proceedings of that meeting, noting an amendment to Item 12.11.1, S43 Subsidiary Membership – Southern & Hills Local Government Association:

- d. To appoint Natalie Armstrong to the (Elected Member or Employee) Deputy Board Member position for a term to commence from 30 November 2022 and conclude at the conclusion of the 2022-26 council term**

Carried Unanimously

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
TUESDAY 20 DECEMBER 2022
63 MT BARKER ROAD STIRLING**

5. DECLARATION OF CONFLICT OF INTEREST BY MEMBERS OF COUNCIL

5.1 Material Conflict of Interest, Mayor Jan-Claire Wisdom - Item 12.5, Nomination for GAROC Members

Under Section 75 of the *Local Government Act 1999* Mayor Jan-Claire Wisdom disclosed a Material Conflict of Interest in Item 12.5.

6. PRESIDING MEMBER'S OPENING REMARKS

Mayor Jan-Claire Wisdom welcomed everyone to the last meeting of 2022. The Mayor reflected that it is three years since the outbreak of the Cudlee Creek fire, with residents still suffering from the effects of this fire.

7. QUESTIONS ADJOURNED/LYING ON THE TABLE

7.1 Questions Adjourned

7.1.1 Options to reduce traffic congestion Bridgewater Primary School Traffic Study

To be considered in January 2023

7.2 Questions Lying on the Table

Nil

8. PETITIONS/DEPUTATIONS/PUBLIC FORUM

8.1 Petitions

Nil

8.2 Deputations

Nil

8.3 Public Forum

John Hill, Stirling District Residents Association & SA Transport Action Group re Hills Transport

9. PRESENTATIONS

Nil

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
TUESDAY 20 DECEMBER 2022
63 MT BARKER ROAD STIRLING**

10. QUESTIONS ON NOTICE

Nil

11. MOTIONS ON NOTICE

Nil

12. OFFICER REPORTS – DECISION ITEMS

12.1 Mt Barker Adelaide Hills Transport Study

Moved Cr Leith Mudge

S/- Cr Kirrilee Boyd

291/22

Council resolves:

- 1. That the report be received and noted.**
- 2. That Council acknowledges and provides its support for conduct of a transport study for the Adelaide Hills community.**
- 3. That the letter contained in Appendix 4 be endorsed as the Council's submission into the current stage of the Mount Barker/ Adelaide Hills Transport Study.**
- 4. That the Mayor and Chief Executive Officer be authorised to make any minor or non-substantive changes in finalising the letter, including the inclusion of any matters arising from the debate on this item.**
- 5. That the Mayor and Chief Executive Officer be authorised to represent the Council's position in direct engagement with relevant government representatives.**

Carried Unanimously

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
TUESDAY 20 DECEMBER 2022
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12.2 2022-23 Budget Review 1

Moved Cr Melanie Selwood
S/- Cr Leith Mudge

292/22

Council resolves:

1. That the report be received and noted.
2. To adopt the proposed budget adjustments presented in Budget Review 1 which result in:
 - a. An increase in the Operating Surplus from \$676k to \$830k for the 2022-23 financial year.
 - b. Changes to Capital Works, reducing capital income by \$926k and increasing capital expenditure by \$580k for the 2022-23 financial year resulting in a revised capital expenditure budget for 2022-23 of \$27.369m.
 - c. An increase in Council's current Net Borrowing Result from \$6.934m to \$8.342m for the 2022-23 financial year as a result of the proposed operating and capital adjustments.

Carried Unanimously

12.3 Substantive CEO Recruitment

Moved Cr Mark Osterstock
S/- Cr Chris Grant

293/22

Council resolves:

1. That the report be received and noted.
2. To manage the Substantive CEO recruitment process with a Recruitment Consultant, to be procured by the Administration.
3. To undertake a CEO remuneration benchmarking exercise utilising the Recruitment Consultant.
4. To adopt a Bespoke Selection Panel model for the Substantive CEO Selection Panel.
5. To satisfy the provisions of Section 98(4a) of the *Local Government Act 1999* by determining a Qualified Independent Person prior to considering recommendations for appointment to the Substantive CEO position.

**ADELAIDE HILLS COUNCIL
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6. That the Substantive CEO Selection Panel:
- a. Will have the following functions:
 - i. in collaboration with the Recruitment Consultant:
 - to review and finalise the CEO Position Description (consistent with the provisions of s99 of the Act);
 - determine the market approach (mix of media) and candidate assessment tools; and
 - division of recruitment actions and responsibilities.
 - ii. to shortlist and assess candidates in order to determine a preferred candidate(s); and
 - iii. make a recommendation to Council for appointment of a preferred candidate and the terms and conditions of appointment.
 - b. Will consist of five (5) members as follows: Mayor; Deputy Mayor; Presiding Member of the CEO Performance Review Panel; and two (2) Ordinary Members. The Presiding and Deputy Presiding Member of the Substantive CEO Selection Panel will be the Mayor and Deputy Mayor respectively.
 - c. That the method of selecting the Substantive CEO Selection Panel Ordinary Members will be by an indicative vote to determine the preferred persons for the two (2) positions utilising the Appointments to Positions Process contained in Clause 4.7 of Council's *Code of Practice for Council Meeting Procedures*.
 - d. To adjourn the Council meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote to determine the preferred persons for the Substantive CEO Selection Panel Ordinary Member roles and for the meeting to resume once the results of the indicative vote have been declared.

Carried Unanimously

6.47pm The Council meeting adjourned

6.48pm The Council meeting resumed

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
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12.3.1 Substantive CEO Recruitment – Members of Recruitment Panel

Moved Cr Chris Grant
S/- Cr Lucy Huxter

294/22

Council resolves to appoint Cr Mark Osterstock and Cr Kirsty Parkin as Ordinary Members of the Substantive CEO Selection Panel.

Carried Unanimously

12.4 Cemetery Operating Policy

Moved Cr Pauline Gill
S/- Cr Kirrilee Boyd

295/22

Council resolves:

1. That the report be received and noted.
2. With an effective date of 3 January 2023, to revoke the 24 August 2021 *Cemetery Operating Policy* and to adopt the 20 December 2022 *Cemetery Operating Policy* as per Appendix 1.
3. That the Chief Executive Officer be authorised to make any formatting, nomenclature or other minor changes to the 20 December 2022 *Cemetery Operating Policy* as per Appendix 1 prior to the date of effect.

Carried Unanimously

12.5 Nomination for GAROC Members

Moved Cr Chris Grant
S/- Cr Leith Mudge

296/22

Council resolves:

1. That the report be received and noted.
2. To determine that the method of selecting a Council Member to be nominated for the Greater Adelaide Regional Organisation of Councils be by an indicative vote utilising the process set out in this Agenda report.
3. To adjourn the Council meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote to determine the preferred person for nomination for the Greater Adelaide Regional Organisation of Councils and for the meeting to resume once the results of the indicative vote have been declared.

Carried Unanimously

**ADELAIDE HILLS COUNCIL
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6.56pm The Council meeting adjourned

6.57pm the Council meeting resumed

Mayor Jan-Claire Wisdom declared a Material Conflict of Interest at Agenda Item 5 'Declaration of Interest by Members of the Council' as she may gain a benefit or suffer a loss from this appointment, in relation to Item 12.5.

6.57pm Mayor Wisdom vacated the Chair and left the Chamber.

6.58pm With approval of the Chamber Cr Chris Grant took the Chair

12.5.2 Greater Adelaide Regional Organisation of Councils (GAROC) Membership

Moved Cr Mark Osterstock

S/- Cr Leith Mudge

297/22

1. To endorse the nomination of Mayor Jan-Claire Wisdom for the Greater Adelaide Regional Organisation of Councils and authorise the Chief Executive Officer to lodge the completed nomination form to the Local Government Association.
2. That the Chief Executive Officer, on behalf of Council, writes to all Elected Members who represent the Eastern Region of Councils for GAROC seeking their support on behalf of the community of the Adelaide Hills for Mayor Jan-Claire Wisdom to fill the vacancy.

Carried Unanimously

7.01pm Cr Grant vacated the Chair

7.01pm Mayor Jan-Claire Wisdom returned to the Chamber and resumed the Chair

12.6 Status Report – Council Resolutions Update

Moved Cr Kirsty Parkin

S/- Cr Leith Mudge

298/22

Council resolves:

1. That the report be received and noted
2. The following completed items be removed from the Action List:

**ADELAIDE HILLS COUNCIL
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Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI
26/04/2022	Ordinary Council	92/22	Heathfield Resource Recovery Centre Management Agreement	Nil
28/06/2022	Ordinary Council	150/22	Naming of Parks & Reserves	Nil
23/08/2022	Ordinary Council	213/22	Draft Asset Management Plan – Community Wastewater Management Scheme 2023-2032 for public consultation	Material - Cr Linda Green Perceived - Cr Malcolm Herrmann Perceived - Cr Andrew Stratford
25/10/2022	Ordinary Council	277/22	Naming of Parks & Reserves	Nil
29/11/2022	Ordinary Council	293/22	Petition - Water Storage Tank Upper Hermitage	Nil
29/11/2022	Ordinary Council	297/22	Deputy Mayor Position Appointment	Material - Cr Nathan Daniell
29/11/2022	Ordinary Council	300/22	12.4.1 Audit Committee Membership – Council Member and Presiding Member Appointment	Material - Cr Malcolm Herrmann Material - Cr Melanie Selwood
29/11/2022	Ordinary Council	302/22	CEO PRP Membership Council Member & Presiding Member Appointment	Material - Cr Chris Grant General - Cr Kirsty Parkin
29/11/2022	Ordinary Council	303/22	12.7 Boundary Change Committee - Council Member and Presiding Member Appointment	Nil

**ADELAIDE HILLS COUNCIL
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			Method of Voting and Terms of Reference	
29/11/2022	Ordinary Council	304/22	12.7.1 Boundary Change Committee - Council Member and Presiding Member Appointment	Material - Cr Mark Osterstock General - Cr Leith Mudge General - Cr Kirsty Parkin
29/11/2022	Ordinary Council	306/22	S43 Subsidiary Membership – East Waste	General - Cr Lucy Huxter
29/11/2022	Ordinary Council	308/22	12.9.2 S43 Subsidiary Membership – Adelaide Hills Region Waste Management Authority	General - Cr Lucy Huxter
29/11/2022	Ordinary Council	311/22	12.10.1 S43 Subsidiary Membership – Gawler River Floodplain Management Authority	General - Cr Malcolm Herrmann
29/11/2022	Ordinary Council	313/22	12.11.1 S43 Subsidiary Membership – Southern & Hills Local Government Association	General - Mayor Jan-Claire Wisdom General - Cr Kirsty Parkin
29/11/2022	Ordinary Council	316/22	12.13 Policy Review – Council Member Allowances and Support Policy	Nil
29/11/2022	Ordinary Council	317/22	Legislative Change – Member Integrity & Behaviour	Nil

Carried Unanimously

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
TUESDAY 20 DECEMBER 2022
63 MT BARKER ROAD STIRLING**

13. OFFICER REPORTS - INFORMATION ITEMS

13.1 Adelaide Hills War Memorial Swimming Centre Feasibility Study

Moved Cr Pauline Gill
S/- Cr Chris Grant

299/22

Council resolves that the report be received and noted.

Carried Unanimously

13.2 Regional Public Health Plan Biennial Report

Moved Cr Kirrilee Boyd
S/- Cr Kirsty Parkin

300/22

Council resolves that the report be received and noted.

Carried Unanimously

14. QUESTIONS WITHOUT NOTICE

Nil

15. MOTIONS WITHOUT NOTICE

Nil

**ADELAIDE HILLS COUNCIL
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63 MT BARKER ROAD STIRLING**

16. REPORTS

16.1 Council Member Function or Activity on the Business of Council

Mayor Jan-Claire Wisdom

- 29 November, First meeting new AHC Council 2022-26 term
- 30 November, CBS (Community Bridging Services) opening of Art Exhibition, Stirling
- 02 December, VALO Adelaide Race guest, Adelaide
- 02 December, Adelaide Hills Wine Show guest, Adelaide
- 05 December, AHC Briefing session
- 06 December, Meeting with community group/residents Greg Russell and Danielle Clode re Bushfire mitigation partnership
- 07 December, Torrens Valley Volunteer Christmas celebration, Gumeracha
- 08 December, Social first meeting with David Leach new Mayor of Mt Barker, Stirling
- 08 December, SHLGA (Southern and Hills Local Government Association) agenda briefing, Stirling
- 08 December, Financial Assistance Grants and World Heritage briefing with AHC staff
- 09 December, SHLGA Board meeting, Goolwa
- 13 December, AHC Agenda briefing, Stirling
- 13 December, AHC new Council official photo, Stirling
- 14 December, Briefing re Electricity contract, Stirling
- 15 December, Woodside Christmas Pageant, Woodside
- 19 December, Volunteers Thank you celebration, Stirling

Cr Malcolm Herrmann

- 4 December, RSL Gumeracha Sub branch Christmas Lunch, Woodside
- 8 December, Forreston Community Hall, end of year function
- 10 December, Christmas Pageant, Lobethal
- 11 December, Carols in the Valley, Lobethal
- 14 December, Living Nativity, Lobethal
- 15 December, Christmas Pageant, Woodside

Cr Pauline Gill

- 15 December, Judging Woodside Christmas Pageant
- 17 December, Lights of Lobethal function

16.2 Reports of Members as Council/Committee Representatives on External Organisations

Cr Malcolm Herrmann

- 8 December, GRFMA, Elizabeth

**ADELAIDE HILLS COUNCIL
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16.3 CEO Report

David Waters, CEO, provided Council with a verbal Corporate Update, including:

- Native Vegetation Act – 3rd party provider
- Electricity Market Offers via LGA Procurement
- Emergency support to be provided by team from Adelaide Hills Council for Riverland floods

17. REPORTS OF COMMITTEES

17.1 Council Assessment Panel

Nil

17.2 Audit Committee – 12 December 2022

Moved Cr Pauline Gill

S/- Cr Melanie Selwood

301/22

That the minutes of the Audit Committee meeting held on 12 December 2022 as distributed, be received and noted.

Carried Unanimously

17.3 CEO Performance Review Panel

Nil

17.4 Boundary Change Committee

Nil

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
TUESDAY 20 DECEMBER 2022
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18. CONFIDENTIAL ITEMS

18.1 Surplus Government Land Notification – Exclusion of the Public

Moved Cr Pauline Gill

S/- Cr Lucy Huxter

302/22

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except:

- Acting Chief Executive Officer, David Waters
- Acting Director Community Capacity, Rebecca Shepherd
- Director Corporate Services, Terry Crackett
- Director Development & Regulatory Services, Natalie Armstrong
- Acting Director Infrastructure & Operations, David Collins
- Executive Manager Governance & Performance, Lachlan Miller
- Governance & Risk Coordinator, Steven Watson
- Manager Property Services, Karen Cummings
- Minute Secretary, Pam Williams

be excluded from attendance at the meeting for Agenda Item 18.1: (Surplus Government land notice) in confidence.

The Council is satisfied that it is necessary that the public, with the exception of Council staff in attendance as specified above, be excluded to enable Council to consider the report at the meeting on the following grounds:

Section 90(3)(d) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which –

- (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
- (ii) would, on balance, be contrary to the public interest;

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

Carried Unanimously

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
TUESDAY 20 DECEMBER 2022
63 MT BARKER ROAD STIRLING**

18.1.2 Surplus Government Land Notification – Duration of Confidentiality

Moved Cr Kirsty Parkin
S/- Cr Leith Mudge

304/22

Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 18.1 in confidence under sections 90(2) and 90(3)(d) of the *Local Government Act 1999*, resolves that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:

Item	Duration of Confidentiality NB: Item to be reviewed every 12 months if not released
Report	Until the land has been placed on the open market by the State Government or until the State Government authorises release of the information, whichever event occurs first.
Related Attachments	Until the land has been placed on the open market by the State Government or until the State Government authorises release of the information, whichever event occurs first.
Minutes	Until the land has been placed on the open market by the State Government or until the State Government authorises release of the information, whichever event occurs first.
Other (presentation, documents, or similar)	NIL

Carried Unanimously

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
TUESDAY 20 DECEMBER 2022
63 MT BARKER ROAD STIRLING**

18.2 Citizen of the Year Awards 2023 – Exclusion of the Public

Moved Cr Chris Grant

S/- Cr Leith Mudge

305/22

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except:

- Acting Chief Executive Officer, David Waters
- Acting Director Community Capacity, Rebecca Shepherd
- Director Corporate Services, Terry Crackett
- Director Development & Regulatory Services, Natalie Armstrong
- Acting Director Infrastructure & Operations, David Collins
- Executive Manager Governance & Performance, Lachlan Miller
- Manager Communications, Engagement & Events, Jen Blake
- Governance & Risk Coordinator, Steven Watson
- Minute Secretary, Pam Williams

be excluded from attendance at the meeting for Agenda Item 18.2: (Citizen of the Year 2023 Recommendations) in confidence.

The Council is satisfied that it is necessary that the public, with the exception of Council staff in attendance as specified above, be excluded to enable Council to consider the report at the meeting on the following grounds:

Section 90(3)(o) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this Agenda Item is information relating to a proposed award recipient before the presentation of the award, the disclosure of which could reasonably be expected to reveal award recipient information before a special event.

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

Carried Unanimously

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
TUESDAY 20 DECEMBER 2022
63 MT BARKER ROAD STIRLING**

18.2.2 Citizen of the Year Awards 2023 – Duration of Confidentiality

Moved Cr Pauline Gill

S/- Cr Lucy Huxter

307/22

Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter (which may include disclosure to media outlets to aid in achieving reporting timelines for publication; and disclosure to award recipients and their nominators, families and friends) in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 18.2 in confidence under sections 90(2) and 90(3)(o) of the *Local Government Act 1999*, resolves that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:

Item	Duration of Confidentiality NB: Item to be reviewed every 12 months if not released
Report	26 January 2023
Related Attachments	26 January 2023
Minutes	26 January 2023
Other	Nil

Pursuant to section 91(9)(c) of the *Local Government Act 1999*, the Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.

Carried Unanimously

ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
TUESDAY 20 DECEMBER 2022
63 MT BARKER ROAD STIRLING

18.3 Appointment of External Auditor – Exclusion of the Public

Moved Cr Kirsty Parkin

S/- Cr Melanie Selwood

308/22

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except:

- Acting Chief Executive Officer, David Waters
- Acting Director Community Capacity, Rebecca Shepherd
- Director Corporate Services, Terry Crackett
- Director Development & Regulatory Services, Natalie Armstrong
- Acting Director Infrastructure & Operations, David Collins
- Executive Manager Governance & Performance, Lachlan Miller
- Governance & Risk Coordinator, Steven Watson
- Minute Secretary, Pam Williams

be excluded from attendance at the meeting for Agenda Item 18.3: (Appointment of External Auditor) in confidence.

The Council is satisfied that it is necessary that the public, with the exception of Council staff in attendance as specified above, be excluded to enable Council to consider the report at the meeting on the following grounds:

Section 90(3)(d) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) that would, on balance, be contrary to the public interest, the disclosure of which could reasonably be expected to prejudice the commercial position of the business which supplied the information and to confer a commercial advantage on a third party.

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

Carried Unanimously

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
TUESDAY 20 DECEMBER 2022
63 MT BARKER ROAD STIRLING**

18.3.2 Appointment of External Auditor – Duration of Confidentiality

Moved Cr Chris Grant
S/- Cr Melanie Selwood

310/22

Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 18.3 in confidence under sections 90(2) and 90(3)(d) of the *Local Government Act 1999*, resolves that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:

Item	Duration of Confidentiality NB: Item to be reviewed every 12 months if not released
Report	31 December 2024
Related Attachments	31 December 2024
Minutes	Until Council has appointed an External Auditor for the 30 June 2023 financial year.
Other (presentation, documents, or similar)	NIL

Pursuant to section 91(9)(c) of the *Local Government Act 1999*, the Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.

Carried Unanimously

19. NEXT ORDINARY MEETING

The next ordinary meeting of the Adelaide Hills Council will be held on Tuesday 24 January 2023 from 6.30pm at 63 Mt Barker Road, Stirling.

20. CLOSE MEETING

The meeting closed at 7.47pm.

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 January 2023
AGENDA BUSINESS ITEM**

Item: 7.1.1

Responsible Officer: Peter Bice
Director Infrastructure & Operations
Infrastructure & Operations

Subject: Adjourned report - Options to reduce traffic congestion and improve child safety adjacent to Bridgewater Primary School

For: Decision

SUMMARY

A Motion on Notice was considered at the 27 September 2022 Ordinary Council Meeting exploring options to reduce traffic congestion and improve child safety in the vicinity of the Bridgewater Primary School (**Appendices 1,2,3**).

Two key actions were for Council staff to engage with the owners of 23 Morella Grove Bridgewater to discuss possibility of land acquisition, and the State Government to explore the potential for land transfer to extend land owned by Council to facilitate additional traffic movement options.

This report highlights the outcomes from those interactions with the relevant parties, and recommended steps.

A subsequent motion was adjourned (Motion 11.1.1) until the January 2023 meeting. Debate on this motion will recommence at the point of interruption.

RECOMMENDATION

Council resolves:

Note: debate on the adjourned motion must recommence prior to any other motions being moved.

Adjourned Motion from 27 September 2022:

11.1.1 Options to reduce traffic congestion Bridgewater Primary School – Traffic Study

Moved Cr John Kemp
S/- Cr Pauline Gill

A traffic study covering the local area surrounding Bridgewater Primary School be conducted to consider traffic congestion arising from the school's own enrolment pressures and assessing the performance of the existing one-way zones, as well as pedestrian movements to and from the school. A report be presented to Council on the results of the traffic study with concepts and costings for any recommended treatments identified that could then be considered as part of a future Annual Business Plan and Budget.

Formal Motion

Moved Cr Malcolm Herrmann
S/- Cr Leith Mudge

253/22

That item 11.1.1, Options to reduce traffic congestion Bridgewater Primary School – Traffic Study, be adjourned until the January 2023 meeting of Council.

Carried

Council Members who have spoken to the motion prior to the adjournment: Cr John Kemp and Cr Pauline Gill.

1. That the report be received and noted.
2. That following the completion of the Child Care Development, and in liaison with the Department for Education, Council Staff will assess the need for a Traffic Monitoring Study of the local road network in the vicinity of Bridgewater Primary School.

1. BACKGROUND

The purpose of the 27 September 2022 Motion on Notice was to explore the options to improve safety and traffic movements in the vicinity of Bridgewater Primary School. Concerns had been expressed by some in the local community in regard to an upcoming child care centre development. This was due to their view that the roads around the school already become congested during peak times, with long queues of vehicles. It was felt that this would likely be exacerbated by the operation of a childcare centre being developed opposite the school.

It is worth noting that as outlined in the original response to the proposed Motion on Notice that Council has adopted a *School Parking and Associated Facilities Policy* that provides the Council and staff with principles and guidelines for addressing requests for additional car parking, drop-off/pick-up facilities, or similar, near schools.

This Policy has informed the Officer’s response to the component of the motion relating to acquiring Department of Education land to extend Morella Grove, particularly the policy principle that *“the Council (i.e. the broader community) should not bear the burden of resolving matters that occur primarily due to increased demand for parking at schools or DECD decisions to remove parking from school land”*.

The motion that was carried was as per the image below:

11. MOTIONS ON NOTICE

11.1 Options to reduce traffic congestion Bridgewater Primary School

**Moved Cr John Kemp
S/- Cr Ian Bailey**

252/22

- 1 Council explores the options to reduce traffic congestion and improve child safety in the vicinity of Bridgewater Primary School and provides a report to Council on the outcomes of:**
- i. Contacting the owners of 23 Morella Grove Bridgewater (CT 5473/109) to discuss the possibility of purchasing a section of their property along the southern end of Lezayre Avenue or Morella Grove as shown in Appendix 1.**
 - ii. Writing to the Department of Education and Bridgewater Primary School to determine the possibility of transferring a section of Department of Education land to become an extension of Morella Grove as shown in Appendix 2.**

Carried Unanimously

As per the motion carried above, contact was made with both the owners of 23 Morella Grove Bridgewater, the Department for Education and Bridgewater Primary School. The outcomes of which are detailed in the analysis.

Given that a traffic study of the scale and complexity required to provide the necessary information was unbudgeted, and the caretaker provisions in place at the time of the Council Meeting, it was not feasible to carry a motion to undertake this work.

Subsequently a motion was moved to consider undertaking a traffic study, which was subsequently adjourned for consideration at the January 2023 meeting, as per below:

11.1.1 Options to reduce traffic congestion Bridgewater Primary School – Traffic Study

Moved Cr John Kemp
S/- Cr Pauline Gill

A traffic study covering the local area surrounding Bridgewater Primary School be conducted to consider traffic congestion arising from the school's own enrolment pressures and assessing the performance of the existing one-way zones, as well as pedestrian movements to and from the school. A report be presented to Council on the results of the traffic study with concepts and costings for any recommended treatments identified that could then be considered as part of a future Annual Business Plan and Budget.

Formal Motion

Moved Cr Malcolm Herrmann
S/- Cr Leith Mudge

253/22

That item 11.1.1, Options to reduce traffic congestion Bridgewater Primary School – Traffic Study, be adjourned until the January 2023 meeting of Council.

Carried

Council Members who have spoken to the motion prior to the adjournment: Cr John Kemp and Cr Pauline Gill.

Noting for procedural aspects those who have already spoken to the motion prior to it being adjourned.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal	A Built Environment
Objective B1	Our district is easily accessible for community, our businesses and visitors
Priority B1.5	Provide accessibility for the full range of users by ensuring Council's road, footpath and trails network is adequately maintained and service levels for all users are developed and considered.

Goal	A Built Environment
Objective B4	Sustainable management of our built assets ensures a safe, functional and well serviced community
Priority B4.4	Improve road safety through a safe system approach to road design, construction and maintenance including on-going applications to the State and Federal Road Blackspot program

Council has adopted a *School Parking and Associated Facilities Policy* that provides the Council and staff with principles and guidelines for addressing requests for additional car parking, drop-off/pick-up facilities, or similar, near schools. This Policy has informed the Officer's response to the component of the motion relating to acquiring Department of Education land to extend Morella Grove, particularly the policy principle that "*the Council (i.e. the broader community) should not bear the burden of resolving matters that occur primarily due to increased demand for parking at schools or DECD decisions to remove parking from school land*".

➤ **Legal Implications**

There are road rules and regulations, as well as Australian Standards, which are applicable to on and off-street parking. There are also Australian Standards and regulations which govern traffic control devices. These will need to be investigated and detailed in the report to Council.

From a meeting procedure perspective, debate on the adjourned motion (see Motion 11.1.1 above) will recommence at the point of interruption. On this basis, the Mover (Cr John Kemp) and Seconder (Cr Pauline Gill) have spoken to the motion and all other Council Members are entitled to speak to the motion. There will not be a Right of Reply due to the Mover no longer holding office. Alternatively leave of the meeting can be granted for those who have already spoken prior to the adjournment to speak for a second time.

Debate on the adjourned motion must recommence prior to any other motions being moved (such the report recommendations or another formal motion).

➤ **Risk Management Implications**

Providing a report to Council once the local road network has been monitored post development aiming to reduce traffic congestion and improve pedestrian safety will assist in mitigating the risk of:

Decisions regarding investment in infrastructure not being adequately informed, leading to a loss in community confidence in Council.

Inherent Risk	Residual Risk	Target Risk
High (2B)	Low (1D)	Low (1D)

➤ **Financial and Resource Implications**

An investigation into traffic movement and pedestrian safety in the vicinity of Bridgewater Primary School would be a significant undertaking and cannot be accommodated within existing resources. It is recommended that the services of a specialist traffic engineering consultant be obtained to support staff in preparing the report back to Council. Costs for these services are estimated to be in the order of \$10,000 to \$15,000, and would include traffic and pedestrian movement surveys, parking demand surveys, intersection performance modelling, and concept development for any proposed upgrades.

Given the partnering approach discussed between the Department for Education and Council Staff, it is likely that a cost sharing arrangement could be agreed to prior to any expenses being incurred if the Council Members determined this course of action was to be taken.

➤ **Customer Service and Community/Cultural Implications**

Not applicable.

➤ **Sustainability Implications**

Not applicable.

➤ **Engagement/Consultation conducted in the development of the report**

The responding officer discussed the proposed motion with the mover prior to completing this report, including outlining what elements of the motion the responding officer could and could not support.

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: Not Applicable

Community: Not Applicable

➤ **Additional Analysis**

Communication has since been successfully made with both the Landowner and the Developer, as well as the Department for Education and Bridgewater Primary School.

The Landowner and Developer have communicated that there is no willingness to consider any sale of land as the development required the use of the entire site.

The Department for Education were not supportive of exploring land transfer for a number of reasons. The in-principle agreed preference moving forward is to monitor the performance of the local traffic network around the Bridgewater Primary School and Childcare Centre once it has been completed and is open.

It is likely that at least a six month timeframe from the time of opening would be appropriate to consider monitoring, and to then assess any interventions or mitigations which may be warranted.

Subsequently, it is recommended that no immediate further action is required, and that following operation of the childcare centre (which at this time is unknown), Council Staff and the Department for Education will work together to explore the necessary next steps. It may be that the traffic impact assessment prepared by the developer at the time of application will prove adequate to understand any required mitigations should the situation arise.

3. OPTIONS

Council has the following options:

- I. Following completion of the Child Care Development, and in liaison with the Department for Education, Council Staff explore the need for a Traffic Monitoring Study of the local road network adjacent Bridgewater Primary School after a six month period (Recommended)
- II. Take no further action (Not Recommended)

4. APPENDICES

- (1) Original Motion on Notice
- (2) Lezayre Land Acquisition Sought in original Motion
- (3) Department for Education Land Transfer Sought in original Motion

Appendix 1

Original Motion on Notice

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 27 September 2022
AGENDA BUSINESS ITEM**

Item: 11.1 Motion on Notice

Originating from: Cr John Kemp

Subject: Options to reduce traffic congestion and improve child safety adjacent to Bridgewater Primary School

1. MOTION

I move that:

- 1. Council explores the options to reduce traffic congestion and improve child safety in the vicinity of Bridgewater Primary School including:**
 - i. Contacting the owners of 23 Morella Grove Bridgewater (CT 5473/109) to discuss the possibility of purchasing a section of their property along the southern end of Lezayre Avenue as shown in Appendix 1.**
 - ii. Writing to the Department of Education, the Department for Infrastructure and Transport and to Bridgewater Primary School to determine the possibility of transferring a section of Department of Education land to become an extension of Morella Grove as shown in Appendix 2.**
- 2. A report be presented to Council on the results of the exploration of the options.**

2. BACKGROUND

The purpose of this Motion on Notice is to explore the options to improve child safety and traffic movements in the vicinity of Bridgewater Primary School with minimal Council budget implications in the short term. The roads around the school already become congested with long queues of vehicles which is likely to be further exacerbated by the operation of a childcare centre opposite the school as discussed below.

At the 22 August 2022 Council Assessment Panel meeting, the development application for a childcare centre at 23 Morella Grove Bridgewater (Item 9.2 Development No: 22005412) was approved. This application generated considerable concern from the many representations received regarding the impact on child safety due to increased traffic congestion at peak times. **Appendix 1** shows that Lezayre Avenue is one way only and a section of Morella Grove is also one way.

There is a history of discussions between Bridgewater Primary School and the Department of Education (2013) in regard to formally extending Morella Grove as shown in **Appendix 2**. Furthermore a Local Government Association report published in 2009 entitled Car Parking and Traffic Management around Public Schools stated:

“Councils and the Department of Education and Children’s Services (DECS) are faced with increased community pressure to address both traffic congestion and safety around public school grounds.

All public schools are subject to the DECS policy that ensures that school pick-up and drop-off areas occur on public roads. However, State Government developments such as public schools are exempt from Councils’ planning requirements (development planning process).

Where schools have arterial road frontage issues, and or the need for regulatory devices, and the approval of non-standard traffic management devices, input from the Department of Transport, Energy & Infrastructure (DTEI) is also required.”

Given the Department of Education policy on drop off and pick up only occurring on public roads, it seems an obvious solution to the current traffic congestion at peak times to extend Morella Grove. Especially considering the increase in traffic associated with a child care centre with a capacity for 80 children.

Some years ago in an attempt to improve the safety of children crossing Shannon Road between the intersections of Morella Grove and Lezayre Avenue, Council approached the then owners of 23 Morella Grove Bridgewater regarding a acquiring a section of their land. Unfortunately they refused. The opportunity now exists to approach the new owners. This opportunity may also offer the possibility to widen the southern end of Lezayre Avenue to allow for two way traffic movement, (refer to **Appendix 1**). This would provide more options for traffic flow to and from the school including two way traffic along the entire length of Morella Grove. Under the current conditions, vehicle queuing on Lezayre Avenue often extends back on to Shannon Road. Another consideration is traffic movement in the event of a bushfire scenario.

Put simply, this motion is aimed at beginning a conversation between the key stakeholders with the goal of achieving an effective solution to the current less than ideal situation in regard to child safety. Particularly for those students who walk or ride bicycles to Bridgewater Primary School.

3. OFFICER’S RESPONSE – Ashley Curtis, Manager Civil Services

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal A Built Environment

Objective B1 Our district is easily accessible for community, our businesses and visitors

Priority B1.5 Provide accessibility for the full range of users by ensuring Council’s road, footpath and trails network is adequately maintained and service levels for all users are developed and considered.

Goal	A Built Environment
Objective B4	Sustainable management of our built assets ensures a safe, functional and well serviced community
Priority B4.4	Improve road safety through a safe system approach to road design, construction and maintenance including on-going applications to the State and Federal Road Blackspot program

Council has adopted a *School Parking and Associated Facilities Policy* that provides the Council and staff with principles and guidelines for addressing requests for additional car parking, drop-off/pick-up facilities, or similar, near schools. This Policy has informed the Officer's response to the component of the motion relating to acquiring Department of Education land to extend Morella Grove, particularly the policy principle that "the Council (i.e. the broader community) should not bear the burden of resolving matters that occur primarily due to increased demand for parking at schools or DECD decisions to remove parking from school land".

➤ **Legal Implications**

There are road rules and regulations, as well as Australian Standards, which are applicable to on and off-street parking. There are also Australian Standards and regulations which govern traffic control devices. These will need to be investigated and detailed in the report to Council.

➤ **Risk Management Implications**

Providing a report to Council regarding options to reduce traffic congestion and improve pedestrian safety in the vicinity of the Bridgewater Primary School will assist in mitigating the risk of:

Decisions regarding investment in infrastructure not being adequately informed, leading to a loss in community confidence in Council.

Inherent Risk	Residual Risk	Target Risk
High (2B)	Low (1D)	Low (1D)

➤ **Financial and Resource Implications**

An investigation into traffic movement and pedestrian safety in the vicinity of Bridgewater Primary School would be a significant undertaking and cannot be accommodated within existing resources. It is recommended that the services of a specialist traffic engineering consultant be obtained to support staff in preparing the report back to Council. Costs for these services are estimated to be in the order of \$10,000 to \$15,000, and would include traffic and pedestrian movement surveys, parking demand surveys, intersection performance modelling, and concept development for any proposed upgrades.

To meaningfully discuss land acquisition with the owner of 23 Morella Grove would require Council to obtain a valuation on the subject portion of the land. A valuation report is estimated to cost approximately \$1,000.

There are no immediate financial implications of writing to the Department for Education to determine the possibility of transferring a section of school land to become an extension of Morella Grove, however the ongoing upgrade, renewal, maintenance, and depreciation costs should the transfer go ahead would be significant.

Given the current Caretaker Period provisions which apply, any costs associated with delivering on this motion would need to be considered by Council at a future budget review following the conclusion of the current Caretaker Period.

Any future report to Council regarding the above matters will further detail the costs of delivering any of the recommendations contained within that report.

➤ **Customer Service and Community/Cultural Implications**

Not applicable.

➤ **Sustainability Implications**

Not applicable.

➤ **Engagement/Consultation conducted in the development of the report**

The responding officer discussed the proposed motion with the mover prior to completing this report, including outlining what elements of the motion the responding officer could and could not support.

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: Not Applicable

Community: Not Applicable

4. ANALYSIS

The Administration supports the motion that a report be returned to Council exploring options to reduce traffic congestion and improve pedestrian safety in the vicinity of Bridgewater Primary School.

Concerns have previously been raised regarding traffic congestion and pedestrian safety in the vicinity of the Bridgewater Primary School, most recently through representations in response to the proposed childcare centre at 23 Morella Grove.

When assessing the proposed development, Council officers required the developer to demonstrate that the proposal would not contribute to traffic congestion or negatively impact pedestrian safety. The applicant's traffic engineers, CIRQA, undertook detailed modelling of the performance of the intersections of Morella Gr/ Trenouth St and Lezayre Ave/ Morella Gr/ Shannon St/ Fielding Rd, which showed that the intersections operated at

an acceptable level of service. These findings were supported by traffic counts and field surveys, including video surveys of traffic at these intersections, which were provided to Council and showed minimal delays when queuing, even during peak times.

CIRQA went on to demonstrate that the childcare centre proposal would not have a significant impact on the performance of these intersections. The detailed assessment by CIRQA is included in the minutes of the Council Assessment Panel (CAP) meeting dated 10 August 2022. The CAP accepted CIRQA's assessment and findings.

Notwithstanding the above, there may be merit in broadening traffic investigations beyond the scope of the CIRQA study. A traffic study covering the local area surrounding Bridgewater Primary School would consider traffic congestion arising from the school's own enrolment pressures. It would also look at the performance of the existing one-way zones, as well as pedestrian movements to and from the school. The subsequent report to Council would include concepts and costings for any recommended treatments identified, that could then be considered as part of a future Annual Business Plan and Budget.

The Administration considers that contacting the owners of 23 Morella Grove and commencing discussions regarding purchasing a portion of their land prior to the traffic study being undertaken is premature. Currently there is no identified need for this land, and it is unclear what benefit would be achieved by acquiring this land and widening Lezayre Ave at this location. However, the broader traffic study could consider this proposal specifically, and if there is a finding that widening Lezayre Ave is recommended, an approach to the owners may be justified at that time.

Similarly, the Administration does not recommend writing to the Department for Education regarding transferring school land to Council prior to the traffic study being undertaken. This proposal may contradict Council's own policy regarding School Parking and Associated Facilities. It is unclear at this time what actions the Department for Education have taken to address congestion at the school. The financial implications of receiving this land should also be thoroughly understood before approaching the Department. However, the broader traffic study could consider this proposal specifically, and if there is a finding that transferring this land to Council is recommended, an approach to the Department may be justified at that time.

5. APPENDICES

- (1) Lezayre Avenue
- (2) Proposed Morella grove extension

Appendix 2

Lezayre Land Acquisition Sought in original Motion



Appendix 3

*Department for Education Land Transfer Sought in
original Motion*



AREA FOR TRANSFER
3200m² (approx)

Lezayre Avenue
Morella Grove



0 30m

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 January 2023
AGENDA BUSINESS ITEM**

Item: 11.1 Motion on Notice

Originating from: Cr Mark Osterstock

Subject: Aldgate Main Street Amenity Upgrade – Stage 2

1. MOTION

I move that:

1. A report be prepared for Council’s consideration on the feasibility [including costings] of:
 - a. Refurbishing [high pressure cleaning, realignment, reseating and replacement where necessary] the paved footpath on the western side of Mount Barker Road, from Euston Road to Kingsland Road [landscaping, plantings, bin replacement, street furniture replacement, signage replacement], consistent with that of the recently completed Aldgate Main Street Amenity Upgrade – Stage 1.
 - b. Maintenance [including yet not limited to, landscaping, plantings, signage replacement] of the Aldgate roundabout, consistent with that of the Stirling roundabout.
 - c. Refurbishment [high pressure cleaning and sealing of the limestone supporting structures, including yet not limited to, replacement landscaping, plantings and signage] of the Aldgate Railway Bridge and its approaches.
 2. That the funding source for these works will be the Local Roads and Community Infrastructure Program [Phase 4], and where possible, and within existing budgetary parameters and commitments, the use of in-house staff for these proposed works, as opposed to external contractor/s.
 3. That the subject report be presented to Council for consideration in March 2023, or earlier, depending on the Local Roads and Community Infrastructure Program [Phase 4] requirements and guidelines.
-

2. BACKGROUND

Recently, Council completed significant works [an upgrade of the public toilet block, landscaping and plantings, parking area redevelopment] in the main street of Aldgate [Aldgate Main Street Amenity Upgrade – Stage 1] which has served to greatly enhance the attractiveness of the main street.

In terms of main street amenity, the Aldgate main street, and its approaches, are a focal point for the town, local community and businesses alike, and, in its current state, when compared to the recently completed works, detracts from the local area's attractiveness and presentation.

Footpath Pavement

The current pavement is old, dirty and uneven in many areas, and of an inconsistent quality and standard when compared to the recently completed Capital improvements that Council has undertaken.

Refurbishing the existing paving and associated works will greatly enhance the footpath appearance and compliment the recently completed works that Council has undertaken, thereby enhancing and improving the overall presentation of the main street.

Aldgate Roundabout

The Aldgate roundabout is a focal point, and serves as an entrance statement, to the Aldgate township.

In its current state, the roundabouts appearance detracts from the amenity of the main street and the local area, especially when compared with the recently completed Capital improvements that Council has undertaken in the main street.

There is an obvious lack of consistency in landscaping and plantings between the Aldgate and Stirling roundabouts [the desired standard]. This proposal seeks to remedy this inconsistency and improve the roundabouts overall appearance.

A maintenance upgrade, consistent with the roundabout in Stirling, will serve to greatly enhance the main street entrance to the township of Aldgate and the overall attractiveness of the immediate locality for the benefit of local community and visitors alike.

Aldgate Railway Bridge

Along with the Aldgate roundabout, the railway bridge at Aldgate also serves as a focal point, and entrance statement to the Aldgate township.

Clearly, having been constructed in approximately 1884, the railway bridge is of significant heritage value, to not only the local Adelaide Hills community, but to the State as well.

The current appearance of the bridges supporting limestone structures are unsightly, they are very dirty and in need of cleaning.

Cleaning and sealing of the limestone structures, together with associated landscaping of the approaches to the railway bridge, will greatly enhance and improve the bridges appearance and restore this heritage area to something akin to when the bridge was originally constructed.

These proposed works, consistent with the works that Council has already undertaken, will serve to greatly improve the main street of Aldgate, its approaches, and the overall attractiveness of the immediate locality for the benefit of all.

Proposed Funding

It is important to note, that by utilising the **Local Roads and Community Infrastructure Program [Phase 4]** funding opportunity that these proposed works **will be cost neutral** to Council. Additional State and Commonwealth funding opportunities may also exist and are encouraged to be explored.

Local Roads and Community Infrastructure Program [Phase 4]

This program supports local councils deliver priority local road and community infrastructure projects across Australia, supporting jobs and the resilience of local communities. From 1 July 2023, councils will be able to access funding through the Local Roads and Community Infrastructure Program [Phase 4], with projects to be delivered by 30 June 2025.

To be eligible for funding, community infrastructure projects must involve the construction, maintenance and/or improvements to council-owned assets (including natural assets) that are generally accessible to the public. Projects can involve state, territory, crown or Commonwealth owned land/assets if permission has been obtained from the land or asset owner to undertake the project, and all other eligible project requirements are met. [Guideline applicable to Phase 3 funding program]

Source: Local Roads and Community Infrastructure Program.



Aldgate Main Street [western side]



Aldgate Main Street [western side]



Recently Completed Aldgate Main Street Amenity Upgrade – Stage 1



Stirling roundabout, Johnston Street, Mount Barker Road, Merrion Terrace



Aldgate roundabout, Kingsland Road, Mount Barker Road, Strathalbyn Road



Aldgate Railway Bridge – newly constructed – approximately 1884. [source: State Library of South Australia]



Aldgate Railway Bridge [currently] – Stirling to Aldgate



Aldgate Railway Bridge [currently] – Stirling to Aldgate



Aldgate Railway Bridge [currently] – Aldgate to Stirling

3. OFFICER'S RESPONSE – Peter Bice, Director Infrastructure & Operations

➤ **Strategic Management Plan/Functional Strategy/Council Policy Alignment**

Strategic Plan 2020-24 – A brighter future

Goal A Built Environment

Objective B1 Our district is easily accessible for community, our businesses and visitors

Priority B1.5 Provide accessibility for the full range of users by ensuring Council's road, footpath and trails network is adequately maintained and service levels for all users are developed and considered.

➤ **Legal Implications**

Council is unable to intervene in maintenance or site activity relating to the Rail Bridge and main structure, as it is under the care and control of the Australian Rail and Track Corporation (ARTC). Council can, however, advocate for certain works or amenity enhancements and/or could seek permission from ARTC to undertake the work itself if Council deems it worth doing so.

➤ **Risk Management Implications**

The preparation of a report outlining options, feasibility, responsibilities and associated costs for desired amenity improvements will assist in mitigating the risk of:

Ratepayer dollars being invested in a non strategic manner leading to reputational damage of Council.

Inherent Risk	Residual Risk	Target Risk
Medium (2C)	Low (2D)	Low (2D)

The report is a control measure which will provide suitable information to Council Members to ensure an informed decision may be made.

➤ **Financial and Resource Implications**

There are some aspects of the proposed works which can be delivered using internal resourcing however materials and contractors will still be required. There are costs associated with each of the identified elements, which will be identified in any report to be brought back to Council. Whilst the works recently completed in Aldgate may be referred to as Stage – 1 , there were no formally identified stages of work, and thus no formal Stage – 2 works identified.

The Local Roads and Community Infrastructure Program Phase 4 Guidelines and Funding Allocations have yet to be released, however this may potentially be available to fund capital elements of the proposed upgrades. Ongoing costs will be additional operating expenditure which will be estimated in any report to come back to the chamber if the motion is carried.

When the report comes to Council in relation to suggested projects for consideration as part of the upcoming round, key criteria will include the ongoing financial impact and merit of each individual project, in context of other priorities and suggestions of which we are aware.

Works associated with the rail bridge are the responsibility of the Australian Rail Track Corporation (ARTC) and so no cost implications envisaged. Having said that, ARTC is unlikely to prioritise amenity upgrades to its infrastructure and as such the Council’s approach to those elements may be advocacy and/or direct work (with permission) as applicable.

Any upgrades or renewals which are planned ahead of planned intervention will incur a loss on disposal, i.e. an asset being written off before the end of its economic life will have a negative financial impact as it will not have been fully depreciated.

➤ **Customer Service and Community/Cultural Implications**

Local Aldgate residents and business operators may benefit from improved amenity and increased visitation and spending. Any report coming back to the Council would explore benefits against costs in further detail.

➤ **Sustainability Implications**

It should be noted, that where any existing assets are brought forward for renewal/replacement prior to the end of identified useful life, there is a loss on disposal incurred by Council in line with Asset Management Planning and auditor expectations.

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: Not Applicable

Community: Not Applicable

4. **ANALYSIS**

Recent amenity improvements and infrastructure upgrades in Aldgate mainstreet have been received positively by the local community. The subsequent suggested improvements will likely also be received well by the local community but some of these have not been budgeted or considered against any desired upgrades or priorities identified in other township areas, nor has there been any formal identification of staged packages of works.

Whilst there are some Masterplans and Main Street Projects which have progressed in recent years, there is no prioritised schedule of works or upgrades in place. It may be prudent to look at developing a prioritised list of potential Main Street upgrades and potential financial implications of doing so.

It is inevitable that following upgrades to a particular area, any adjacent areas will appear to be kept to a lesser standard. In the case of Aldgate, upgrades have occurred to one side of the road (the non-commercial side). The footpath on the commercial side is thought to have been constructed some 28 years ago (1995), with the small section in front of the Yuki restaurant) being improved in 2012.

Some aspects such as bin replacements and street furniture placement, as well as minor roundabout improvements are already in train within the current 2022-23 Financial Year. In terms of the roundabout, more detail will be provided if a report is to come back to the Chamber detailing the limitations of the infrastructure (and sub-surface utility placement) which prevent significant additional works from being undertaken.

It should also be noted that while the two Stirling roundabouts were for a number of years planted out with flowering annuals, this has not been the case for the last three years as staff have focused on water-wise landscaping and plants which require less intensive staff maintenance due to cost, challenges and traffic disruption of setting up safe traffic work zones around roundabouts.

Any additional maintenance requirements on the roundabout as a result of upgrades will also be included in the analysis of a report, however these are likely to be able to be accommodated within existing resources.

In terms of the bridge and surrounds, a request can be made to ARTC to undertake maintenance to improve its visual appearance. As noted earlier, amenity improvements are unlikely to be considered a priority by ARTC. In around 2012, the Council pressure cleaned the bridge supporting structures at Council's cost. The roadside approaches either side of the bridge have been and can be expected to be Council's responsibility going forward. Some landscaping and a new footpath was installed on the right hand side when approaching from Stirling in around 2012. It has always proven difficult to maintain due to the slope of the embankment.

It is noted that there are short sections of kerb along this stretch identified for renewal in the upcoming 23-24 Capital Program based on recent condition assessments.

Should the Council resolve as per the motion, the Administration expects to be able to bring the report to one of the March 2023 meetings.

5. **APPENDIX**

Nil

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 January 2023
AGENDA BUSINESS ITEM**

Item: 11.2 Motion on Notice

Originating from: Cr Leith Mudge

Subject: First Nations use of Surplus Land

1. MOTION

I move that:

1. The CEO investigates options for providing preference to traditional custodians and other Aboriginal and Torres Strait Islander stakeholders who live, work or have a strong connection to the Adelaide Hills, to purchase, lease or use vacant land that is:
 - a. owned by Council; or
 - b. crown land under the care and control of Council,that is surplus to Council's needs.
 2. The Adelaide Hills Reconciliation Working Group (AHRWG), traditional custodians and other Aboriginal and Torres Strait Islander stakeholders who live, work or have a strong connection to the Adelaide Hills be consulted as part of this investigation.
 3. The outcomes of the investigation be discussed at a workshop and a report including recommended changes to relevant policy be presented to Council for consideration not later than 30 June 2023.
-

2. BACKGROUND

From time to time Council decides that land it owns or controls is surplus to Council's needs, and therefore wishes to dispose of that land. Generally the disposal of the land is governed by Council's *Disposal of Assets Policy* (refer **Appendix 1**).

Often an adjacent land-owner expresses interest in acquiring the land and incorporating it into their existing holding, citing some sort of existing relationship with the property e.g. caring for the land, using the land to graze livestock, the land is totally enclosed by adjacent land owners holding, etc.

What is often missed in this consideration is the desires and needs of the First Nations community who represent the original occupants of the Australian continent. Their relationship with the land goes back at least 65,000 years prior to European settlement and should be given preference in any considerations of disposal of land surplus to Council's needs.

At the beginning of every council meeting the Mayor reads out the Acknowledgement of Country:

Council acknowledges that we meet on the traditional lands and waters of the Peramangk and Kurna people. They are Custodians of this ancient and beautiful land and so we pay our respects to Elders past, present and emerging. We will care for this country together by ensuring the decisions we make will be guided by the principle that we should never decrease our children's ability to live on this land.

A practical expression of sentiments in this acknowledgement would be to ensure that Council always considers first the needs of the First Nations community when disposing of surplus land.

While the Peramangk and Kurna people are considered the traditional owners of the land in the Adelaide Hills region and the latter were granted Native Title over a large proportion of our council district, this motion desires to not limit consideration to the traditional owners but also consider other Aboriginal and Torres Strait Islander stakeholders who live, work or have a strong connection to the Adelaide Hills. It may however be that where competing interests exist between the traditional owners and the wider First Nations community that the traditional owners are given preference.

A way of implementing this preference might be that when a First Nations group expresses interest in using a parcel of surplus land, it is leased to that group for a "peppercorn rent" in a similar way that Council leases some community halls and sports fields to community groups in the district.

Alternatively, a First Nations group may be able to fund a purchase of the land through grants, investment, etc. and Council enters into direct negotiation with the group rather than going to open market sale or tender.

This motion in no way seeks to sidestep any other Council policies, by-laws, State or Federal legislation etc. For example, it would be expected that if the First Nations group wished to undertake an activity on the land which is contrary to the approved use under the P&D Code, a planning application would need to be made to the relevant authority for "change of use".

An example of a successful similar project in this regard is the agreement in August 2021 between the Catholic Church and Karl Winda Telfer, a senior traditional owner from the Kurna nation, which provides tenure to a 3.5 ha registered Aboriginal site near McLaren Vale for Aboriginal cultural renewal for Mr Telfer and his descendants for 50 years. The land is part of a larger heritage site about 18 ha in size implemented as an ecological and cultural regeneration project known as Lot 50-Kanyanyapilla. The article in the Southern Cross Newspaper provides more details: <https://indd.adobe.com/view/829107fa-3ac8-45a6-8aaa-e9766f6ab98d>. You can find more information about Lot 50-Kanyanyapilla here: <https://lot50kanyanyapilla.com>.

3. OFFICER’S RESPONSE – Karen Cummings, Manager Property Services

➤ **Strategic Management Plan/Functional Strategy/Council Policy Alignment**

Strategic Plan 2020-24 – A brighter future

Goal Community Wellbeing

Objective C5 Respect or Aboriginal Culture and Values

Priority C5.1 Partner with the Aboriginal and Torres Strait Islander community to develop our second Reconciliation Action Plan (Innovate) and actively participate in Reconciliation week.

It is understood that the Motion on Notice seeks to engage more directly with the Traditional Custodians and other Aboriginal and Torres Strait Islander stakeholders who live work or have a strong connection to the Adelaide Hills. Should the motion be passed, the future workshop and Council report will consider other forms of engagement with Traditional Custodians and other Aboriginal and Torres Strait Islanders who live work and have a strong connection to the Adelaide Hills, when considering disposal of Council land.

➤ **Legal Implications**

Native Title continues to exist over sections of the Adelaide Hills. A future workshop and report would need to consider legal implications of providing preference to Aboriginal and Torres Strait Islander stakeholders who may have an interest in a parcel of land, but not a legal interest from a Native Title perspective. Further, as outlined in the Disposal of Assets Policy (**Appendix 1**) there are numerous pieces of legislation (including the *Local Government Act 1999*) that must be considered when disposing of Council land.

Given the complex nature of the proposal to consider options for providing preference to Traditional Custodians over other interested parties when disposing of Council land, should the motion be passed, it is intended that legal advice will be sought as part of the subsequent investigation.

➤ **Risk Management Implications**

Poor governance practices occur which lead to a loss of stakeholder (i.e. customer and regulator) confidence and/or legislative breaches.

Inherent Risk	Residual Risk	Target Risk
Extreme (5C)	Low (1D)	Low (1D)

Council has many internal controls that contribute to managing the above risk and therefore the subject of this report does not in itself have an additional mitigating impact on the residual risk.

➤ **Financial and Resource Implications**

As outlined, legal advice would likely be required as part of the investigations into providing preference for one cohort over another and also any Native Title implications if Council were to develop a position consistent with the Motion on Notice. The legal advice may cost several thousand dollars and will be accommodated through existing budget allocations for same.

In addition to the above, research will likely be undertaken to ascertain other Council's positions (in South Australia and Australia wide) in relation to similar proposals.

Any subsequent financial impacts from recommended changes to Council Policy that may occur following the proposed workshop would be considered at that time.

➤ **Customer Service and Community/Cultural Implications**

In developing Council's draft Innovate Reconciliation Action Plan, and in discussions with the Adelaide Hills Reconciliation Working Group it has been identified that there may be an interest in the community for access to space suitable for undertaking a range of cultural activities. It does not necessarily mean that traditional custodians would need to take legal ownership of land however and the various options would be explored in the investigation.

Appropriate engagement with Traditional Custodians and Aboriginal and Torres Strait Islander stakeholders in investigating options in relation to cultural use of land is fundamental to achieving a culturally appropriate approach and fostering community support.

➤ **Sustainability Implications**

Not applicable.

➤ **Engagement/Consultation conducted in the development of the report**

No engagement has been undertaken in the preparation of this Report.

Consultation on the development of this report was as follows:

Council Committees: None undertaken.

Council Workshops: None undertaken.

Advisory Groups: None undertaken.

External Agencies: None undertaken.

Community: None undertaken.

4. ANALYSIS

Council updated its Disposal of Assets Policy (see **Appendix 1**) in September 2022. It is noted that Council's existing engagement processes and approaches in the disposal of Council land, specifically the Community Land engagement processes mandated under the *Local Government Act 1999*, and the approaches outlined in Council's Community Engagement Policy, does not preclude anyone coming forward to express an interest in Council land that Council is considering as surplus to its requirements.

Further, whilst Council does not have an Unsolicited Bid Policy, Council's existing processes do not preclude anyone from coming forward with a formal proposal for Community Land for Council's consideration, even for land that it has not deemed as surplus to its requirements.

As outlined above options for appropriate engagement with Traditional Custodians and Aboriginal and Torres Strait Islander stakeholders will be one of the key considerations in a future workshop and Council report.

5. APPENDICES

Appendix 1 – Disposal of Assets Policy

Appendix 1

Disposal of Assets Policy

Council Policy

Disposal of Assets



COUNCIL POLICY

 <p>Adelaide Hills COUNCIL</p>	<h2 style="margin: 0;">DISPOSAL OF ASSETS</h2>
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Policy Number:	FIN-07
Responsible Department(s):	Financial Services
Relevant Delegations:	As per the Delegations Register and as detailed in this Policy
Other Relevant Policies:	<i>Procurement Policy Prudential Management Policy Asset Management Policy Arts and Heritage Collection Policy Public Consultation Policy</i>
Relevant Procedure(s):	Nil
Relevant Legislation:	<i>Local Government Act 1999 (SA) Real Property Act 1886 (SA) Land and Business (Sale and Conveyancing) Act 1994 (SA) Development Act 1993 (SA) Retail and Commercial Leases Act 1995 (SA) Residential Tenancies Act 1995 (SA) Strata Titles Act 1988 (SA) Crown Land Management Act 2009 (SA) Community Titles Act 1996 (SA) Roads (Opening and Closing) Act 1991 (SA) Land Acquisition Act 1969 (SA).</i>
Policies and Procedures Superseded by this policy on its Adoption:	Disposal of Assets Policy 2019 Item 12.4, Res 216/19
Adoption Authority:	Council
Date of Adoption:	23 August 2022
Effective From:	06 September 2022
Minute Reference for Adoption:	Item 12.9, Res 216/22
Next Review:	No later than September 2025 or as required by legislation or changed circumstances.

Version Control

Version No.	Date of Effect	Description of Change(s)	Approval
1.0	10/09/2019	Review and Combine INF – 01, Disposal of Land Policy & INF – 04 Disposal of Material into one Policy	Council - Res 216/19
2.0	06/09/2022	Removal of requirement of advertising via newsprint, clarification of Public consultation and Minor Plant and equipment definitions. Assigning responsibility to ensure asset registers are updated.	Council - Res 216/22

DISPOSAL OF ASSETS POLICY

1. INTRODUCTION AND PURPOSE

- 1.1. The purpose of this policy is to establish the key principles relating to the sale or disposal of Council assets.
- 1.2. The existence of this policy will ensure a consistent, fair, transparent and accountable approach is maintained and assist in ensuring all third party applications are treated fairly and equitably.
- 1.3. The *Disposal of Assets Policy* should align with the Council's Strategic Plan and relate to the provision of an attractive community, preservation of the natural environment and local economic development. It is acknowledged that land can facilitate the attainment of the Adelaide Hills Council area being a desirable place to live, work and play. It is also acknowledged that assets which are not performing or have no potential in this regard need to be reviewed and aligned to the achievement of the visions of the Strategic Plan.
- 1.4. This policy incorporates the Council's approach to recouping administrative costs that it incurs when it considers a request by a third party to purchase Council land, in particular roads and community land.

2. OBJECTIVES

- 2.1. The objectives of this policy are to:
 - 2.1.1. define the methods by which assets are disposed of;
 - 2.1.2. demonstrate the accountability and responsibility of Council to ratepayers;
 - 2.1.3. be fair and equitable to all parties involved;
 - 2.1.4. enable all processes to be monitored and recorded; and
 - 2.1.5. ensure that the best possible outcome is achieved for the Council.
- 2.2. Furthermore, *Section 49 (a1) of the Local Government Act (1999) (the Act)* requires Council to develop and maintain policies, practices and procedures directed towards:
 - 2.2.1. obtaining value in the expenditure of public money; and
 - 2.2.2. providing for ethical and fair treatment of participants; and
 - 2.2.3. ensuring probity, accountability and transparency in all disposal processes.

3. SCOPE

- 3.1. In compliance with *Section 49 of the Act* Council should refer to this policy when disposing of assets and *Section 201 of the Act* Council when disposing of local government land.
- 3.2. However, this Policy does not cover:
- 3.2.1. land sold by Council for the non-payment of rates; or
 - 3.2.2. disposal of goods which are not owned by the Council, such as abandoned vehicles;

as these are dealt within the Act.
 - 3.2.3. granting of leases, licences or interests over land; or
 - 3.2.4. the acquisition of assets that are covered in Council's Procurement Policy.

4. DEFINITIONS

- 4.1. In this policy, unless the contrary intention appears, these words have the following meanings:

Acquisition means the purchase, leasing, and acceptance of property under care, control and management or other transfer of any interest in assets to Council.

Act means the *Local Government Act 1999* and its regulations as amended (unless otherwise defined).

Assets means any physical item that the Council owns and that has at any time been treated pursuant to the Australian Accounting Standards as an 'asset' and includes land, major plant and equipment and minor plant and equipment. It **does not include** financial investments or finance related activities.

Chief Executive Officer means the Chief Executive Officer (including their delegate) of the Adelaide Hills Council, or an acting Chief Executive Officer of the Adelaide Hills Council (including their delegate).

Community Land means local government land classified as community land under Chapter 11 of the Act.

Council means the Adelaide Hills Council.

Council Member as stated in the Act means the principal member or a councillor of the Council.

Disposal means the sale or other transfer of an asset by Council to another party.

Land includes community land, vacant land, operational land and roads, and any other land-related assets, including all buildings (community and operational) on land.

Major Plant and Equipment includes all major machinery and equipment owned by the Council. It includes all trucks, graders, other operating machinery and major plant items with an original value of \$5,000 or more. It does not include minor plant and equipment.

Minor Plant and Equipment includes all minor plant, equipment and portable and attractive items owned by Council. It includes all loose tools, store items, furniture, second hand items removed from major plant and equipment (such as air conditioners, bricks and pavers) and surplus bulk items (such as sand and gravel) with an original value likely to be less than \$5,000.

Portable and Attractive Items are items of equipment that are less than \$5,000 and are susceptible to theft or loss due to their portable nature and attractiveness for personal use or resale.

Examples of Portable and Attractive Items include (but are not limited to)

- a) laptop/mobile computers (purchased outright/non leased);
- b) mobile communication devices (e.g. iPhone/Androids/iPads);
- c) audio Visual Equipment (including Projectors);
- d) cameras (digital/film/video);
- e) printers (including label printers);
- f) televisions, flat screens and monitors;
- g) DVD/Video players, and Music players (iPod etc.);
- h) GPS devices;
- i) power tools;
- j) ladders, or other outdoor equipment.

Road has the same meaning as defined in the Act, being a public or private street, road or thoroughfare to which public access is available on a continuous or substantially continuous basis to vehicles or pedestrians or both and includes:

- a) A bridge, viaduct or subway; or
- b) An alley, laneway or walkway

Staff means Council staff, contractors, volunteers and all others who perform work on behalf of Council.

Unsolicited proposal is an approach to Council from a third party for the purchase of an asset where the Council has not requested a proposal through its regular disposal or procurement processes.

Valuation means a determination or assessment of value completed by a qualified and licensed valuer.

5. POLICY PRINCIPLES

Council must have regard to the following principles when disposing of assets:

- 5.1. Encouragement of open and effective competition.
- 5.2. Obtaining value for money
 - 5.2.1. This is not restricted to price alone.
 - 5.2.2. An assessment of value for money must include consideration of (where applicable):
 - 5.2.2.1. the contribution to Council's long term financial plan and strategic management plans;
 - 5.2.2.2. any relevant direct and indirect benefits to Council, both tangible and intangible;
 - 5.2.2.3. efficiency and effectiveness;
 - 5.2.2.4. the costs of various disposal methods;
 - 5.2.2.5. internal administration costs;
 - 5.2.2.6. risk exposure; and
 - 5.2.2.7. the value of any associated environmental benefits.
- 5.3. Ethical Behaviour and Fair Dealing.
 - 5.3.1. Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.
- 5.4. Probity, Accountability, Transparency and Reporting.
- 5.5. Ensuring compliance with all relevant legislation, including the following:
 - 5.5.1. *Local Government Act 1999 (SA)*
 - 5.5.2. *Real Property Act 1886 (SA)*
 - 5.5.3. *Land and Business (Sale and Conveyancing) Act 1994 (SA)*

- 5.5.4. *Development Act 1993 (SA)*
- 5.5.5. *Retail and Commercial Leases Act 1995 (SA)*
- 5.5.6. *Residential Tenancies Act 1995 (SA)*
- 5.5.7. *Strata Titles Act 1988 (SA)*
- 5.5.8. *Crown Land Management Act 2009 (SA)*
- 5.5.9. *Community Titles Act 1996 (SA)*
- 5.5.10. *Roads (Opening and Closing) Act 1991 (SA)*
- 5.5.11. *Land Acquisition Act 1969 (SA)*

6. CONSIDERATIONS PRIOR TO THE DISPOSAL OF ASSETS

- 6.1. Any decision to dispose of an asset will be made after considering (where applicable):
 - 6.1.1. the usefulness of the asset;
 - 6.1.2. the current market value of the asset;
 - 6.1.3. the annual cost of maintenance;
 - 6.1.4. any alternative future use of the asset;
 - 6.1.5. any potential contamination remediation costs;
 - 6.1.6. any duplication of the asset or the service provided by the asset;
 - 6.1.7. any impact the disposal of the asset may have on the community;
 - 6.1.8. any cultural or historical significance of the asset;
 - 6.1.9. the positive and negative impacts the disposal of the asset may have on the operations of the Council;
 - 6.1.10. the long term plans and strategic direction of the Council;
 - 6.1.11. the remaining useful life of the asset;
 - 6.1.12. a benefit and risk analysis of the proposed disposal;
 - 6.1.13. the results of any community consultation process;
 - 6.1.14. any restrictions on the proposed disposal;
 - 6.1.15. the content of any community land management plan; and

- 6.1.16.** other relevant policies of the Council, including the Prudential Management Policy.

6.2. Deaccession and Disposal of items from The Arts and Heritage Collection

- 6.2.1.** When disposing of items from the arts and heritage collection, the *Arts and Heritage Collection Policy* must be followed.

7. DISPOSAL METHODS

7.1. Disposal of Land

- 7.1.1.** The Council may resolve to dispose of land.
- 7.1.2.** Where the land forms or formed a road or part of a road, the Council must ensure that the land is closed under the Roads (Opening and Closing) Act 1991 (SA) prior to its disposal.
- 7.1.3.** Where land is classified as community land, the Council must:
 - 7.1.3.1.** undertake public consultation in accordance with the Act and the Council's Public Consultation Policy; and
 - 7.1.3.2.** ensure that the process for the revocation of the classification of the land as community land has been concluded prior to its disposal; and
 - 7.1.3.3.** comply with all other requirements under the Act in respect of the disposal of community land.
- 7.1.4.** Where land is classified as community land, consideration should be given to impact the disposal would have on the local community including assessment of the following:
 - 7.1.4.1.** Ecological Value – determined by the size of the land, distance to core habitat, proportion of surrounding open space in close proximity to the site and extent of roads and sealed surfaces surrounding the site;
 - 7.1.4.2.** Trees and vegetation – impact on existing trees and vegetation;
 - 7.1.4.3.** Character and appeal – how is the land currently used, landscaped and maintained and are the facilities on the land of benefit to the community;
 - 7.1.4.4.** Accessibility – proximity to nearby residents or businesses;

-
- 7.1.4.5. Recreational value – size of the land, current or possible use for formal or informal recreation and facilities on the land suitable to facilitate formal or informal recreation;
 - 7.1.4.6. Cost of maintenance – annual costs to maintain the land.
 - 7.1.5. The Council will, where appropriate, dispose of land through one of the following methods:
 - 7.1.5.1. **Open market sale** - by procuring the services of a licensed real estate agent and/or auctioneer (following compliance with the Council's Procurement Policy);
 - 7.1.5.2. **Expressions of interest** - seeking expressions of interest for the land;
 - 7.1.5.3. **Select tender** - seeking tenders from a selected group of persons or companies;
 - 7.1.5.4. **Open tender** - openly seeking bids through tenders, including public auction;
 - 7.1.5.5. **By negotiation** – with owners of land adjoining the land to be disposed or others with a pre-existing interest in the land, or where the land is to be used by a purchaser whose purpose for the land is consistent with the Council's strategic objectives for the land.
 - 7.1.6. Selection of a suitable disposal method will include consideration of (where appropriate):
 - 7.1.6.1. the number of known potential purchasers of the Land;
 - 7.1.6.2. the original intention for the use of the Land;
 - 7.1.6.3. the current and possible preferred future use of the Land and;
 - 7.1.6.4. the opportunity to promote local economic growth and development;
 - 7.1.6.5. delegation limits, taking into consideration accountability, responsibility, operation efficiency and urgency of the disposal;
 - 7.1.6.6. the total estimated value of the disposal; and
 - 7.1.6.7. compliance with statutory and other obligations.
 - 7.1.7. If Land is to be auctioned or placed on the open market or disposed of by an expression of interest, then (unless the Council resolves otherwise) one independent valuation must be obtained to establish the reserve

price for the Land. The independent valuation must be made no more than 6 months prior to the proposed disposal.

7.1.8. If Land is to be disposed of via a select tender or direct sale, unless the Council resolves otherwise:

7.1.8.1. the sale or exchange of Roads under the *Roads (Opening and Closing) Act 1996* or Land that has a site value as valued by the Valuer-General at under \$100,000 one independent valuation by a Valuer must be obtained to ensure that an appropriate market value is obtained;

7.1.8.2. where the Land has a site value as valued by the Valuer-General at greater than \$100,000, a minimum of two independent valuations by a Valuer must be obtained to ensure that an appropriate market value is obtained;

7.1.8.3. The independent valuations must be made no more than 6 months prior to the Council resolving to dispose of the land.

7.1.9. The Council will seek to dispose of Land at or above current market valuation, as determined by a Valuer, by whichever method is likely to provide the Council with a maximum return, unless there are reasons for the Council to accept a lesser return which is consistent with the Council's overall strategic direction. These reasons must be documented in writing.

7.1.10. If the disposal is not to be on the open market, the disposal should be at or above the current market valuation, as determined by a Valuer (with due regard to all associated costs to achieve the transaction or such other amount as the Council resolves).

7.1.11. The Council will not dispose of land to any Council member or staff who has been involved in any process related to a decision to dispose of the land and/or the establishment of a reserve price.

7.1.12. Unless resolved by Council, elected members and staff will not be permitted to purchase land unless the purchase is via an open tender process or a public auction, and the tender submitted or bid made is the highest.

7.1.13. Purchasers of land must be required to agree in writing that before purchasing any land that no warranty is given by the Council in respect of the suitability and condition of the land for the recipient and that the Council will not be responsible for the land in any respect following the disposal, unless otherwise agreed as part of a commercial negotiation.

7.1.14. Unless otherwise resolved by Council, net proceeds will be applied to general revenue to reduce borrowings and build cash reserves to fund future asset replacement or strategic land purchases. However the Council may consider the specific application of net proceeds where the disposal is to fund a particular strategic purpose

7.2. Disposal of Roads

Roads, including unmade road reserves and walkways, form integral links in the vehicle and pedestrian network. Where these may have future requirements for vehicle or access connections, form part of strategic connections identified by the State Government as having state linkages or are identified in the Council's *Trails Strategy*, they should be retained by Council.

7.2.1. Roads that are not considered to be integral parts of these linkages could be considered for disposal as surplus to community requirements and Council may consider expressions of interest from interested adjoining property owners to purchase.

7.2.2. Expressions of Interest for the purchase of the whole or portion of a road are processed in the following manner:

7.2.2.1. Receipt of an application and payment of an application fee (as set out in the annual fees and charges);

7.2.2.2. Internal assessment undertaken using the Local Government Association publication *Unformed Public Road Strategic Direction and Use Instruction Manual*;

7.2.2.3. Where, following the internal assessment, disposal is not considered to be appropriate, the applicant will be advised of the decision;

7.2.2.4. Where, following the internal assessment, the road is considered surplus to needs, the proposal will be progressed in accordance with the requirements of the Roads (Opening and Closing) Act 1991 and the request for a valuation undertaken by a Valuer.

7.2.2.5. Where multiple adjoining land owners express an interest in the purchase of the same or similar area of road and the interested parties are not able to reach agreement, the Council may choose to undertake the sale as a select tender process or not to progress with the road closure and sale.

7.2.2.6. Following completion of the public notification period, a report will be presented to Council for consideration

7.3. Disposal of Major Plant and Equipment and Minor Plant and Equipment

7.3.1. The disposal of major plant and equipment and minor plant and equipment will be the responsibility of the relevant Council Officer who is responsible for those assets.

7.3.2. The Council will, where appropriate, dispose of major plant and equipment and minor plant and equipment through one of the following methods:

7.3.2.1. *Trade-in* – trading in equipment to suppliers;

7.3.2.2. *Expressions of interest* – seeking expressions of interest from buyers including specialist resellers (minimum of 2 to be requested);

7.3.2.3. *Select tender* – seeking tenders from a selected group of persons or companies;

7.3.2.4. *Open tender* – openly seeking bids through tenders, noting that the LGA Procurement’s disposal panel or Tenders SA can be used to obtain Tenders;

7.3.2.5. *Public auction* – procuring the services of an auctioneer (following compliance with the Council’s Procurement Policy); including public auction websites but only auctioned and not as “fixed price”

7.3.2.6. *Donation* – to community groups, charities, welfare or not for profit organisations.

7.3.2.7. *Destruction and/or recycling* – Where assets have no remaining useful life or any item which cannot be disposed of by sale or donation shall be destroyed and/or recycled.

- Where possible, all raw materials, parts and accessories shall be recycled for reuse.
- All non-recyclable materials shall be disposed of through the accepted waste management system.
- No material deposited within the waste stream shall be withdrawn for use.

7.3.3. Selection of a suitable method will include consideration of (where appropriate):

7.3.3.1. the public demand and interest in the major plant and equipment and minor plant and equipment;

7.3.3.2. the method most likely to return the highest revenue;

7.3.3.3. the value of the major plant and equipment or minor plant and equipment;

- 7.3.3.4.** the costs of the disposal method compared to the expected returns;
- 7.3.3.5.** compliance with statutory and other obligations; and
- 7.3.3.6.** community benefit.

7.3.4. As a general rule, minor plant and equipment, and in particular items with a value below \$1,000, should not be disposed of individually. Where items are of low value, they may be kept until they can be bundled with other compatible items to sell as a single lot. Minor plant and equipment is generally disposed of via an expression of interest or public auction.

7.3.5. Where minor plant & equipment (with a market value greater than \$200), whilst fit for purpose and functionally safe, is not considered suitable or viable for sale, it may be considered for donation to community groups, charities, welfare or not for profit organisations. Minor plant & equipment made available for donation will be advertised through the Council's social media channels with interested groups invited to submit offers of interest. Allocation of donated items will be made using available random selection tools so that no preferential treatment is provided.

7.3.6. Where minor plant & equipment (with a market value less than \$200), whilst fit for purpose and functionally safe, is not considered suitable or viable for sale, it may be considered for donation to community groups, charities, welfare or not for profit organisations. The relevant Director must approve the donation and recipient. This option is preferable to disposing of items to waste.

7.3.7. Purchasers of major plant and equipment and minor plant and equipment or recipients of donated minor plant and equipment may be required to agree in writing that before purchasing any major plant and equipment and minor plant and equipment or receiving the donation of any minor plant and equipment that no warranty is given by the Council in respect of the suitability and condition of the asset for the recipient and that the Council will not be responsible for the asset in any respect following the disposal.

7.3.8. Council members and staff are not permitted to take, or be given, surplus assets, materials or equipment, even if not considered suitable for sale.

7.4. Unsolicited proposals to purchase land or assets or partner with Council using its land or Assets, need to consider the following:

7.4.1. Whether they could assist the Council to achieve its strategic objectives or satisfy a community need.

- 7.4.2.** The act of receiving and assessing proposals cannot in any way compromise the performance of Council's statutory and regulatory requirements.
- 7.4.3.** An unsolicited proposal should be assessed in accordance with the Council's Unsolicited Proposals Policy (if any), and in the absence of an Unsolicited Proposals Policy, using the following criteria:
 - 7.4.3.1.** Can the asset be disposed of in a competitive disposal process, if so then a competitive process should be undertaken;
 - 7.4.3.2.** Does the proposal align with the Council's Strategic Plan objectives;
 - 7.4.3.3.** What are the community benefits to the proposal; and
 - 7.4.3.4.** Is the disposal of asset required to meet the outcome?
- 7.4.4.** Any unsolicited proposal that is assessed as being suitable for further consideration will be presented to Council for such consideration

8. PUBLIC CONSULTATION

- 8.1.** Where asset disposal requires public consultations in accordance with the *Local Government Act 1999 (SA)*, Council must undertake the process as per Councils Public Consultation Policy

9. DELEGATIONS

- 9.1.** The Chief Executive Officer has the delegation to:
 - 9.1.1.** Approve, amend and review any procedures that shall be consistent with this Policy; and
 - 9.1.2.** Make any legislative, formatting, nomenclature or other minor changes to the Policy during the period of its currency.

10. RECORDS

- 10.1.** The Council must record reasons for utilising a specific disposal method and where it uses a disposal method other than a tendering process.
- 10.2.** When disposing of plant and equipment Council must utilise the approved disposal form.
- 10.3.** The council officer disposing of the asset is responsible to ensure that the appropriate asset register is updated upon disposal.

11. EXEMPTIONS FROM THIS POLICY

11.1. This policy contains general guidelines to be followed by the Council in its disposal activities. There may be emergencies, or disposals in which a tender process will not necessarily deliver best outcome for the Council, and other market approaches may be more appropriate. In certain circumstances, the Council may, subject to the resolution of council, waive application of this policy and pursue a method which will bring the best outcome for the Council. The Council must record its reasons in writing for waiving application of this policy.

12. AVAILABILITY OF THE POLICY

This policy will be available via the Council's website www.ahc.sa.gov.au.

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 January 2023
AGENDA BUSINESS ITEM**

Item: 11.3 Motion on Notice

Originating from: Cr Melanie Selwood

Subject: Australia Day and First Nations

1. MOTION

I move that Council:

1. Reaffirms its commitment to being an inclusive council that respects First Nations culture and values.
 2. Acknowledges the 26th of January is a day of mourning for many First Nations people.
 3. Requests the Chief Executive Officer to prepare a report for Council's consideration on the proposal to move citizenship ceremonies, award ceremonies and related events to a date other than Australia Day from 2024 onwards.
-

2. BACKGROUND

January 26 is the date the British flag was raised at Sydney Cove by Captain Arthur Phillip. It wasn't until 1910 that January 26 was named 'Foundation Day', to celebrate the foundation of Australia¹. In 1915, the date was officially declared 'Australia Day' and as recently as 1994 it was officially declared a public holiday.

Since 1938 (the 150th anniversary of the landing of the First Fleet at Sydney Cove), First Nations people have described the 26 of January as a 'day of mourning'.² In that year, First Nations people were forced to re-enact the landing of the First Fleet at Sydney Cove.³ In response, 100 First Nations people staged a silent march through the streets of Sydney.⁴ Since the landing of the First Fleet at Sydney Cove, First Nations people have experienced the loss of life, land and liberty. They have suffered intergenerational trauma and continue to be subject to inequality in economic, social, wellbeing and political terms.

In subsequent years, January 26 has also been referred to as Invasion Day in recognition of the pain inflicted on First Nations peoples on the invasion of their lands, and Survival Day in

¹ Source: State Library SA: <https://www.slsa.sa.gov.au/australia-day-south-australia>

² Source: NITV: <https://www.sbs.com.au/nitv/article/10-things-you-should-know-about-january-26/1ghjmmaxw>

³ Source: National Museum of Australia

⁴ Source: Museums Victoria: <https://museums victoria.com.au/article/australia-day/>

recognition of their ability to endure and survive invasion and oppression. Protests about the celebration of Australia Day on January 26 have continued since 1938, with up to 100,000 people participating in protests on Australia Day in 2020. Many are calling for the date to be changed to acknowledge that Australia Day is not a day of celebration for all Australians. A 2018 survey found that 56% of respondents did not mind which day Australia Day was celebrated on, with 49% of respondents believing that it shouldn't be held on a day that was offensive to First Nations people.⁵

The Federal Government now allow Citizenship Ceremonies to be held near 26 January rather than on the date if they so decide⁶. Several Local Government areas around Australia have changed the date of Award Ceremonies and/or Citizenship Ceremonies already including:

South Australia

- Port Adelaide Enfield

Victoria

- Yarra City
- Darebin

New South Wales

- Inner West

Western Australia

- Fremantle

Tasmania

- Flinders Island
- Launceston

Some councils hold Citizenship Ceremonies throughout year coinciding with other dates, such as Harmony Day.

Adelaide Hills Council's Strategic Plan has a clear goal regarding First Nations culture under Community Wellbeing: Respect for Aboriginal Culture and values. Citizenship Ceremonies are vital parts of our civic duty and in and of themselves celebrate inclusivity and the joy of being Australian. It is not, however inclusive of First Nations people if we celebrate on a day of mourning.

Award Ceremonies are also a time of joy, but also a valuable opportunity to celebrate our communities and people who significantly contribute to the Adelaide Hills and their communities.

Both Citizenship Ceremonies and Award Ceremonies could be celebrated on a day closer in alignment with the values of inclusivity and respect for First Nations values.

3. OFFICER'S RESPONSE – Lynne Griffiths, Community & Cultural Development Officer

⁵ Source: SBS: https://www.sbs.com.au/news/article/why-australia-day-is-really-held-on-26-january-and-the-push-to-change-the-date/35rhgb3q8?/?cid=news:search:gg:en:dsa:prog&gclid=CjwKCAiAwomeBhBWEiwAM43YIBUAPHNz5_rGlaQbAyGEMQtCUGhXj2Vh6pggyuyvpvEJFCi7UKj0NgxoCB84QAvD_BwE&gclid=aw.ds

⁶ Source: Australian Government: [Greater Flexibility for Citizenship Ceremonies for 2023 \(homeaffairs.gov.au\)](https://www.homeaffairs.gov.au/government/press-releases/2023/01/greater-flexibility-for-citizenship-ceremonies-for-2023)

➤ **Strategic Management Plan/Functional Strategy/Council Policy Alignment**

Strategic Plan 2020-24 – A brighter future

Goal 2 Community Wellbeing

Objective C5 Respect for Aboriginal Culture and values

Priority C5.2 Celebrate and recognise Aboriginal culture and heritage through participation in and the delivery of programs and activities that engage our community in cultural experience and learning.

Goal 5 A Progressive Organisation

Objective O4 We actively represent our community.

It is understood that the Motion on Notice seeks to explore options other than Australia Day, 26 January for the holding of citizenship ceremonies, award ceremonies and related events, reflecting Council's commitment to Reconciliation.

➤ **Legal Implications**

The conduct of citizenship ceremonies is governed by the *Australian Citizenship Act 2007* (Cth) and the underlying Regulations and Codes.

➤ **Risk Management Implications**

Mitigating the risk of:

Poor governance practices occur which lead to a loss of stakeholder (i.e. customer and regulator) confidence and/or legislative breaches.

Inherent Risk	Residual Risk	Target Risk
Extreme (5C)	Low (3E)	Low (3E)

Note that there are many other controls that assist in mitigating this risk.

➤ **Financial and Resource Implications**

Costs associated with citizenship ceremonies should not be adversely affected by a change of date.

➤ **Customer Service and Community/Cultural Implications**

Council has an established commitment to Reconciliation as demonstrated through such initiatives as the Adelaide Hills Reconciliation Working (AHRWG) Group, *Acknowledgement and Welcome to Country Policy*, *Aboriginal Place Naming Action Plan*, Reconciliation branding and a strong program of activities and events, particularly during National Reconciliation Week and NAIDOC Week.

Council is currently developing an innovate level Reconciliation Action Plan.

➤ **Sustainability Implications**

Not applicable

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: Not Applicable

Community: Not Applicable

4. ANALYSIS

Australia Day and the incorporated citizenship ceremonies and events are a long-standing practice that impacts on many members of the community. The relationship between Australia Day and the impact that this has on many in the Aboriginal and Torres Strait Islander community and non-Aboriginal community is also long-standing. Any change to this event will impact on a significant number of people in the community.

Should the motion be carried, the administration would look to undertake relevant research including the following as part of reporting back to the Council:

- A review of relevant legislation, ministerial codes, etc applying to citizenships
- Consideration of other Local Government practices across the Nation
- Targeted stakeholder engagement particularly including the Adelaide Hills Reconciliation Working Group, community groups that currently hold community celebrations on Australia Day at which Council typically presents local awards and the Australia Day Council of South Australia in respect to the Citizen of the Year Awards and broader guidance on the matter.

The report to council would include the outcome of the above along with a number of options for Council to consider as well as an outline of broader community engagement options should Council wish to engage more broadly on the matter (including costs of same).

It is anticipated that the report would be brought back to Council by the end of April 2023.

5. APPENDICES

Nil

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 January 2023
AGENDA BUSINESS ITEM**

Item: 12.1

Responsible Officer: Lynne Griffiths
Community and Cultural Development Officer
Community Capacity

Subject: Reconciliation Working Group Council Representative

For: Decision

SUMMARY

At its meeting held on 28 August 2018 Council endorsed the establishment of an Adelaide Hills Reconciliation Working Group (AHRWG) in partnership with Mount Barker District Council.

The AHRWG continues to play a fundamental role in advising on the development of Council's Innovate Reconciliation Action Plan (RAP) and in advising on Reconciliation matters. The current Terms of Reference (***Appendix 1 AHRWG Terms of Reference***) for the group determine that:

The RWG will be ongoing until such time as, by motion of both AH and MBD Councils it is decided to cease the group.

An Elected Member from each Council will be appointed to the RWG by resolution of the respective Council. The term of office for Elected Members will as resolved by the respective Council.

The Elected Member representative position on this group became vacant at the cessation of the term of the Council and Council election 2022. This report seeks the appointment of an Elected Member representative for the Adelaide Hills Reconciliation Working Group.

RECOMMENDATION

Decision 1

Council resolves:

- 1. That the report be received and noted.**
- 2. That the Reconciliation Update – January 2023, as contained in *Appendix 2*, be received and noted.**
- 3. To continue to be a member of the Adelaide Hills Reconciliation Working Group under the current Terms of Reference, as contained in *Appendix 1*.**

4. **To determine that the method of selecting the Adelaide Hills Reconciliation Working Group Member to be by an indicative vote to determine the preferred person for the Elected Member position utilising the process set out in this Agenda report.**
5. **To adjourn the Council meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote to determine the preferred person for the Adelaide Hills Reconciliation Working Group Member role and for the meeting to resume once the results of the indicative vote have been declared.**

Decision 2

6. **That _____ be appointed to the Reconciliation Working Group for the term 28 February 2023 to 28 February 2025**
-

1. BACKGROUND

The Adelaide Hills Reconciliation Working Group (AHRWG) was established in partnership with the District Council of Mount Barker, recognising that the Adelaide Hills is perceived as a region by stakeholders in the Aboriginal community, as a reference point for matters pertaining to the development of Council Reconciliation Action Plans (RAPs) and other Reconciliation initiatives.

The AHRWG includes up to 8 Community members based on nominations through an Expression of Interest process. The selection process for community representatives is conducted by a panel comprising two representatives of each Council being staff and Elected Members. Recommendations for community representatives are made to each Chief Executive Officer and appointment is made upon both endorsing each applicant. The current members were endorsed by the Chief Executive Officers of Adelaide Hills Council and Mount Barker District Council in February of 2022 and the first meeting was held 16 March 2022.

The current membership of the AHRWG is:

Andrew McNichol	non-Aboriginal
Dean Hanchant-Nichol	Tanganekald, Ramindjeri, Barindji
Lou Turner	Pitjantjatjara Anangu
Jane Longbottom	non-Aboriginal
Hayley Willis	Eastern and Northern Arrente
Jade Brook	Nurrunga Kurna
Helen Weight	non-Aboriginal (resigned due to personal reasons)
Ros Cameron	Eastern and Northern Arrente

The commencement date for the Elected Member representative is recommended for February 2023 to align with the timeframe of the community members term. A two year term will see the Elected Member representative covering the second year of the current term (2022 – 2023) and the first year of the new term (2024 – 2025).

In addition to the AHRWG, Adelaide Hills Council has an internal Reconciliation Working Group that is developing an Innovate level RAP. This group is made up of representative of core areas of Council business. This group refers back to the AHRWG as a reference point on issues and actions.

An update including Reconciliation highlights and a chart illustrating the relationship between the AHRWG and internal Council Reconciliation Working Group is provided in **Appendix 2 Reconciliation Update**.

On 26 February 2019 Cr Kirrilee Boyd was appointed to the AHRWG for a period of two years, expiring on 17 December 2020.

At the Council meeting held 8 September 2020 Cr Kirrilee Boyd was again appointed to the AHRWG, this appointment ceased with the end of the Council term.

8.6.2 Reconciliation Working Group Membership – Appointment of Council Member

Moved Cr Mark Osterstock
S/- Cr Kirsty Parkin

197/20

That Cr Kirrilee Boyd be appointed to the Reconciliation Working Group to commence from 17 December 2020 and conclude at the end of the current Council term.

Carried Unanimously

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 2 Community Wellbeing

Objective C5 Respect for Aboriginal Culture and values

Priority C5.1 Partner with the Aboriginal and Torres Strait Islander community to develop our second Reconciliation Action Plan (Innovate) and actively participate in Reconciliation Week.

The AHRWG is a key reference point for insight and expertise in relation to Reconciliation initiatives and planning. This group is fundamental to developing and implementing Councils Innovate Reconciliation Action Plan and future Reconciliation Action Plans.

➤ Legal Implications

Section 74 – General conflicts of interest of the Act set out the provisions regarding General Conflicts of Interest. In considering a General Conflict of Interest (COI), an impartial, fair-minded person might consider that the Council Member's private interests might result in the Member acting in a manner that is contrary to their public duty. For this matter, Council Members seeking to be appointed may have a General COI and should consider declaring the interest and acting in accordance with *s75B – Dealing with general conflicts of interest*.

Section 75 – Material conflicts of interest of the Act set out the provisions regarding Material Conflicts of Interest. In considering a Material Conflict of Interest (COI), a member of a council has a material conflict of interest in a matter to be discussed at a meeting of the council if a class of persons as defined in s75(1)(a-l) in the Act would gain a benefit, or suffer a loss, (whether directly or indirectly and whether of a personal or pecuniary nature) depending on the outcome of the consideration of the matter at the meeting. For this matter, Council Members seeking to be appointed may have a Material COI and should consider declaring the interest and acting in accordance with *s75C – Dealing with material conflicts of interest*.

Council's *Information or Briefing Sessions Policy* created under s90A(1) sets out the provisions for the conduct of an Information or Briefing Session such as the session recommended for the purposes of indicative voting. The above COI provisions do not apply to an Information or Briefing Session if it occurs.

The Terms of Reference for the Reconciliation Working Group (RWG) prescribe the membership of the group as follows:

The RWG shall comprise of an Elected Member from each Council, and up to eight (8) community members

➤ **Risk Management Implications**

The involvement of Aboriginal stakeholders in the development of RAPs is fundamental to achieving a culturally appropriate approach and fostering community support. The AHRWG is the means of achieving this engagement and advice. Without this level of engagement there is a significant risk that the Aboriginal community and other stakeholders will not support Council RAPs.

The current Terms of Reference for the group determine that:

An Elected Member from each Council will be appointed to the RWG by resolution of the respective Council. The term of office for Elected Members will as resolved by the respective Council.

The appointment of an Elected Member to the AHRWG will assist in mitigating the risk of not meeting the Terms of Reference required to continue the AHRWG and achieve a well regarded Reconciliation Action Plan.

Inherent Risk	Residual Risk	Target Risk
High (3B)	Low (2D)	Low (2D)

➤ **Financial and Resource Implications**

Community members who participate in the RWG are reimbursed for any out of pocket expenses such as mileage. These and any other costs are within existing budget and shared with Mount Barker District Council.

Costs associated with the participation of the appointed Elected Member are provided for in the *Council Member Allowances & Benefits Policy* and are provided for in the Governance & Performance Department budget.

➤ **Customer Service and Community/Cultural Implications**

Appropriate recognition of and engagement with the Aboriginal community and other key stakeholders is essential to the success of Council's Reconciliation Action Plan.

The community members of the RWG are all residents of the Adelaide Hills the majority of whom identify as Aboriginal and bring a highly regarded and credentialed level of skills and expertise across health, education, governance and business. Members also have considerable networks and connections across both the Aboriginal and non-Aboriginal community.

The inclusion of an Elected Member from both Adelaide Hills Council and Mount Barker District Council reinforces a level of commitment and respect for Reconciliation.

➤ **Sustainability Implications**

Not Applicable

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: Not Applicable

Community: Not Applicable

➤ **Additional Analysis**

Indicative Voting Process for Determining Council Appointed Positions

Due to the potential implications of the General and Material Conflict of Interest provisions (see Legal Implications above) regarding the appointment of the AHRWG, it is proposed that the Council adjourn the meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote (Indicative Voting Process) to determine the preferred person for the positions of AHRWG Member.

As the Indicative Voting Process involves discussion of a matter that is, or is intended to be, part of the agenda for a formal meeting of the Council or Council Committee, it is an Information or Briefing Session for the purposes of s90A and the *Information or Briefing Sessions Policy* (the 'Policy'). As an Information or Briefing Session, the Chief Executive will conduct the meeting in accordance with the Policy.

The proposed Indicative Vote Process below is based on the Appointments to Positions Process contained in Clause 4.7 Council's *Code of Practice for Code of Practice for Council Meeting Procedures* with modifications to suit the legislative requirements of the conflict of interest and informal gatherings provisions.

The proposed Indicative Voting Process is:

- a) Chief Executive Officer calls for self-nominations for the position of AHRWG Member.
- b) If the number of nominees is equal to or less than the number of positions, no election will be required. If the number of nominees is greater, an election will be necessary.
- c) The CEO (or another Council staff member) will be appointed as the Returning Officer and may enlist other Council staff to assist with the conduct of the vote and the count.
- d) The method of voting will be by secret ballot utilising the preferential counting system
- e) Each Council Member (including the Mayor) shall have one vote.
- f) Ballot papers will be provided to each Council Member
- g) The nominee's names will be drawn to determine the order on the ballot paper.
- h) Each Member will write the nominee's names on the ballot paper in the order they are drawn.
- i) Each nominee will have two (2) minutes to speak to the Briefing Session in support of the candidacy. The speaking order will be as listed on the ballot paper.
- j) Members will cast their votes and the completed ballot papers will be collected by the Returning Officer and the count will be undertaken in a separate room with an observer [another Council Member (not being a nominee for the position being determined) or an Officer] present.
- k) In the event of a tie, the result will be decided by the Returning Officer drawing lots, the candidate first drawn being the candidate excluded.
- l) After all votes have been counted, the Returning Officer shall publicly announce the final votes cast for each candidate and formally declare the result of the election (i.e. the preferred person).
- m) The ballot papers will be shredded.

Proposed Chronology of Events

The mechanics are relatively complicated due to the legislative provisions regarding conflict of interest and information sessions.

The following chronology has been based on guidance from the LGA regarding the election of Council Members to Committee and Presiding Member positions:

- I. Council resolves to receive and note the report and the Reconciliation Update – January 2023 and gives effect to this by dealing with Recommendations 1 and 2 (or variants) at this time.
- II. Council considers whether to continue to be a member of AHRWG in accordance with the Terms of Reference as contained in Appendix 1. Council would give effect to this by dealing with Recommendation 3 (or variants) at this time.
- III. Council will then consider the process that it will use to choose the preferred person for the AHRWG Member position. Council would give effect to this by dealing with Recommendation 4 (or a variant) at this time.

- IV. Having decided the method, Council will then have to adjourn the meeting to enable the process to be undertaken. Council would give effect to this by dealing with Recommendation 5 (or a variant) at this time.
- V. Steps I. to IV. are all grouped as Decision 1 in the recommendation section.
- VI. Once the Indicative Voting Process has been completed the Council meeting will resume in accordance with the previous resolution.

Upon resumption, the Council Members who nominated for the AHRWG Member role would be advised to consider their obligations to declare a General or Material COI, as appropriate.

- VII. Council can then resolve for the preferred person to be appointed as the AHRWG Members for an identified term. Council would give effect to this by dealing with Recommendation 6 (or a variant) at this time.

Once this matter is resolved, the Members who have declared General or Material Conflicts of Interest can return to the Chamber, as appropriate.

- VIII. Step VII. is under the heading of Decision 2 in the recommendation section.

3. OPTIONS

Council has the following options:

- I. That Council continues to be a member of the Adelaide Hills Reconciliation Working Group under the current Terms of Reference (Recommended)
- II. That Council appoint a Council Member to the Adelaide Hills Reconciliation Working Group as described in the Terms of Reference (Recommended)
- III. That Council does not continue to be a member of Adelaide Hills Reconciliation Working Group or have Council Member representation on the Reconciliation Working Group resulting in a breach of the Terms of Reference. (Not Recommended)

4. APPENDICES

- (1) AHRWG Terms of Reference
- (2) Reconciliation Update – January 2023

Appendix 1

AHRWG Terms of Reference

RECONCILIATION WORKING GROUP

TERMS OF REFERENCE

BACKGROUND

At its meeting held on 23 August 2016, Adelaide Hills Council (AHC) formalised its commitment to Reconciliation and adopted a Reflect Reconciliation Action Plan (RAP). Mount Barker District Council (MBDC) is currently developing a Reflect RAP. Both Councils are committed to working in collaboration with Aboriginal and Torres Strait Islander members of our community to further progress this process.

Forming a Working Group to advise on reconciliation at a regional level encompassing both Adelaide Hills Council (AHC) and Mount Barker District Council (MBDC) areas is deemed appropriate for the following reasons:

- The Adelaide Hills is recognised as a region
- This approach fosters a sharing of learnings, initiatives and resources for the region

ROLE

The role of the Reconciliation Working Group (RWG) is to:

- assist AHC and MBDC with the implementation of current RAPs
- assist AHC and MBDC with the development of next level RAPs
- advise Council staff on matters that impact the local Aboriginal and Torres Strait Islander Community

FUNCTION

The RWG functions as an advice giving body, with individuals able to provide advice freely and as requested. Advice may be sought through meetings or by other means.

The RWG has no decision making power or authority to act in its own right. For advice on specific matters a consensus will be sought, however, the views of all individual members will be taken into consideration.

The RWG will be guided by a Code of Conduct to be established by the group as a first action.

REPORTING

The RWG will report annually on progress to both Councils.

STRUCTURE

The RWG will be ongoing until such time as, by motion of both AH and MBD Councils it is decided to cease the group.

MEMBERSHIP

The RWG shall comprise of an Elected Member from each Council, and up to eight (8) community members. In addition to selected community members a place at each meeting will be available to Traditional Custodians.

The RWG will be supported by the AHC Community and Cultural Development Officer, MBDC Senior Community Development Officer and other Council staff as needed.

SELECTION

Nomination for the RWG will be by Expression of Interest. Advertisements will be placed in appropriate communication channels and mediums seeking expressions of interest.

Whilst appointment will be at the discretion of the Chief Executive Officers of AHC and MBDC a high priority will be given to people who:

- are Peramangk or Kurna as traditional custodians of the Adelaide Hills Region
- have Aboriginal or Torres Strait Islander heritage and identify as such and live, work or have a strong connection to the Adelaide Hills Region
- are not Aboriginal or Torres Strait Islander but have experience or expertise deemed beneficial to the role and function of the group.

The selection process for community members will be conducted by a panel comprising two representatives of each Council being staff and Elected Members. Recommendations for community membership of the RWG will be made to each Chief Executive Officer and appointment will be made upon both endorsing each applicant. The term of office for community members on the RWG will be two (2) years

An Elected Member from each Council will be appointed to the RWG by resolution of the respective Council. The term of office for Elected Members will as resolved by the respective Council.

Members who are unable to attend a meeting may nominate a proxy to attend in their place up to but not more than x4 occasions in the 2 year period.

STATUS OF MEMBERS

Community members of the RWG have status as volunteers of the Councils and are insured in accordance with the Volunteer Insurance Policy (s) that are part of each Council's membership of the Mutual Liability Scheme.

Community members are not indemnified by the Councils against any liability arising as a result of their actions or omissions related to their involvement with the RWG or undertaken in connection with their role as a member of the RWG.

Elected Members' involvement with the RWG constitutes the exercise of official functions and duties of office of an elected member under the *Local Government Act 1999*. Elected Members are, therefore, protected from civil liability in their role as RWG members pursuant to section 39 of the *Local Government Act 1999*.

MEETINGS

The Group will meet a minimum of quarterly.

The role of Chairperson will be shared amongst the members, a Chairperson for the meeting will be selected at the commencement of each meeting by those present.

Meeting procedure will be as determined by the Chairperson in consultation with the RWG.

Topics for the agenda should be forwarded to the designated member seven (7) days prior to the scheduled meeting date.

The Agenda will be distributed to members no later than five (5) days prior to the next meeting date. Members of the RWG will receive minutes and agendas by email unless other arrangements are agreed.

Minutes of meetings will be circulated to members no later than 5 working days following a meeting

REIMBURSEMENT OF EXPENSES

Community members will be paid a travel allowance for the use of their private vehicle to travel to and from RWG meetings with the said allowance being equal to the per kilometre rate prescribed for the purposes of calculating deductions for car expenses issued from time to time by the Australian Tax Office. Reimbursable journeys should be by the shortest or most practicable route from the place of residence or workplace.

Costs incurred by RWG community members for travel to and from RWG meetings on public transport will also be reimbursed. Costs incurred by RWG community members for travel to and from RWG meetings by taxi or other form of paid travel may be reimbursed subject to the travel by these means being pre-approved by AHC or MBDC staff prior to those costs being incurred.

If RWG community members incur out of pocket expenses as a result of their attendance at meetings, these costs may be reimbursed subject to these costs being pre-approved by AHC or MBDC staff prior to those costs being incurred.

Costs incurred without pre-approval by AHC or MBDC staff may not be reimbursed.

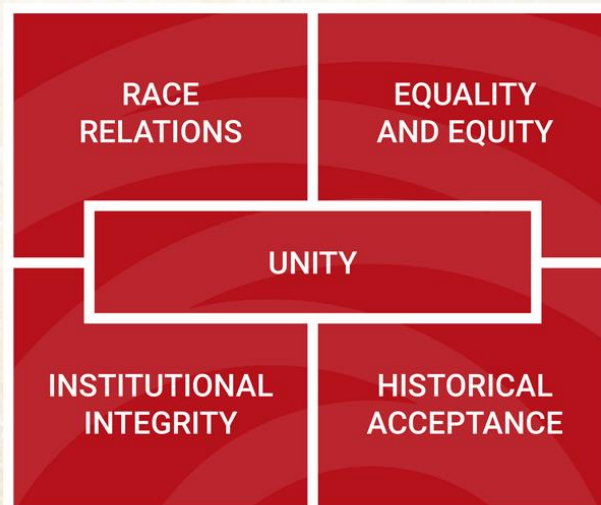
Appendix 2

Reconciliation Update – January 2023

Reconciliation Update January 2023

Our vision of national reconciliation is based on five critical dimensions: race relations, equality and equity, institutional integrity, unity and historical acceptance. These five dimensions do not exist in isolation; they are inter-related and Australia can only achieve full reconciliation if we progress in all five.

Five Dimensions

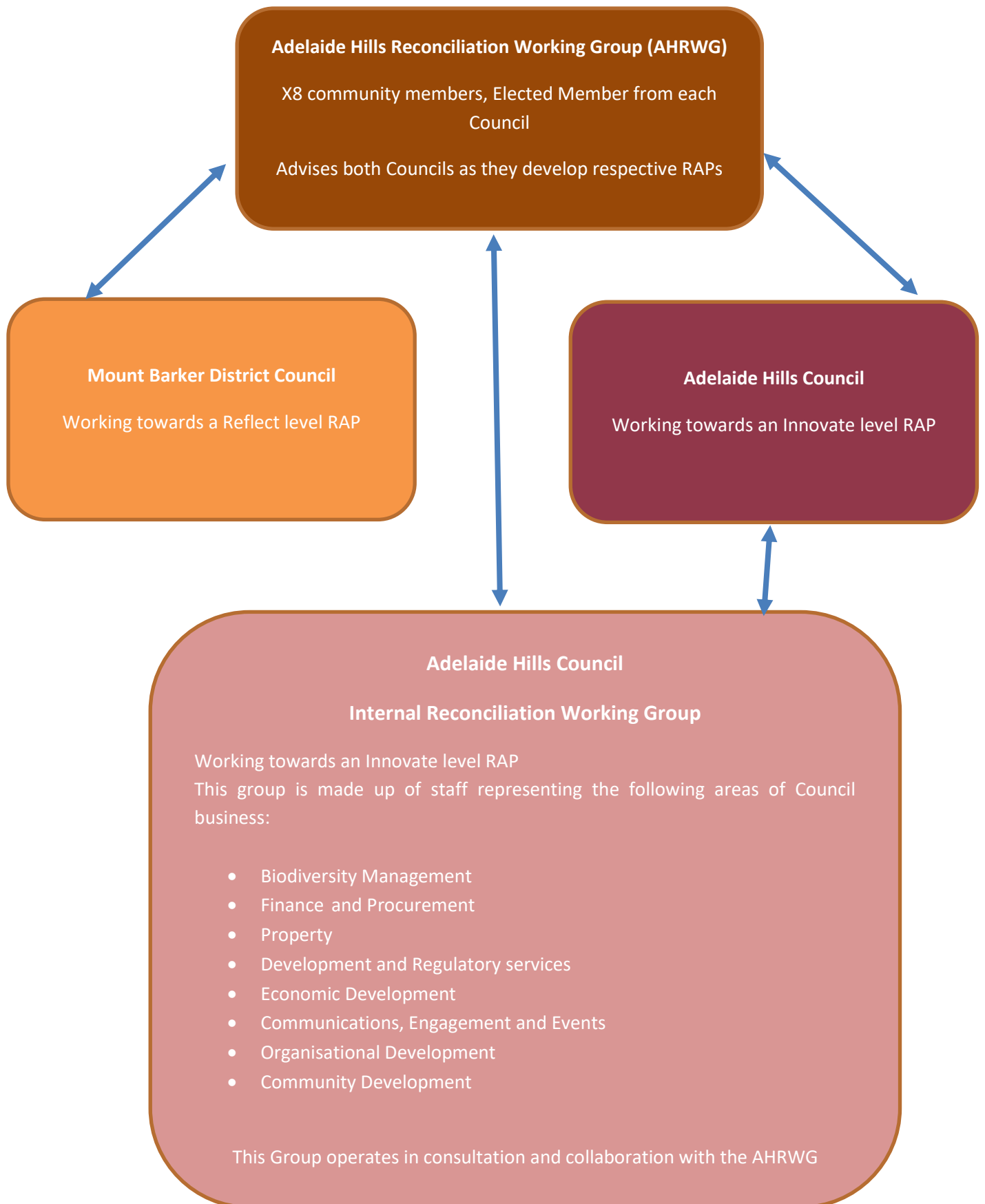


Reconciliation Australia

Reconciliation Action Plan Dimensions

In writing a Reconciliation Action Plan the template is structured to address the following:

<i>Relationships</i>	<i>Reconciliation Action Planning and Promotion Consultation and Engagement Reconciliation Events and Participation</i>
<i>Respect</i>	<i>Acknowledgement of Country & Cultural Protocols Cultural Learning Celebrating / Valuing Culture</i>
<i>Opportunities</i>	<i>Employment and Vocational Supplier Diversity Valuing Connection to Country</i>
<i>Governance</i>	<i>Establish & Maintain RAP Working Group' Support for the implementation of the RAP Accountability and Transparency Continue the RAP to next level</i>
<i>Reporting</i>	<i>Tracking Progress and Reporting</i>



RAP Update

Innovate RAP Draft to Reconciliation Australia for first round of feedback. Updated draft responding to this feedback scheduled for consideration by Executive Leadership Team in March 2023 with a view to then return to Reconciliation Australia for consideration, then Council Workshop and subsequently an Agenda Report seeking Council adoption

Reconciliation Highlights 2019 to date

2019

Aboriginal flag is flown at all Council Service Centres, and use of the Aboriginal flag is included in the Council Flag Policy.

In partnership with Mount Barker District Council established the regional Adelaide Hills Reconciliation Working Group to advise on the development of RAPs and matters that relate to Reconciliation. This group includes an Elected Member from each Council and 8 Community members

An internal Reconciliation Working Group was established including staff from across Councils key areas of business to develop and champion this and future RAPs

In partnership with Reconciliation SA and Act Now Theatre delivered the program Generation of Change interactive anti-racism training for secondary school students across the Adelaide Hills.

Cultural Awareness Training held for Elected Members and key staff with a developing schedule to promote ongoing and evolving training.

Established a comprehensive and dedicated work hub on Council's intranet to support staff from across all areas of Council business, including resources, information, and website links

A strong program of activities and events offered recognising and celebrating National Reconciliation Week and NAIDOC Week.

2020

Acknowledgement and Welcome to Country Policy adopted

Protocols for Acknowledgement of Country and Welcome to Country are in practice and also provided to our community via the Council website.

Ran a series of Aboriginal and Torres Strait Islander radio programs in partnership with Hills Radio and producer Chris Crebbin

Mural "Shared Country" by artist Paul Mantirri-Munaitya Herzich installed in Gumeracha

NAIDOC Art Project working with high school students creating work for an exhibition at Top of the Torrens Gallery

A strong program of activities and events offered recognising and celebrating National Reconciliation Week and NAIDOC Week.

2021

Implemented staff training on Acknowledgement and Welcome to Country Policy

A strong program of activities and events offered recognising and celebrating National Reconciliation Week and NAIDOC Week.

Activities to celebrate Indigenous Literacy Day through Council Libraries

Council Community Centres and Libraries regularly offer workshops and activities for all ages that recognise and celebrate Aboriginal and Torres Strait Islander cultures including storytelling around the campfire, weaving, bush tucker, cultural workshops, and performance.

Developed a distinctive Reconciliation sub-branding based on the artwork of Paul Mantirri-Munaitya Herzich

Business card sized Acknowledgement of Country cards with Reconciliation branding, to ensure that all staff always have ready access to Council's Acknowledgement

2022

Aboriginal Place Naming Strategy adopted relating to the use of Peramangk and Kurna language in naming, interpretive signage, and use of language in public art and place making.

Installation of Crafers Gateway sign including words "Kurna Country"

Cultural Awareness Training on "Introduction to Kurna Culture and Languages" presented by Jack Buckskin for Elected Members and Executive Leadership

A strong program of activities and events offered recognising and celebrating National Reconciliation Week and NAIDOC Week.

Community Forum on the *Uluru Statement From The Heart* with Parry Agius

Activities to celebrate Indigenous Literacy Day through Council Libraries

Increased level of procurement from Aboriginal and Torres Strait Islander businesses including cultural services, workshop presentation, artists, toilet paper and hand sanitiser products.

Staff attendance at Indigenous Business Expo

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 January 2022
AGENDA BUSINESS ITEM**

Item: 12.2

Responsible Officer: Steven Watson
Governance & Risk Coordinator
Office of the Chief Executive

Subject: Nomination to Premier’s Climate Change Council

For: Decision

SUMMARY

The LGA is seeking nominations from the local government sector (Council Members or Officers) for one position on the Premier’s Climate Change Council (PCCC) for a term of up to three-years commencing July 2023.

PCCC Members receive a sitting fee for attendance at meetings of \$12,383 per annum, subject to qualifications.

A number of Council Members have indicated an interest in nominating for this vacancy.

The purpose of this report is for Council to consider any nominations for the PCCC and, if so, to consider endorsing that candidate(s) to the LGA. The closing date for applications is Friday 10 February 2023.

RECOMMENDATION

Council resolves:

Decision 1

1. That the report be received and noted.
2. To determine that the method of selecting a Council Member to be nominated for the Premier’s Climate Change Council be by an indicative vote utilising the process set out in this Agenda report.
3. To adjourn the Council meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote to determine the preferred person for nomination for the Premier’s Climate Change Council and for the meeting to resume once the results of the indicative vote have been declared.

Decision 2

- 1. To nominate _____ for the Premier’s Climate Change Council and authorise the Chief Executive Officer to lodge the completed nomination form to the Local Government Association.**
-

1. BACKGROUND

The LGA is seeking nominations from suitably qualified council members, or employees of a council, or other local government entity, to fill one position on the Premier’s Climate Change Council (PCCC) with a term of up to three years commencing July 2023.

The PCCC is established under Section 9(2)(b) and 9(4) of the *Climate Change and Greenhouse Emissions Reduction Act 2007*.

The PCCC’s primary function is to provide independent advice to the Minister for Environment and Water on reducing greenhouse gas emissions and adapting to climate change, including by achieving energy efficiencies, increasing the use of renewable energy, developing methods to remove greenhouse gases from the atmosphere and establishing and achieving relevant targets.

There is one LGA nominated position on the PCCC which was held by former Lord Mayor Sandy Verschoor. Following the 2022 local government elections Ms Verschoor is not eligible for reappointment.

The Board will meet 5 times per year with a sitting fee of \$12,383pa (subject to qualifications).

Nominations are required to be received by 5pm, Friday 10 February 2023.

A number of AHC Council Members have indicated an interest in nominating for this vacancy.

The Council can nominate up to two (2) candidates.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 5 A Progressive Organisation

Objective O4 We actively represent our community

Priority O4.2 Attract and develop a diverse and capable elected body that represents, promotes and reflects the composition of the community

Priority O4.3 Advocate to, and exert influence with, our stakeholders on behalf of our community to promote the needs and ambitions of the region

➤ **Legal Implications**

Section 75 – Material conflicts of interest of the Act set out the provisions regarding Material Conflicts of Interest. In considering a Material Conflict of Interest (COI), a member of a council has a material conflict of interest in a matter to be discussed at a meeting of the council if a class of persons as defined in s75(1)(a-l) in the Act would gain a benefit, or suffer a loss, (whether directly or indirectly and whether of a personal or pecuniary nature) depending on the outcome of the consideration of the matter at the meeting. For this matter, Council Members seeking to be appointed to the PCCC may have a Material COI due to the sitting fees payable and should consider declaring the interest and acting in accordance with s75C – Dealing with material conflicts of interest.

Council’s *Information or Briefing Sessions Policy* created under s90A(1) sets out the provisions for the conduct of an Information or Briefing Session such as the session recommended for the purposes of indicative voting. The above COI provisions do not apply to an Information Session, if it occurs.

➤ **Risk Management Implications**

As the PCCC is entirely separate from Adelaide Hills Council, there is no direct risk in relation to the operations of the Council itself. Further any actions or omissions of a PCCC Member (even one nominated by Council) in the conduct of their PCCC duties will not attract any liability to Council. Nevertheless careful management by the incumbent of fiduciary and conflict of interest roles and obligations is required in both fora.

The nomination of appropriately qualified persons and the management of conflicts of interest are pertinent risk issues in relation to this matter and there are existing controls in place to assist in managing the risk of:

Poor governance practices occur which lead to a loss of stakeholder (i.e. customer and regulator) confidence and/or legislative breaches.

Inherent Risk	Residual Risk	Target Risk
Extreme (5C)	Low (1D)	Low (1D)

Council has many internal controls that contribute to managing the above risk and therefore the subject of this report does not in itself have an additional mitigating impact on the residual risk.

➤ **Financial and Resource Implications**

Sitting fees are paid by the PCCC at the rate of \$12,383pa (subject to qualifications).

The *Council Member Allowance & Support Policy* does not provide for the reimbursement of any costs for attendance at bodies such as the PCCC and therefore there are no financial implications regarding nomination.

➤ **Customer Service and Community/Cultural Implications**

The community can reasonably expect that the AHC Council Members may have representation on external bodies relating to local government.

➤ **Sustainability Implications**

Not applicable.

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: Local Government Association

Community: Not Applicable

➤ **Additional Analysis**

Indicative Voting Process for Determining Council Appointed Positions

Due to the implications of the Material Conflict of Interest provisions under s75 (see Legal Implications above), it is proposed that the Council adjourn the meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote (Indicative Voting Process) to determine the preferred person for nomination to the LGA.

As the Indicative Voting Process involves discussion of a matter that is, or is intended to be, part of the agenda for a formal meeting of the Council or Council Committee, it is an Information or Briefing Session that should be open to the public for the purposes of s90A(3) and the *Information and Briefing Sessions Policy* (the Policy). As an Information or Briefing Session, the Chief Executive will conduct the meeting in accordance with the Policy.

The proposed Indicative Vote Process below is based on the Appointments to Positions Process contained in Clause 4.7 Council’s *Code of Practice for Council Meeting Procedures* with modifications to suit the legislative requirements of the conflict of interest and Information or Briefing Session provisions.

The proposed Indicative Voting Process is:

- a) Chief Executive Officer calls for self-nominations for the position of Premier’s Climate Change Council candidate(s).
- b) If the number of nominees is equal to or less than the number of positions (i.e. 2), no election will be required [however the candidate(s) may wish to address the session as per point (h) below] and the Council meeting can resume. If the number of nominees is greater, an election will be necessary.
- c) The CEO will appoint a Returning Officer and may enlist other Council staff to assist with the conduct of the vote and the count.

- d) The method of voting will be by secret ballot utilising the preferential counting system.
- e) Each Council Member (including the Mayor) shall have one vote.
- f) Ballot papers will be provided to each Member.
- g) The nominees’ names will be drawn to determine the order on the ballot paper.
- h) Each Member will write the nominee’s names on the ballot paper in the order they are drawn.
- i) Each nominee will have two (2) minutes to speak in support of their candidacy. The speaking order will be as listed on the ballot paper.
- j) Completed ballot papers will be collected by the Returning Officer and the count will be undertaken in a separate room with an observer (another Council staff member) present.
- k) In the event of a tie, the result will be decided by the Returning Officer drawing lots, the candidate first drawn being the candidate excluded.
- l) After all votes have been counted, the Returning Officer shall formally declare the result of the election (i.e. the preferred person).
- m) The ballot papers will be shredded.

Proposed Chronology of Events

The mechanics are relatively complicated due to the legislative provisions regarding conflict of interest and Information or Briefing Session requirements, as such the following chronology is suggested:

- I. Council will consider the process that it will use to choose the preferred person(s). Council would give effect to this by dealing with Decision 1 - Recommendation 2 (or a variant) at this time.
- II. Having decided the method, Council will then have to adjourn the meeting to enable the process to be undertaken. Council would give effect to this by dealing with Decision 1 - Recommendation 3 (or a variant) at this time.
- III. Once the Indicative Voting Process has been completed the Council meeting will resume in accordance with the previous resolution.

Upon resumption the Council Member(s) who nominated for the Premier’s Climate Change Council role would be advised to make declarations in accordance with s75C – *Dealing with material conflicts of interest* and leave the Chamber.

- IV. Council can then resolve for the preferred person to be nominated to the LGA. Council would give effect to this by dealing with Decision 2 - Recommendation 1 (or a variant) at this time.

Once this matter is resolved, the Members who have declared Conflicts of Interest and left the Chamber can return to the Chamber.

3. OPTIONS

Council has the following options:

1. Endorse the nomination of a candidate(s) to the Premier’s Climate Change Council. (recommended)
2. Determine not to nominate to the Premier’s Climate Change Council. (not recommended)

4. APPENDIX

- (1) *LGA Appointments and Nominations to Outside Bodies – Call for Nominations - Part A*

Appendix 1

*LGA Appointments and Nominations to Outside Bodies
– Call for Nominations - Part A*

LGA Appointments and Nominations to Outside Bodies — Call for Nominations

Premier's Climate Change Council	
Governing Statute (if applicable)	Section 9(2)(b) and 9(4) Climate Change and Greenhouse Emissions Reduction Act 2007
Purpose/Objective	To provide independent advice to the Minister for Environment and Water on reducing greenhouse gas emissions and adapting to climate change, including by achieving energy efficiencies, increasing the use of renewable energy, developing methods to remove greenhouse gases from the atmosphere and establishing and achieving relevant targets.
Administrative Details	<ul style="list-style-type: none"> 5 meetings per year at the DEW Office – 81-95 Waymouth Street, Adelaide <p>Relevant meeting dates are currently proposed for:</p> <ul style="list-style-type: none"> Tuesday 11 July 2-5pm Tuesday 19 September 9-12pm Tuesday 5 December 9-12pm <ul style="list-style-type: none"> Sitting fees \$12,383 p.a (subject to qualifications) Up to 3-year term
Selection Criteria (to be addressed by applicant)	<ul style="list-style-type: none"> Local government knowledge and experience Minister should seek to appoint persons who can demonstrate <ol style="list-style-type: none"> a) a commitment to action to address climate change, and b) an understanding of the issues and impacts associated with climate change. (9(3)). Must include a statement about your interest and experience in climate change
<p>Liability and indemnity cover</p> <p><i>The LGA requires that persons appointed to Outside Bodies be appropriately insured throughout the period of their appointment and seeks to collect details of the insurances provided by the Outside Body on an annual basis.</i></p>	
<p>For more information contact: LGA Nominations Coordinator at nominationscoordinator@lga.sa.gov.au or 8224 2000</p>	



This fact sheet is an excerpt on the role and function of the Premier's Climate Change from Division 2 of the *Climate Change and Greenhouse Emissions Reduction Act 2007*.

Division 2—Premier's Climate Change Council

9 - Premier's Climate Change Council

(1) The *Premier's Climate Change Council* is established.

(2) The Council will consist of at least 7 and not more than 10 members appointed by the Minister with a view to obtaining a reasonable range of persons from across the following sectors and a balance of expertise that is relevant to addressing or adapting to climate change:

- (a) the State Government;
- (b) the local government sector;
- (c) the business community;
- (d) the environment and conservation sector;
- (e) the scientific community;
- (f) other sectors of the State's community more generally.

(3) The Minister should seek to appoint persons who can demonstrate—

- (a) a commitment to action to address climate change; and
- (b) an understanding of the issues and impacts associated with climate change.

(4) The Minister should consult with the Local Government Association of South Australia before making an appointment for the purposes of subsection (2)(b).

(5) The Minister should consult with the Conservation Council of South Australia before making an appointment for the purposes of subsection (2)(d).

(6) At least 1 member of the Council must be a woman and at least 1 member must be a man.

10 - Conditions of membership

(1) A member of the Council will be appointed on conditions determined by the Minister for a term, not exceeding 3 years, specified in the instrument of appointment and, at the expiration of a term of office, is eligible for reappointment.

(2) The Minister may remove a member of the Council from office—

- (a) for breach of, or non-compliance with, a condition of appointment; or
- (b) for failing to carry out duties of office satisfactorily; or
- (c) for neglect of duty; or
- (d) for misconduct.

(3) The office of a member of the Council becomes vacant if the member—

- (a) dies; or
- (b) completes a term of office and is not reappointed; or
- (c) resigns by written notice to the Minister; or
- (d) is removed from office under subsection (2).

(4) A member of the Council is entitled to fees, allowances and expenses determined by the Minister (subject to the qualification that a person appointed for the purposes of subsection (2)(a) will not be entitled to receive a sitting fee).

11 - Functions of Council

(1) The primary function of the Council is to provide independent advice to the Minister about matters associated with reducing greenhouse gas emissions and adapting to climate change, including by achieving energy efficiencies, increasing the use of renewable energy, developing methods to remove greenhouse gases from the atmosphere, and establishing and achieving relevant targets.

(2) The Council has other functions conferred by the Minister.

(3) In the performance of its functions, the Council should seek—

(a) to provide advice to the Minister on—

(i) the impact of climate change on business and the wider community, and the development or implementation of policies or programs relevant to addressing climate change, including by the initiation of specific projects and plans; and

(ii) the impact of the operation and implementation of this Act on business and the wider community and, as appropriate, any amendments to relevant legislation (including this Act) that, in the opinion of the Council, should be considered or promoted by the Minister; and

(iii) costs associated with reducing or limiting climate change or greenhouse gas emissions, or with mitigating the effects of climate change or greenhouse gas emissions; and

(iv) costs associated with failing to take action to address climate change; and

(v) commercial or other opportunities associated with climate change or reducing or limiting greenhouse gas emissions, with mitigating the effects of climate change or greenhouse gas emissions or with increasing the use of renewable energy sources; and

(vi) the effectiveness of any determination or target under section 5, and the need to revise any such determination or target; and

(vii) any other matter on which the Minister requests the advice of the Council; and

(b) to take a leadership role in consulting with business, the environment and conservation movement and the wider community about issues associated with climate change and to assist in disseminating information to business and other groups in order to encourage the implementation of practices that will assist in addressing climate change or adapting to the effects of climate change.

(4) The following requirements apply in connection with the operation of paragraph (a) of subsection (3):

(a) any advice to the Minister under that paragraph must be provided or confirmed by the Council by instrument in writing;

(b) the Minister must, within 6 sitting days after the end of each quarter, cause a copy of any instrument received under paragraph (a) of this subsection during the quarter to be laid before both Houses of Parliament;

(c) the Minister must ensure that any instrument tabled under paragraph (b) is accompanied by a statement from the Minister in which the Minister sets out the extent to which the Minister has acted on the relevant advice, or intends to act on the relevant advice and, to the extent that it is not accepted, the reasons why not.

12 - Procedure at meetings

(1) A member appointed by the Minister as the presiding member of the Council will preside at a meeting of the Council or, in the absence of that member, a member chosen by those present will preside.

(2) A majority of the members of the Council constitute a quorum of the Council.

(3) Subject to any direction of the Minister, the Council may determine its own procedures.

13 - Annual report

(1) The Council must, on or before 31 October in each year, provide to the Minister a report on its activities for the financial year ending on the preceding 30 June.

(2) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 6 sitting days after the report is provided to the Minister.

For the full *Climate Change and Greenhouse Emissions Act 2007* visit
<https://www.legislation.sa.gov.au/LZ/C/A/CLIMATE%20CHANGE%20AND%20GREENHOUSE%20EMISSIONS%20REDUCTION%20ACT%202007.aspx>

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**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 January 2023
AGENDA BUSINESS ITEM**

Item: 12.3

Responsible Officer: James Szabo
Senior Strategic and Policy Planner
Development and Regulatory Services

Subject: Submission to the Expert Panel Planning System
Implementation Review

For: Decision

SUMMARY

The purpose of this report is to seek Council approval for a submission that seeks to advocate for key planning issues relating to Adelaide Hills Council and contribute to further refinement and improvement of the State Planning System via the Planning System Implementation Review (the Review).

On 5 August 2022 the Minister for Planning, Hon. Nick Champion MP, announced the appointment of an independent panel of planning experts (the Expert Panel) to conduct a review of reforms relating to the planning system implementation in South Australia. This made good on an election commitment to review the system to ensure it is delivering planning outcomes that encourage a more liveable, competitive and sustainable long-term growth strategy for South Australia.

The Review seeks to address concerns raised in consultations with industry groups and local communities, and includes:

- The Planning, Development and Infrastructure Act 2016;
- The Planning and Design Code (and related instruments) as it relates to infill policy, trees, character, heritage and car parking;
- The e-planning system with a view to ensuring that it is delivering an efficient and user-friendly process and platform; and
- The PlanSA Website with a view to ensuring its usability and access to information by the community.

While the Review has been supported by the release of a discussion paper series with targeted lines of enquiry, the opportunity has been taken to raise a broad range of key issues relevant to Adelaide Hills Council, in addition to addressing the Panel's specific questions.

Some of the key issues for review put forward in the submission (refer to **Appendix 1**) include the ePlanning levy contribution, planning definitions, loss of agency for Council to effect policy change, loss of local policy, need for tailored peri-urban policy within the Planning and Design Code (the Code) and improved user experience of the Development Assessment Portal and Plan SA Website including public notification processes and Code policy representation.

In order for comments on the Review to be considered by the Panel they must be submitted no later than 30 January 2023. Administration is therefore recommending that the submission (refer to **Appendices 1 & 2**) be approved with the aim to advocate for continual improvement in development processes and outcomes and to ensure the Adelaide Hills Council’s position is heard and considered on matters relevant to the Review.

RECOMMENDATION

Council resolves:

- 1. That the report be received and noted.**
 - 2. To approve the Adelaide Hills Council submission on the Expert Panel Planning Implementation Review as contained in Appendices 1 & 2.**
 - 3. That the Acting Chief Executive Officer be authorised to make any additional non-substantive technical additions and minor editorial amendments to the submission prior to lodgement with the State Planning Commission no later than 30 January 2023.**
-

1. BACKGROUND

The most recent substantial review of State’s planning system began in 2013, two decades after the *Development Act 1993* was brought into operation. This review produced a set of recommendations that provided the strategic direction for a new legislative framework for the planning system in South Australia.

Nearly 10 years on, those recommendations have been transformed into the new planning system, given effect through the ascension of the *Planning Development and Infrastructure Act 2016*. The new system, including the Planning and Design Code, has been fully operational across the State for just over 21 months and the current Expert Panel review’s recommendations scheduled for release in 2023 will coincide with the 10 year anniversary of the original Expert Panel’s recommendations.

What has transpired in the preceding 10 years is transformational. The Planning system has been modernised with ePlanning capability, a single digital development policy instrument in the Planning and Design Code and latent opportunities to further enhance the capabilities and efficiencies found in a digital by design system.

Notably though, this transformation has seen the loss of 67 Development Plans across the State and with it the move to a more generic development policy setting, with less scope for local variation. In addition, the private sector has been afforded new opportunities to approve straightforward applications and also undertake privately-led Code Amendments to rezone land and alter policy. These account for only a small fraction of the headline changes and while there is certainly many positives in the new system, of which the Administration that deal with it will attest too, there are a range of concerns that have either emerged in the last 18 months of operation or that have been there from the beginning of the reform process on account of the architecture of the Act and its supporting statutory instruments.

The submission highlights these key issues by providing analysis on development trends, and experience working in the system day in day out, noting that the Expert Panel is seeking to build a strong evidence base for any recommendations they will put forward to the Minister.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 1	A Functional Built Environment
Objective B2	Preserve and enhance the unique character of the Hills for current and future generations
Priority B2.3	Proactively work with developers to ensure that built form complements or enhances existing local character whilst preserving the character and amenity of our towns, historic buildings and scenic environment
Goal 5	A Progressive Organisation
Objective O4	We actively represent our community
Priority O4.3	Advocate to, and exert influence with, our stakeholders on behalf of our community to promote the needs and ambitions of the region

The submission identifies key issues and concerns within the planning system relevant to the Adelaide Hills Council and more generally in order to advocate for improvements to the architecture, efficiency, interpretation and consistency of the PDI Act, the Code and the ePlanning platform.

The analysis and recommendations seek alignment with Objective B2 and Priority B2.3. Council’s advocacy in relation to the Review is consistent with Objective O4 and Priority O4.3.

➤ Legal Implications

The Expert Panel will provide recommendations to enhance the Planning System that will be considered by the State Government in 2023. While the recommendations cannot alter the *Planning, Development and Infrastructure Act 2016* in and of themselves, they will likely provide the Minister with scope to pursue legislative amendments. This would include potential changes to the Act, any supplementary Regulations and Statutory Instruments including the Planning and Design Code and the ePlanning platform.

➤ Risk Management Implications

Making a submission on the Review will assist in mitigating the risk of:

The Planning System operating ineffectively, resulting in overly complex development processes, undesirable outcomes and poor customer experiences.

Inherent Risk	Residual Risk	Target Risk
High (4C)	Medium (3C)	Low

It is noted that Council is responsible for administrating the Code for development applications, providing strategic planning direction and initiating Code Amendments within the Adelaide Hills Council area. Therefore, taking this opportunity to provide a submission will assist with future administrative functions and achievement of strategic priorities.

➤ **Financial and Resource Implications**

Drafting a submission on the Review is achieved collaboratively and within the operational budget of the Policy Planning and Development Services teams.

It is noted that Council contributed \$60,000 in the last financial year to the ePlanning platform and as such has a stake in how it is serving the Administration and the broader community who interact with it.

➤ **Customer Service and Community/Cultural Implications**

If key issues and areas of concern raised in the submission can be addressed via subsequent amendments to the legislative framework, there is opportunity for positive impact to the community. In particular, improved development assessment processes and outcomes, opportunity for Council to shape stronger local strategic directions/outcomes and improved customer experience for those undertaking development in the Adelaide Hills Council area.

➤ **Sustainability Implications**

The submission is recommending that for certain types of development the Code should make available key policies relating to ecological sustainable design. Such an approach is seen as an important policy improvement that ensures development responds appropriately to its context and promotes a sustainable built environment across the Council.

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of the submission and this report was as follows:

<i>Council Committees:</i>	Not Applicable
<i>Council Workshops:</i>	11 October 2022 and 13 December 2022
<i>Advisory Groups:</i>	Not Applicable
<i>External Agencies:</i>	Not Applicable
<i>Community:</i>	Not Applicable

Council Workshop

Feedback at the workshop reiterated support for a system that provides opportunity for local policy content development and for Council to have increased agency in this process.

There was a suggestion that ancillary uses in rural areas (i.e. motorbike tracks) are causing impacts on amenity, and that consideration be given to whether the legislation or Code can capture these as development in order to mitigate their impacts.

Additional feedback has also been provided to staff following the circulation of the draft submission on the 23 December 2022. The feedback and responses can be reviewed in **Appendix 3**.

➤ **Additional Analysis**

The Planning System Implementation Review provides Council, as a key stakeholder, with the opportunity to take stock of the new system and put forward recommendations for further revision and refinement.

There is a general view, certainly among staff, that the reform process has delivered a planning system that has demonstrated its capacity – for a majority of the last 21 months, to stand up to the rigours and demands of a fully integrated State based planning system. Notwithstanding, there are fundamental issues and concerns with certain elements and policy frameworks that require resolution, and these have been highlighted in the submission (refer to **Appendix 1**).

While the submission has been guided by the LGA position on key issues, it has also been informed by direct consultation with the Development Services Team and other stakeholders including staff that interact with the Planning system as part of internal referral process and applicants who have provided feedback.

Staff received encouragement to put forward a broad range of issues and observations relevant to the system, in order to inform the Panel’s deliberations on the issues it will provide recommendations to the Minister on. Subsequently a broad range of issues have been tabled in the submission which is laid out in two parts.

The first part (pages 4-14 of **Appendix 1**) contains key issues considered most relevant to the Adelaide Hills Council. Some of these issues include:

- General comments in relation to key issues in the PDI Act
 - ePlanning Levy
 - Accredited Professionals – scope to assess Council lodged applications
 - Use of land (motorbike trails/parks)
 - Planning definitions
- General Comments in relation to key issues in the Planning and Design Code
 - Ability for Councils to effect policy Change
 - Loss of Local Policy
 - Peri-Urban Policy
 - Environmental Performance/Sustainability Policy
- General Comments in relation to key issues in the e-Planning System and Plan SA Website
 - User Experience
 - Public Notification
 - Code Policy Representation

The second part of the submission (pages 15-39 of **Appendix 1**) contains responses to the questions put forward in the three discussion papers released by the Panel during the engagement period. The responses have been largely informed by interactions with the system by staff and the submission endeavours to provide an evidence base to support the views of staff with examples to help frame the response. The key questions responded to relate to the following areas:

- Planning Development and Infrastructure Act 2016 Reform Options:
 - Public Notification and Appeals
 - Accredited Professionals
 - Impact Assessed Development
 - Local Heritage in the PDI Act
 - Deemed Consents
 - Verification of development applications
- Planning and Design Code Reform Options:
 - Character and Heritage
 - Tree Policy
 - Infill Policy
 - Car Parking Policy
- e-Planning System and the Plan SA Website:
 - User Experience
 - Innovation

The Planning System Implementation Review provides a rare opportunity to refine and improve the Planning System and it is considered important that the Adelaide Hills Council contributes meaningfully to the process to ensure that it is heard on key matters and how it impacts the district. The opportunity for this is acknowledged in the covering letter (refer **Appendix 2**) and it is anticipated that the Expert Panel will be responsive to the key issues put forward in the submission.

Next steps

The Expert Panel will provide recommendations to enhance the Planning System that will be considered by the State Government in 2023. The Administration will monitor the Review process following the Panel's receipt of Council's Submission and will provide future updates regarding how the matters have progressed and whether appropriate amendments are being pursued and what impact it is having on system processes and outcomes.

3. OPTIONS

Council has the following options:

- I. To approve the Adelaide Hills Council Submission on the *Planning System Implementation Review* and forward to the *Expert Panel* in order to advocate for the consideration of key issues and recommendations (Recommended)
- II. To substantially alter the Adelaide Hills Council Submission on the *Planning System Implementation Review* and forward to the Expert Panel in order to encourage consideration of additional issues not necessarily within the scope of the review (Not Recommended)
- III. To not approve the Adelaide Hills Council Submission on the *Planning System implementation Review* (Not Recommended)

4. APPENDICES

- (1) Adelaide Hills Council Submission
- (2) Covering Letter
- (3) Submisison with Feedback

Appendix 1

Adelaide Hills Council Submission

<Hold – Cover Page>

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List of Abbreviations

CAP – Council Assessment Panel

DAP – Development Assessment Portal

PDI Act – Planning Development and Infrastructure Act 2016

PDI Regulations – Planning Development and Infrastructure (General) Regulations 2017

P + D Code – Planning and Design Code

PLUS – Planning and Land Use Services (State Planning Department)

SCAP – State Commission Assessment Panel

SPC – State Planning Commission

TNV – Technical and Numeric Variation

DRAFT

Adelaide Hills Council – Key Issues

The following section addresses key issues identified by the elected body and staff over the course of the reform process and the subsequent 21 months of operation in the new system.

General comments in relation to key issues in the PDI Act

ePlanning Levy

The PDI Act requires that councils make an annual contribution to the ePlanning system based on the reported total cost of development applications lodged within the Council area within a budget year. For the Adelaide Hills Council, the ePlanning levy is in the order of \$60,000 per year. This is a significant investment from Council and is in addition to the maintenance of Council's own systems which are still necessary to manage development applications (e.g. *Development Act 1993* applications) and GIS systems that support this function.

While it is acknowledged that improvements are being made to the ePlanning system, there remains hold ups in workflow and this is causing frustrations and ongoing work arounds for staff and applicants alike. As a result Council is making significant contributions to a system which currently does not meet a full range of needs, whilst also investing in inhouse Council systems to cover the functionality gaps.

Recommendation:

Review the extent of the contribution to the ePlanning system and confirm how contributions from Council are being used. In addition, recommend that Local Government as a key investor in the system be provided more agency to direct the prioritisation of improvements to the ePlanning system.

Note: The lodgement fee for development applications is retained by the State Government for maintenance of the system.

Accredited Professionals – scope to assess Council lodged applications

The introduction of the PDI (Accredited Professional) Regulations 2019 enacted regulation 30 which is affecting the capacity of Council's accredited building staff to assess applications either lodged by Council or located on Council owned land. The relevant excerpt from the regulations is provided below:

An accredited professional must not perform any function of an accredited professional in relation to a development—

(c) if the accredited professional is employed by any person or body associated with any aspect of the development.

The interpretation of subregulation (c) is resulting in building staff having to direct applicants (in some cases Council and community groups) to engage a private certifier to undertake the building rules assessment component of an application. It is considered the effect of this clause is causing unreasonable delays and cost implications for applicants and does not adequately acknowledge an accredited professional's ability to make sound professional judgement or assess perceived risks.

Recommendation:

An exemption should be provided to Accredited Professionals working in Local Government when dealing with these matters, in the same way that employees of the Crown are afforded an exemption via Regulation 30(2).

Council Assessment Panels

It is considered that the reduction in the number of elected members from assessment panels has been unnecessary and resulted in a reduction in community voices and local knowledge in the decision-making process.

Recommendation:

A review of the current limit of one elected member on local CAPs should be considered in order to understand the impact of the loss of the community voice and local knowledge in the decision-making process.

Use of land (motorbike trails/parks)

There are forms of land uses traditionally considered ancillary to rural properties, in particular constructed motorbike trails/parks, that are increasingly causing impacts on amenity and landscape character in the Adelaide Hills as more residents establish rural land holdings primarily for lifestyle purposes.

Recent examples demonstrate that the repetitive use of motorcycles on custom made trails (which in their own right do not trigger a development application where the mounds are less than 3 metres in height) is increasing the incidence of land use conflict between neighbouring properties. Issues relating to noise, dust, erosion and a diminished rural setting often cited as primary concerns. Based on these impacts, there may be a preference to seek an amendment to the PDI Act to provide certain thresholds that when breached would trigger development for this type of use. The view being that this would provide the ability for Council to mitigate the impacts through the development application process.

There is also an argument to say that the *Local Nuisance and Litter Control Act 2016* could pull this type of issue in, but much like SAPOL being tasked to resolve disputes, it would appear to be treating the symptom and not the cause, whereby the land use activity is proliferating without any clear guidance or direction regarding things like siting, hours of use, appearance etc.

Recommendation:

The Panel is encouraged to give consideration to whether the PDI legislation and the Code could provide a framework to capture this land use activity as development so as to provide a means to mitigate its impacts. It is acknowledged that such an approach may well challenge the accepted application of schedule 4 part 5(2) of the PDI Regulations and would therefore require a standalone clause addressing motorbike trails/parks, much like clauses in this Schedule relating to heavy vehicle parking or the parking of a caravan or motorhome. One suggestion is that a threshold outlining an appropriate distance from a sensitive receiver (i.e. less than 500m and not visible from a public road) would be an effective way to both incentivise the siting of these activities whilst providing a pathway for further mitigation should the activity trigger development.

Practice Direction 14 – Site Contamination

Despite recent changes, Practice Direction 14 is still proving challenging to apply for a range of development types. For Adelaide Hills this issue primarily arises where a site has historical horticultural uses, and there is confusion in the industry amongst planning staff and consultants as to the status of horticulture in Practice Direction 14 and whether it is captured under the agricultural definition. Where no discretion is provided via the Practice Direction, the cost impost (estimated between \$5000-\$7500) for an applicant to engage a suitable consultant to provide a Preliminary Site Investigation is not always commensurate with the risk.

Recommendation:

Further refinement is recommended to improve clarity regarding when a Preliminary Site Investigation is and is not required based on the application of Practice Direction 14.

Note: The recent announcement by PLUS and the EPA that additional investigations will be commenced to explore further refinement of the Practice Direction is welcomed.

Definitions

While the new system has delivered improved definition framework, it continues to be an area that causes confusion and tension in the development assessment process. This is a result of definitions applying across the legislation and its designated instruments such as the Planning and Design Code. While the imperative for definitions to be embedded across these documents is understood, consideration should be given to providing a compendium of definitions. Guidance could also be provided on how to reconcile definitions where they are inconsistent such as:

- Advertisement
- Sensitive Use, and
- Adjacent and adjoining land

In addition, there remains land uses mentioned in the Code that are not defined (i.e. transportation distribution).

Recommendation

Consider whether the Act should provide instruction for all definitions relevant to the Planning System to be collated in a specific location (i.e. the Plan SA website) to benefit the sector, in particular those engaging with the system as non-practitioners. In addition, consideration should be given to further refining and expanding the land use definitions in the Code to assist with development assessment processes.

General Comments in relation to key issues in the Planning and Design Code

Ability for councils to effect policy change

The Planning and Design Code managed by the State Planning Commission, provides councils with limited ability to effect policy change. Under the Development Act, although Development Plan Amendments required approval from the Minister, a Council was able to propose changes to all aspects of its Development Plan (i.e. Council wide policy, zones, policy areas etc). With respect to the Code, a Council is only able to propose changes to TNVs, Area Statements, sub-zones and the application of zoning and overlays but not the content of the policies.

In this respect, Council Code Amendments are limited to picking a policy outcome from a standardised suite or format. A Council can also propose to create or apply a sub-zone, but sub-zones have been used sparingly in the Code and where they have been applied the recommended draft policy put forward by Council has not been fully adopted in the Code.

This issue is demonstrated by the Adelaide Hills Subzone drafting process, whereby Council staff were invited to provide a policy framework for the subzone as part of the Phase 3 Code development. The proposal sought to have the 'median rule' policy (as expressed by DTS/DPF 2.1) referenced in both the Desired Outcomes and the Performance Outcomes. The intention was to maximise the weighting of the policy and ensure development outcomes were promoted comparable to those achieved under the Development Plan. Following the release of Phase 3 of the Code however, it was evident that this proposal was not adopted in full and the DO's and POs were given a more generic wording convention with no reference to the median rule. No explanation or follow-up was provided to staff as to why the proposed policy framework was amended.

In this example the lack of agency to effect policy change has resulted in a fundamental weakness in the policy when applied to Performance Assessed land division applications, with recent proposals demonstrating that the intent of the policy can be undermined in certain circumstances. Without further support from the Commission to address this issue Council may be forced to resolve this via a standalone Code Amendment. This is unfortunate in the circumstances whereby Council had been provided assurance that a policy framework in the Code would achieve the same outcomes delivered under the Development Plan.

Recommendation:

While a return to local policy documents (i.e. Development Plans) is not viable, new ways of developing and embedding localised policy, such as through clearer pathways to establishing sub-zones or undertaking neighbourhood planning – an approach popular in the UK, should be explored and made available to councils and communities with support from PLUS.

'Second and third' generation of the Code

Four Discussion Papers were prepared by PLUS in 2018/2019 to support the transition to the Planning and Design Code. They covered the following topics:

- People & Neighbourhoods
- Productive Economy
- Integrated Movement Systems, and
- Natural Resources & Environment

These papers outlined a range of existing, emerging and innovative policy directions for the new planning system and their level of priority, indicating transition ready policy and policy reform marked 'Generation 1' or 'Generation 2'. Following the introduction of the Code this messaging regarding the generational advancement of the Code has been absent.

Recommendation:

These policy directions and associated timeframes are reassessed and it be outlined how and when councils are able to progress or influence these policy changes in the Code.

Loss of Local Policy

The replacement of 72 Development Plans with one State-wide Code has resulted in a substantial loss of local policy. Previous submissions from Council on the Code during consultation have detailed the extent to which local policy was lost in the transition. Below is a summary of key policy features which have no commensurate policy criteria in the Code.

Desired Character Statements

Desired Character Statements provided vital context and specific guidance for many local policy considerations that have not been adequately replaced in the Planning and Design Code. This affects multiple issues such as land use distribution, streetscape character outcomes, traffic and access requirements etc. Examples of Lost policy include:

Country Living Zone (Adelaide Hills Subzone)

Generally, new allotments will only be created where they match the median allotment size in the locality, where they will be connected to a mains sewer system, and where issues such as access, vegetation removal, stormwater management, and slope as well as the provision of essential services have been appropriately addressed.

Mature vegetation will provide a defining feature of the zone and will dominate views from all locations. This vegetation will be a mixture of exotic and native species and will be situated on verges, reserves and within private properties

Front fences will be non-reflective and low or visually permeable to enable views to the front garden.

Stirling District Centre Zone (Suburban Mainstreet Zone)

The built form of the Centre should continue to consist primarily of small-scale, ground-level, "main street" types of development with retail, commercial, and medical activities fronting the roadways, and a wider range of activities facing the off-road parking areas.

The primary retail area of the Centre should be retained between Avenue Road/Pomona Road and Johnston Street/Merrion Terrace. Buildings in the primary retail area should generally show a continuous single storey active retail face on the Mt Barker Road frontage, interspersed with walkways to off-street parking areas.

The distinctive village character of the Centre is largely defined by its avenues of mature, exotic, ornamental street trees, along with the garden features and landscaped areas within the Centre's road reserves and parks.

It is essential that the functionality and streetscape appeal of the above features is retained and enhanced over time, and should not be adversely encroached upon by buildings, traffic management works or vehicle access points.

Township Zone

In the Balhannah, Birdwood, Lobethal, Oakbank and Woodside townships, smaller allotments to an absolute minimum of 500 square metres will be created where the existing character of the locality is retained and external impacts are managed effectively.

The valued historic character of built form along and adjacent to main streets will be protected. This will be achieved through sympathetic additions and alterations which reflect the style, design, scale, siting and materials of existing buildings.

Residential development will be in keeping with the form, scale, siting, materials, and colours of existing buildings, and as described in the policy areas. In addition, buildings will incorporate:

- front verandahs;
- garages or carports either under the main roof or set to the side or rear;
- low front fences of various styles and materials;
- side and rear fences of metal sheeting, post and wire or timber;
- substantial rear yards;
- landscaping containing trees and bushes;
- pitched corrugated iron or tiled roofs; and
- traditional building materials such as brick, stone or rendered walls.

It is considered that the loss of Desired Character Statements impacted Adelaide Hills Townships disproportionately due to the specific and localised policy content regarding infill policy and character considerations referenced within the individual township policy areas being lost.

Concept Plans

The Stirling Concept Plan was not deemed worthy to transition from the Council's Development Plan to the Code. While TNVs have been used in some circumstances in lieu of concept plans, it is considered these are not an adequate substitute, as Concept Plans also illustrated other features such as desired pedestrian movement networks, important views, portions of sites that should be specific building heights, locations requiring additional interface treatment etc. This, combined with loss of nuanced and locally specific design policy has reduced the effectiveness of the policy framework for new development.

Policy Areas (Subzones)

AHC contains one (1) Code subzone. Comparatively, under the Development Plan the Council had 63 Policy Areas. It is noted that some of the location specific policy in Policy Areas has been transitioned to the Code through Historic Character Area Statements and TNVs, however these are not considered to be sufficiently detailed, instructive and fail to commensurately replace Policy Areas. Although an aim of the Code framework was to 'simplify' and 'standardise' zones to make it easier for Code users, the reluctance to allow more subzones has resulted in the significant loss of valuable local policy. It is considered the Code can still operate in a clear and transparent way while accommodating more subzones and it is recommended that additional subzones are permitted where variation from zone policy is justified.

Scenic Routes

The AHC Development Plan had a map (Figure AdHi(EC/1)) that referenced scenic routes within the Council area. This map provided the basis for a range of development plan principles, largely concerned with minimising the visual impact with areas of scenic and landscape quality. It is considered that the loss of scenic routes creates a material gap in policy that has not been adequately addressed in the Code.

Recommendation:

The State Government and PLUS should commit to working with and supporting councils to identify and provide a pathway to address lost policy from Development Plans as a result of the transition to the Planning and Design Code as a matter of priority.

Peri-Urban Policy

The Adelaide Hills is part of the peri-urban region, which in recent times has been subject to increased attention, largely evidenced by the establishment of Character Preservation Districts, the Environment & Food Production Area and the focus on improving policy to attract value adding activities in the Productive Rural Landscape Zone formally the Watershed (Primary Production) Zone (one of only five genuine areas of policy reform to occur during the Planning Reform process).

Despite these measures, there remains a concern regarding the future of primary production in the region and a lack of strategic guidance. Some particular issues relevant to the peri-urban area include; forms and effects of urban encroachment and hobby farming, impacts of land use conflict and its influence on the 'right to farm' agenda, and a lack of clarity as to whether supportive conditions for food and wine production are being created.

In the Adelaide Hills primary production land is largely captured by the Productive Rural Landscape Zone. Potential areas of investigation are summarised below:

- Explore land capability mapping being represented in the Code via an overlay. The Primary Production Priority Area mapping produced by PIRSA provides the evidence base for such an approach and this would align to the aspirations of State Planning Policy 8: Primary Industry.
- Strengthen policy discouraging farmland fragmentation particularly where boundary realignment is concerned.
- Ensure rural diversification policy is appropriately geared to support the long term sustainability of primary industry. For example tourism accommodation proposals for multiple units with no discernible link to primary production are increasing. In the absence of clear strategic guidance and a strong policy framework to better guide these proposals they are slipping through policy gaps within the Code. The encroachment on primary production land and the subsequent impacts to land capability and interface issues with genuine primary industry operations is not well understood individually or cumulatively.
- Ensure that interface between land use policies are being called up correctly and consistently in the Code for relevant land uses in the Productive Rural Landscape Zone and is flexible enough to capture the varying land use conflicts found in the peri-urban region.
- Explore whether non-primary production land uses in the Productive Rural Landscape Zone warrant more guidance in the Code (i.e. Depot, Truck Parking). Specific criteria could provide limited scope whilst ensuring impacts are mitigated via screening and restricted land area.

Recommendation:

Support peri-urban planning by designating and recognising the Adelaide Peri-Urban area as a sub-region for the purposes of Regional Planning and set up a working group to explore relevant strategic issues as part of the regional planning process and to provide ongoing guidance to future Code Amendments and policy development.

Environmental Performance/Sustainability Policy

Consistent feedback has been provided since the inception of the Code which has identified that not all the policy provisions relating to Environmental Performance from the Design in Urban Areas and Design general Development Policies are linked to relevant Performance Assessed development (i.e. residential or commercial) within zones.

PO 4.1 to PO 4.3 of the Design in Urban Areas and Urban General Development Policies are not linked to Performance Assessed development in Table 3 of relevant zones. The provisions read as follows:

Environmental Performance: PO 4.1: *Buildings are sited, oriented and designed to maximise natural sunlight access and ventilation to main activity areas, habitable rooms, common areas and open spaces.*

Environmental Performance: PO 4.2: *Buildings are sited and designed to maximise passive environmental performance and minimise energy consumption and reliance on mechanical systems, such as heating and cooling.*

Environmental Performance: PO 4.3: *Buildings incorporate climate-responsive techniques and features such as building and window orientation, use of eaves, verandahs and shading structures, water harvesting, at ground landscaping, green walls, green roofs and photovoltaic cells.*

None of the provisions appear in Table 3 – Applicable Policies for Performance Assessed Development in any zone where residential or commercial development appears as a Performance Assessed Development Type.

In addition, it is recommended that the Stormwater Management and Urban Tree Canopy Overlay be expanded to township localities.

The omission of these policies is a missed opportunity to raise the bar on imperative environmental design outcomes for new buildings and should be applied to all relevant residential and commercial Development types.

Recommendation:

Apply the highlighted criteria to Performance Assessed residential and commercial development and explore the potential for this to be expanded to DTS.

General Comments in relation to key issues in the e-Planning System and Plan SA Website

User Experience

While the Development Assessment Portal (DAP) is certainly an impressive product, there is still a lot of room for improvement. Staff consider there to be a range of seemingly little issues, that cumulatively have an impact on workflow and performance, the following have been provided as an example:

- The need to work between multiple tabs
- Hold ups drafting and editing various system generated documents
- Issues in progressing certain workflows (i.e. variations)
- Page structure variability and legibility,
- Fee payment problems,
- Poor automated notification capacity, and
- Administrative work arounds.

Recommendation

The DAP should be reviewed and improved to ensure optimal user experience.

Public Notification

Staff have developed numerous work arounds to deal with deficiencies in the DAP when administering the public notification workflow process. Some of the main issues include:

- No automated CAP invitations sent from the Portal
- No automated confirmation to Representors to confirm receipt of their representation
- The Representors form does not ask for a residential address as a mandatory field. Providing a PO Box is somewhat challenging when trying to ascertain a Representor's relationship to a proposal
- Finalising public notification on a Thursday is problematic when deployments are taking place and the Portal is shut down. This typically means a Representor is having to email Council directly outside of the DAP
- There is no way to notify multiple parties of Council's Assessment Panel (CAP) details and this must be done manually outside of the portal.

In addition, any subsequent appeal process is quite cumbersome whereby staff must send a request to the Plan SA Helpdesk requesting that the conditions of consent are altered based on the Court order.

Recommendation

The DAP public notification workflow and representor touch points should be reviewed and improved to assist council staff streamline this process.

Record Management

Staff have expressed ongoing issues with regard to record management in the DAP. A summary of the particular issues are provided below:

- Poor naming protocols for files when uploaded by applicants, causing delays and confusion for staff
- Upload size limits requiring staff to split documents into parts for approved documentation, and

- Sending and receiving emails outside of the portal for applications continues to be a challenge for file management purposes.

Recommendation

The options available to applicants should be simplified and this could be supported with some guidance material to assist and speed up the verification process, in addition to capacity for system learning to assist with file recognition should be incorporated. Size limit caps should be removed for uploaded files. It is considered that capacity in the DAP portal should be developed to allow emails to be sent directly from the portal, eliminating frustrating work arounds and file management issues.

Planning Assessment Processes

To expedite the assessment process and minimise double handling/manual duplication of Policy, pre-loaded applicable Code criteria should be incorporated into the system generated Planning Assessment Spreadsheets.

Staff continue to encounter issues relating to how the time clock is represented in the system, whereby it is difficult for a relevant authority or an applicant alike to ascertain where the clock is up to. In addition, it is noted that when the clock is paused under a hold request, the system disables functionality to continue with the assessment.

Recommendation

Capacity for the system to pre-load applicable Code criteria into the planning assessment spreadsheets for Performance Assessed applications should be developed. It has been suggested that the clock could be embedded at the top of every page when working in an open application. In addition it is considered that this time affords a relevant authority to start to populate the Assessment Spreadsheet and other relevant tasks is important part of ensuring statutory timeframes are met when the file comes off hold.

Code Policy Representation

The Guide to Planning and Design Code outlines the hierarchy of policy in the code, whereby Overlays sit above Zones. It is questioned why Zones are reproduced above Overlays when the system generates applicable Code policy for an application. It is considered that this may create confusion, particularly for applicants.

Staff and applicants have expressed frustration when trying to extract the correct TNV for allotments via SAPP. A.

In addition, when analysing the distribution of Zoning across the State or region, there is no way to drill down beyond a group of Zones i.e. Neighbourhood to search individual Zones in SAPP. A. This creates challenges around interpreting Code application and understanding Zones within a broader State based planning framework.

Recommendation

Consideration should be given to whether the Code hierarchy could be better reflected in the system generated documentation. Improve the functionality of SAPP. A. in order to easily determine applicable TNV requirements for an allotment. Allow users to search individual Zones and Subzones within SAPP. A. to assist with Strategic and Policy investigations

Strategic planning objectives/progress provided greater visibility in the ePlanning Environment

The ePlanning environment has ushered in a new era of planning in South Australia. Up to this point there has been a substantial focus on developing the capability of the system to respond to the demands of the development assessment process, it is acknowledged that this has taken considerable effort. The logical next phase would be for the State to invest in, and modernise, how strategic planning is executed and represented in the ePlanning environment.

Recommendation

Consideration should be given to developing capability in the ePlanning platform to provide greater visibility of strategic planning objectives and progress toward the State targets to support the development of strategic direction and development assessment processes to ensure that outcomes are being delivered in alignment with higher order strategies.

Reporting Functionality

The reliability and useability of the reporting functionality via Power BI has been unreliable and difficult to extract the relevant reports and undertake detailed analysis down to the application or staff level.

Recommendation

Recent upgrades have improved the Council reporting tool and continuous refinement and improved capability is needed to ensure it is meeting the needs of a full range of users including Development Assessment and Strategic and Policy Planning staff and this might require ongoing engagement.

DRAFT

Adelaide Hills Council – Response to Discussion Paper Questions

The following section addresses the Expert Panel discussion paper questions informed by Council and staff experience over the course of the reform process and the subsequent 21 months of operation in the new system.

Planning Development and Infrastructure Act 2016 Reform Options

Public Notification and Appeals

Based on the system reports Council notified 98 applications in the 21/22 financial year. Of those which received representations electing to be heard, 30 went to the Council Assessment Panel for a decision representing 3% of all applications lodged last financial year. By comparison, Council notified 123 applications in the 19/20 financial year and of those which received representations electing to be heard, 15 went to the Council Assessment Panel for a decision, representing 1.25% of all applications lodged that year.

Council was subject to six (6) appeals in the 2021/22 financial year. Of these, one (1) was submitted by the proponent and three (3) were appealed via third party rights. The other two were judicial reviews but by third parties rather than the proponent. Council was still assessing transitional applications lodged under the Development Act in 2021/22 and hence there were still third party appeals of decisions.

By comparison, Council was subject to eight (8) appeals in the 2019/20 financial year and, of these, four (4) were submitted by the proponent and four (4) were appealed via third party appeal rights. Two (2) of the proponent appeals were for judicial review of development categorisation.

The analysis has revealed there has been a 25% decrease in appeals comparing data from the financial year before the new system was introduced and data for a full financial year in the new system.

Expert Panel Discussion Paper Questions

1. *What type of applications are currently not notified that you think should be notified?*

There is a mixed view amongst staff that the level of notification is adequate in the PDI system. It is recognised that the community view is that the new system has stripped away notification rights and there have been instances where Council has received requests from community members seeking clarification as to why certain approved and subsequently constructed developments were not subject to notification. Most recently a query was received from a community member questioning why the construction of an adjacent Ancillary Accommodation building had not been notified. While there are still instances of the community questioning the notification processes in the new system, staff have noted that there has not been a notable spike for these sorts of enquiries when compared to the processes under the Development Act.

It is also noted that with other Code Amendments in train, in particular the Miscellaneous Technical Enhancement, there may be potential scope for more applications to be notified. For instance, if land division in the Productive Rural Landscape Zone was to be removed from the Restricted Development pathway (which Council strongly opposes), Council would question whether there should be a notification trigger comparable under a Restricted pathway.

2. *What type of applications are currently notified that you think should not be notified?*

The potential to remove small scale and anticipated development i.e. verandahs in Hills Face Zone, from notification should be explored and it is noted that the draft MTE Code Amendment indicates that this is likely to be addressed.

It is noted that some staff have flagged that a cautious approach is often being adopted to the application of the minor clause in Table 5 of Zones. This is occurring in the absence of a clear position from the Commission on the scope of such a clause and what reasonably constitutes minor. In the absence of clear direction on this issue the potential threat of an appeal if such a determination was challenged is leading to inconsistent application of this clause.

3. *What, if any, difficulties have you experienced as a consequence of the notification requirements in the Code? Please advise the Panel of your experience and provide evidence to demonstrate how you were adversely affected.*
4. *What, if any, difficulties have you experienced as a consequence of the pathways for appeal in the Code? Please advise the Panel of your experience and provide evidence to demonstrate how you were adversely affected.*

In the absence of an example, it is noted that under the PDI Act appeals against the merits of a Relevant Authority decision for proposals are weighted toward proponents, with representors and other interested third parties not given the same opportunity to appeal. There is a view that as a result the appeal right framework lacks equity and the system is weaker as a result.

5. *Is an alternative planning review mechanism required? If so, what might that mechanism be (i.e. merit or process driven) and what principles should be considered in establishing that process (i.e. cost)?*

There is mild staff support for a tribunal system model to manage planning related appeals, and it is seen as a potential way to complement a more equitable appeal right model. However, it is noted that the Environment Resources and Development Court provides opportunity for conciliation between parties and the benefit and efficiency of establishing a new tribunal process is queried.

Accredited Professionals

Council has a limited number of Deemed to Satisfy applications due to Overlay restrictions such as the Mount Lofty Water Catchment Areas and Hazard Bushfire Risk. As a relevant authority Adelaide Hills issued 39 Deemed to Satisfy (DTS) consents out of a total of 54 in the 21/22 financial year. This accounts for 72% of all DTS applications lodged. Of the remaining 15 DTS consents 12 were issued by building certifiers, accounting for less than a quarter of all DTS applications lodged.

Expert Panel Discussion Paper Questions

6. *Is there an expectation that only planning certifiers assess applications for planning consent and only building certifiers assess applications for building consent?*

In principle there is a view that building certifiers should only deal with building certification matters. This is because giving building certifiers the ability to determine a departure from DTS criteria as minor, is providing opportunity for them to act outside the scope of their expertise. In addition, the PDI Act has introduced the ability for planning certifiers to assess these straightforward applications, and it is considered that they are best placed as accredited planning practitioners to enact this function.

7. What would be the implications of only planning certifiers issuing planning consent?

It is considered that with only planning certifiers provided scope to issue planning consent the system would be more harmonious. Further improvements could include the removal of the clause that allows certifiers the scope to deem one or more departures from the relevant DTS criteria as minor.

There has been examples where a certifier has issued planning consent with minor departures and building consent and then subsequently issued a Minor Variation under s76 of the PDI Act, whereby staff consider the minor variation to be beyond what could reasonably be considered a minor departure.

Improvements in this area would result in less need for councils to take on a 'surveillance' role to ensure that certifiers are following the process reasonably and then reporting.

8. Would there be any adverse effects to Building Accredited Professionals if they were no longer permitted to assess applications for planning consent?

In the case of applications lodged in the Adelaide Hills the implications are likely to be relatively minor for building certifiers as the data demonstrates that only 12 out of 54 (roughly 20%) applications for DTS applications have been lodged by a building certifier.

Impact Assessed Development

Expert Panel Discussion Paper Questions

9. What are the implications of the determination of an Impact Assessed (Declared) Development being subject to a whole-of-Government process?

It is considered that a whole-of-Government approach touted in the discussion paper is likely to add additional time to the process, however in the interests of transparency and promotion of a more democratic model, there would appear to be sufficient public interest for this approach.

Local Heritage in the PDI Act

Expert Panel Discussion Paper Questions

10. What would be the implications of having the heritage process managed by heritage experts through the Heritage Places Act (rather than planners under the PDI Act)?

In line with the State Parliament's Environment Resources and Development Committee's report on Heritage in SA, there is in principle support for moving the local heritage place regime from the PDI Act into the Heritage Places Act. This approach would potentially remove Council from having to preside over a local heritage listing process that has a political dimension, which can obstruct sound heritage listing recommendations.

Councils would be interested to understand whether such a reform would need to be supported by changes to the Planning and Design Code to facilitate formal referrals under the Local Heritage Place Overlay. This would also require that a referral fee be charged.

It is noted that such an approach has the potential to reduce Council's spending on a Local Heritage Advisory Service to refer an application under the Local Heritage Place Overlay. Instead this cost would be shifted to applicants – currently Council facilitates this process by providing this service free of charge in the interest of promoting heritage protection and appropriate adaptive re-use.

In addition this advice is sort as an internal referral so it doesn't add to the assessment timeframe. If a statutory referral were established this would provide scope for the clock to account for this important expert advice.

11. What would be the implications of sections 67(4) and 67(5) of the PDI Act being commenced?

It is considered that these sections are problematic and are unlikely to support an objective outcome. Heritage Areas should be designated on their heritage merits and not subject to a quasi-political process. As such it is recommended that these sections of the Act be removed or remain inactive and that the Commission provide clarity for councils on what scope they have to establish new Historic Character Areas.

Deemed Consents

Council has been subject to two (2) deemed consent processes.

Expert Panel Discussion Paper Questions

6. Do you feel the deemed consent provisions under the PDI Act are effective?

It is considered that a fundamental question needs to be explored – what is Deemed Consent trying to achieve? To support this investigation the data should be interrogated and those councils that have been subjected to a deemed consent process should be interviewed along with applicants. This would assist in understanding whether this process is being used in response to genuine delays or whether it is being used in a disingenuous manner, particularly where complex applications are being considered.

Based on experience the option for an applicant to trigger the deemed consent process should be removed where they and a council have agreed to enter negotiations as part of the assessment process, regardless of whether the assessment clock has expired or not.

Council is also aware of examples where proponents are threatening to use deemed consent as a mechanism to broker consent. When delivering good planning decisions, the focus for development assessment staff should be on appropriate land use and built form outcomes, and not on procedural intimidation. When used in this manner deemed consent is divisive for the sector.

In addition, it would be useful to examine how many of the applications in the system where a decision was made outside of the legislated assessment timeframe, would have been subject to a potential refusal had additional time not been taken to negotiate a satisfactory outcome. Such an analysis would reveal the circumstances that are leading to the clock expiring and how deemed consent is/is not influencing these processes. The alternative to negotiating a satisfactory outcome out of time is that a relevant authority may be more inclined to issue refusals more frequently.

From an outcome perspective any analysis would benefit from examining whether the process expedited a decision or merely delayed it and incurred additional costs to the proponent and Council. Based on experience the impacts from a time and cost perspective appear to outweigh any benefit.

A thorough understanding of these factors will likely reveal whether Deemed Consent is an effective mechanism in its current form or whether it needs to be refined. One potential alternative would be to replace the deemed consent process with a 'notice of decision' trigger. Such a function could provide Council with the opportunity to refuse or consent to the application within a 10 day window of a 'notice' being triggered.

7. *Are you supportive of any of the proposed alternative options to deemed consent provided in this Discussion Paper? If not, why not? If yes, which alternative (s) do you consider would be most effective?*

Alternative 1

Deemed approval appears to be addressing the symptom and not the cause of the delay. Quite often it is the result of the incorrect application of the Deemed to Satisfy criteria, particularly the use of the minor clause. Having the minor clause removed or additional clarity provided around the application of the minor clause should be pursued in advance of any consideration to the idea of a deemed approval.

Alternative 2

Final development approval issued by a private accredited professional would be problematic from a consistency perspective. There are instances where the Building Consent is not consistent with the Planning Consent. The consistency check in this regard is an important step that must occur within the statutory timeframe prior to issuing the final approval, however it is not recognised as an official step within the workflow of the system.

There are also instances where a planning consent has been issued subject to a reserved matter. In instances where this matter requires technical input before sign-off i.e. from council's stormwater or traffic engineer, it is not understood how such a process could be conducted by a privately accredited professional.

Alternative 3

There is a view that the complexity of the application should dictate the assessment timeframe or at least provide a scaled approach to timeframes. In AHC there are examples where a simple residential decking has the same assessment timeframe as a major rural industry proposal. Based on this assessment timeframes should be examined and consideration given to how they could be made more equitable for both the proponent and the relevant authority.

While the relationship between assessment timeframes and deemed consent should be examined closely as part of the review, it is considered that it should only be refined in order to promote proportional refinement based on the level of complexity of an application and not indiscriminately reduced based on averages.

Additional suggestions for Deemed Consent refinement or viable alternatives

When a proponent agrees to put an application on hold to address a specific matter or provide additional information, they should not be able to trigger a Deemed Consent when the application is taken off hold to upload the requested revised plans or additional information.

The generic conditions that must be applied to a Deemed Consent are unlikely in most cases to suit a proponent, particularly for complex applications. This is likely to be a factor in why deemed consent has not been more widely triggered. In addition, the system should auto-generate any Agency conditions required to be applied to any Deemed Consent authorisation.

There needs to be a greater emphasis on proponents to take more responsibility to provide information in a timely manner and pursue statutory referral advice or agreement (in accordance with Section 122) prior to lodging the Development Application, particularly where there is likely to be complex technical considerations in high-risk areas. Where there has been long delays in providing this information, consideration to an RFI verification process should be considered. This workflow process would provide a Relevant Authority the opportunity to review documents and seek additional technical input particularly where internal referral's may be required. In addition, referral agency timeframes could be reviewed and refined based on a scaled approach noting risk profile .

The expectation that despite delays to respond to an RFI or address a statutory referral, Council is still required to turn around a decision on short notice creates a lot of pressure at the end of an application process. Based on this experience there may be reasonable justification to consider a more flexible approach to timeframes in instances where long delays have occurred.

Verification of development applications

Council's average verification time is 3 days or less. At the time of drafting, 83 applications were in verification, 13 of those were under assessment, 49 were awaiting mandatory information, 21 were awaiting fee payment with 1 overdue.

At Adelaide Hills Council the verification process is initiated and managed by individual statutory planners once a file has been allocated to them. Verification competes with the full set of tasks required throughout the assessment process.

Expert Panel Discussion Paper Questions

8. *What are the primary reasons for the delay in verification of an application?*

The view of verification varies among the staff. While some use it to its full potential and view it as a critical process to determine the procedural matters, others see it as a process that creates confusion for the average applicant and at times friction in the delivery of good customer service.

With respect to the latter, issues come about in the verification process when applicants fail to respond adequately to multiple requests for information. For staff this is time consuming and the process is not captured by the statistics in any meaningful way, as a result there is little recognition of this work.

One potential option to resolve this is to provide a relevant authority a mechanism to 'refuse to proceed' to an assessment where multiple failures to respond to the Schedule 8 mandatory documentation at the verification stage has occurred. This option could become available to a relevant authority following three failed attempts to procure the mandatory documentation.

9. *Should there be consequences on a relevant authority if it fails to verify an application within the prescribed timeframe?*

Where there have been genuine delays without good reason, recouping the time lost at verification from the assessment timeframe may be reasonable in certain circumstances.

However, such an approach should be applied cautiously taking into account the competing pressures and workload demands of an average council development assessment team, staff resourcing issues and other procedural pressures applied via deemed consent or appeals.

With respect to the suggestion of a ranking system, it is considered that metrics alone do not reflect the various challenges that a relevant authority faces in the day to day delivery of the development assessment function. To name and shame would be a cynical response and not one conducive to supporting the image or culture of the sector.

10. Is there a particular type or class of application that seems to always take longer than the prescribed timeframe to verify?

Feedback provided by staff has suggested that it varies depending on the applicant's understanding of the process and ability to supply the mandatory documentation.

11. What would or could assist in ensuring that verification occurs within the prescribed timeframe?

The process would be streamlined if the critical information could be provided up front. A workflow option to restrict lodgement of applications that don't meet minimum standards for critical information (using AI or machine learning as touted in the ePlanning Discussion Paper) could assist.

12. Would there be advantages in amending the scope of Schedule 8 of the PDI Regulations?

Any changes must not push the issue down the line. Some information is critical to determine the procedural pathway and this should remain the priority in considering any Schedule 8 refinements.

Additional suggestions for Verification refinement:

Due to resource implications there could be a mechanism in the verification process that allows a relevant authority to ask for a 'pre-lodgement' fee following failure to meet multiple requests for further information. This could provide a secondary option if the suggestion that councils be afforded a mechanism to not proceed to an assessment is being considered.

The issue of communication is one that appears particularly important around the lodgement and verification stages. The impersonal wording of the system generated email notifications does little to inform the applicant of the process they have engaged in and the steps required to gain a Development Authorisation. Perhaps some better visual cues might assist i.e., progress timeline on the application landing page in the ePlanning portal or an explanatory video embedded in the email notification.

One way to assist relevant authorities, and councils in particular, at the verification phase, would be for the Panel to undertake some benchmarking and provide recommended guidance on the average file load per planner across the State, taking into account the varying factors and/or similarities of each relevant authority.

Planning and Design Code Reform Options

Character and Heritage

The Adelaide Hills Council has a rich cultural and built heritage, consisting of 103 State heritage places, 1 State Heritage Area, 241 local heritage places and 3 Historic Character Areas.

While the framework in the new planning system has strengthened character and heritage protection in areas with a strong underlying policy setting, for areas previously reliant on the localised policy content expressed by Desired Character Statements – a key feature of Development Plan zones, there remains policy gaps. In the Adelaide Hills this is best represented within townships throughout the Onkaparinga Valley and Torrens Valley, where there is a lack of contextual guidance within the Planning and Design Code to guide development outcomes in these historic towns.

It is considered that the character and heritage framework should be reviewed and consideration given to a mechanism that could promote and enhance the existing features of our regional and rural towns and their local context.

Expert Panel Discussion Paper Questions

1. *In relation to prong two (2) pertaining to character area statements, in the current system, what is and is not working, and are there gaps and/or deficiencies?*

Currently, staff do not have enough practical experience applying the Historic Area Statements to proposed developments to form a conclusive view on whether it is delivering the intended outcomes.

It is noted that staff were actively involved in helping draft the current statements based on the development plan for the Planning and Design Code. To this end the statements contain suggested content, noting that some of the wording was refined or made more generic in nature.

Council would welcome the opportunity to revisit the Statements, but due to these areas only impacting a small portion of the council area would be unlikely to do this if it had to initiate its own Code Amendment to do so.

2. *Noting the Panel's recommendations to the Minister on prongs one (1) and two (2) of the Commission's proposal, are there additional approaches available for enhancing character areas?*

As mentioned, Council does not have any designated Character Areas. However, there is potential scope based on previous Heritage surveys for the establishment of Character Areas in some Townships. If elevating these areas was a position the Council elected to pursue, a clearer understanding from the Commission on the scope or thresholds for the creation of Character Areas would be useful.

3. *What are your views on introducing a development assessment pathway to only allow for demolition of a building in a Character Area (and Historic Area) once a replacement building has been approved?*

It is assumed that the most efficient way to address this via a development assessment pathway would be to make the demolition an accepted development in the underlying Zone subject to a clause relating to an approved replacement building on the site – or something to that effect.

Such an approach is viewed as having an inherent weakness because it would be contingent on a separate approval being enacted, which in some cases may not eventuate despite the demolition of the original building on a site. Where the original buildings are representative, this could erode the character values of an area over time.

4. *What difficulties do you think this assessment pathway may pose? How could those difficulties be overcome?*

In order to overcome potential shortfalls, an alternative could be to tie the demolition to the new build as a combined application through a Performance Assessed pathway. In this circumstance it would provide additional assurances that an appropriate replacement building must be constructed should the proponent proceed with the demolition.

Such an approach would give rise to potential compliance implications, particularly where stage 1 demolition is undertaken but stage 2 building construction is not progressed. This might lead to Land Management Agreement arrangements being used where additional assurances are justified.

Council planning staff would be largely reliant on advice from a Heritage Advisor as to the appropriateness of the replacement building within the context of the existing building and the locality. This may result in different interpretations and approaches across the State. It is suggested additional tailored policy and guidelines be developed to support such assessments and promote a degree of consistency across the sector.

Tree Policy

In the 2021/22 Financial year the 8 regulated trees (3 significant) were granted planning consent for removal.

Adelaide Hills has varying canopy cover across urban and township areas. The Crafers, Stirling, Aldgate and Bridgewater locality would have some of the highest levels of canopy cover in the state, while this tapers off dramatically for some of the established townships.

In addition, Adelaide Hills Council operates in a highly complex environment for tree policy, where regulated tree legislation intersects with large tracts of native vegetation and high bushfire risk areas. While some of the changes brought on via the reform process are assisting, it continues to be a challenging area to navigate and one that continually causes friction at the application stage through to construction and the ongoing management of land.

Expert Panel Discussion Paper Questions

Native Vegetation

5. *What are the issues being experienced in the interface between the removal of regulated trees and native vegetation?*

There is a general sense that the intersecting clauses of the PDI Regulations and the Native Vegetation Act (see Table 1) creates a complex scenario for proponents and relevant authorities to navigate as part of the Development Assessment process.

Legislation	Section	Exemption/Exclusion	Conditions
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NVR 2017 Part 2 - — CFS approval — fire hazard reduction, Division 2, Clause 19	Fire prevention and control (large trees)	Clearance of vegetation that is growing or is situated within 20 metres of a dwelling consisting of a tree that has a trunk circumference (measured at a point 1 metre above the base of the tree) of 2 metres or more.	Clearance of the vegetation is undertaken in accordance with the written approval of the Chief Officer of SACFS and any applicable bushfire management plan
PDI (General) Regulations 2017 Schedule 4 Exclusions from definition of development Part 18, Clause 1(b)	Removal of trees in certain cases	A tree-damaging activity in relation to a regulated tree (including a tree that also constitutes a significant tree) if— the tree is within 20 m of a dwelling in a Medium or High Bushfire Risk area within a Hazards (Bushfire Protection) Overlay under the Planning and Design Code	Does not apply to trees outside the Regulated and Significant Trees Overlay

Table 1: Relevant excerpts from PDI Act and Native Vegetation Act

While the legislation has been designed to work reciprocally, it results in some interesting outcomes particularly when tree retention is concerned. For example, there are occasions where a proponent is electing to retain a large native regulated tree(s) within 20m of a proposed dwelling, where the risk of the tree has been assessed as low or reasonable based on its form, characteristics and the site context. However, due to the tree(s) proximity to the proposed building its removal is being factored into the Significant Environmental Benefit (SEB) calculation as part of the native vegetation clearance offset fee for the development. In some instances, the offset fees are substantial and despite the intention to retain the tree a proponent is being charged for its hypothetical removal on the grounds that the legislation facilitates it.

This example causes some tension in a couple of areas. Firstly, it disincentivises the proponent from retaining the tree in the first place, and also discourages contextual design responses that balance tree retention through design and siting. In addition, if the SEB has factored in a removal yet the proponent elects to keep the regulated tree, it is then subject to the Planning and Design controls that ensure the proposed development does not impact the health and longevity of the tree. This often requires the applicant or Council to engage an Arborist to provide a technical assessment.

6. *Are there any other issues connecting native vegetation and planning policy?*

Another area that is problematic is the declaration relating to native vegetation clearance that forms a mandatory step in the lodgement process. There have been examples where this declaration has been ticked by an applicant, however when staff have undertaken a site visit there is a strong likelihood that native vegetation will be impacted by the proposal. This is leading to inconsistent approaches, with some agency staff commenting that the declaration is not enough until verified via desktop review or ground-truthing.

In bushfire prone areas the development assessment process would benefit from a more collaborative approach between agencies. There have been examples where the CFS has withheld their comments through the mandatory referral process until the Native Vegetation Council provides their referral response, and vice versa. It noted that in 2021 the South Australian Productivity Commission released a report on the Development Referral Review, with section 2.3.4 providing recommendations that could address this issue.

Conditional SEBs applied as part of the Development Application process (one approval approach) has been suggested as a way to better integrate the development assessment and native vegetation clearance process.

Tree Canopy

7. *What are the implications of master planned/greenfield development areas also being required to ensure at least one (1) tree is planted per new dwelling, in addition to the existing provision of public reserves/parks?*

In considering the planting of trees in master planned communities the benefits could include the following:

- Tree planting can be planned upfront and considered holistically at the neighbourhood or precinct level. It would therefore be an easier proposition than trying to achieve equivalent outcomes in existing built-up areas.
- Using projections, a developer should be able to project the level of canopy cover over set timescales 5 > 10 > 20 years. This would assist monitoring strategic targets for urban tree canopy cover for a given area.
- For greenfield master planned communities often subject to longer commutes and increased living costs associated with being located on the periphery of cities, the tree canopy cover coupled with energy efficient design could provide considerable energy efficiency improvements to these developments, reducing running costs associated with residential development.
- If the tree planting is focussed on the public realm the entire responsibility for maintaining that cover will be inherited by the Council. Tree canopy cover is a social issue as much as environmental and economic and so the responsibility should be shared by the community.
- There would appear to be benefit in incorporating landscaping plans into the Building Envelope Plan process to facilitate a streamlined approach for future dwellings whilst capturing the one tree policy.
- Master planning has the advantage of working with constraints from the outset and so developers should be able to design a neighborhood that can deliver one tree per house. It seems that in the current climate, particularly around environmental awareness, this would be a marketing tool for new homebuyers in new communities.
- It also presents opportunities for precinct level environmental performance outcomes addressing areas such as urban tree canopy, stormwater re-use and carbon emissions etc.

8. *If this policy was introduced, what are your thoughts relating to the potential requirement to plant a tree to the rear of a dwelling site as an option?*

It is considered that species selection would be critical, for example in north/south facing rear yards a deciduous tree would be optimal to provide summer shade and let winter sun in.

Such a policy may also impact allotment configuration, for example backyards may have to be larger to accommodate a mature tree. This conflicts somewhat with urban consolidation policies

and minimum private open space requirements often being inadequate to accommodate such an outcome.

Tree Protections

9. *What are the implications of reducing the minimum circumference for regulated and significant tree protections?*

It is considered that reducing the circumference minimum for regulated tree protection provides more potential for trees to reach a mature size. This would significantly improve the projections for urban tree canopy cover over a longer timescale, based on the premise that it is more effective to protect an established tree than to plant another one as its replacement.

With potential for more trees to be defined as regulated, there is potential development impact costs, consultant costs and potential delays in the assessment process. As such any significant change should be carefully scrutinized.

It is noted that the formula for Tree Protection Zone (TPZ) calculation scales based on the tree's diameter at breast height (measured at 1.4 metres above natural ground level). As a result, although more trees could be captured as regulated, development exclusion areas or TPZ's are likely to be less restrictive for smaller trees. It may be that further analysis would be able to explore whether reducing the minimum circumference size to increase tree protection across metropolitan Adelaide could be achieved, without adversely impacting development potential across targeted infill areas. It is acknowledged that achieving such an outcome may be reliant on innovative design responses, which might test the market preference for dwellings that maximize site coverage.

There are also anecdotal reports of a shortage of suitably qualified Arborists to undertake the detailed technical assessments required to support the development assessment process. Any such change could significantly increase demand for these specialized services, and any industry shortages would impact development application timeframes.

10. *What are the implications of introducing a height protection threshold, to assist in meeting canopy targets?*

An undesirable outcome would be that tall trees with limited canopy spread could be captured i.e., pencil pines or palm trees etc. As a result, it may be more effective to only introduce such a threshold in tandem with a crown spread protection threshold.

Capturing the height data to support an application may be challenging and subjective. This would not be an ideal outcome from a procedural perspective and thought should be given to how this data could be reasonably captured and whether that should form part of Schedule 8 requirements (i.e., tree height captured at the survey stage).

11. *What are the implications of introducing a crown spread protection, to assist in meeting canopy targets?*

This would be more beneficial if applied in tandem with a height protection threshold.

PDI Regulation 3F – Regulated and significant trees – Subclause 6 allows maintenance pruning of a regulated tree up to 30% of the tree crown without the need for an approval. This allowance would undermine any crown spread protection thresholds and would need to be considered as part of any reform package.

12. *What are the implications of introducing species-based tree protections?*

From a biodiversity perspective this could be a great outcome for endemic species that provide vital habitat.

From a climate adaptation perspective, this could also be a good outcome whereby trees that have a higher heat threshold i.e., native tropical, or sub-tropical varieties etc. are afforded protection in recognition of their ability to remain viable in a warming climate.

It is not uncommon for species identification to be challenging, even between experts in the field. This could potentially give rise to procedural challenges.

Additional Comments regarding adopting minimized or increased threshold protections for trees

Increasing the protection of established trees would be an effective and fast way to halt urban tree canopy loss at what is considered an important transition period and would allow sufficient data to be compiled over the short term to understand whether the Urban Tree Canopy Overlay impacts and projections are proving effective in achieving tree canopy targets.

Increasing the protection of established trees would address the tension between, on the one hand, trying to promote urban tree canopy cover while at the same time having some of the most lax regulations for trees in the country – which currently reveals a misalignment of policy intent vs outcomes.

It is considered that a Practice Guideline would be useful to deal with TPZ encroachments and outline approaches to protect established trees through design and siting.

In addition, stronger Planning and Design Code performance outcomes to encourage more responsive design outcomes should supplement protection threshold reforms.

The PDI Act in Part 7 Division 4 – Procedural Matters and Development Facilitation Clause 119 – Application and provision of information Subclause (8) states the following:

A relevant authority should, in dealing with an application that relates to a regulated tree that is not a significant tree, unless the relevant authority considers that special circumstances apply, seek to assess the application without requesting the applicant to provide an expert or technical report relating to the tree.

This clause often puts the burden back on the Relevant Authority to make an assessment against the relevant performance criteria in the Code. If tree protection is expanded consideration would need to be given to the likely impact of this clause on a Relevant Authority.

Distance From Development

13. *Currently you can remove a protected tree (excluding *Agonis flexuosa* (Willow Myrtle) or *Eucalyptus* (any tree of the genus) if it is within ten (10) metres of a dwelling or swimming pool. What are the implications of reducing this distance?*

The rationale for the ten metre exclusion zone from a dwelling or swimming pool is unknown. Anecdotally it is said that the pool safety and potential structural impacts may be the reason that this exclusion has been justified. However, this is contradicted by the fact a Willow Myrtle or a Eucalyptus is excluded from this clause.

The policy should be reviewed to reconcile the inconsistencies and blunt approach of this clause, particularly if consideration to an expanded protection threshold criteria is being considered. It is noted that trees within proximity to dwellings mitigate more effectively against the impacts of a warming climate with respect to heat island impacts and energy efficiency.

14. *What are the implications of revising the circumstances when it would be permissible to permit a protected tree to be removed (i.e. not only when it is within the proximity of a major structure, and/or poses a threat to safety and/or infrastructure)?*

It is considered that the revision of this criteria should only be considered where it reduces the circumstances when a protected tree can be removed. An expanded set of circumstances will only exacerbate the loss of urban tree canopy across metropolitan Adelaide.

While there are likely legitimate reasons for a tree within proximity to a dwelling or swimming pool to be considered for removal, 10 metres is a generous exclusion, particularly in a built-up urban context. In many cases in neighborhoods where significant infill has occurred it would be unlikely that the next generation of trees – as they mature, would be protected if this clause remains in its current form.

There is a view that trees need to be valued and managed as the dynamic living organisms that they are. Maintenance and care to reduce risk (or perception of it) are important considerations – like any other asset. Community education could be delivered in this space by Landscape Boards to assist in building understanding and capacity in this area.

The Urban Tree Canopy Off-set Scheme

15. *What are the implications of increasing the fee for payment into the Off-set scheme?*

Any measure that is likely to boost funding in this area and promote tree planting at the neighborhood scale is viewed as a positive.

16. *If the fee was increased, what are your thoughts about aligning the fee with the actual cost to a council of delivering (and maintaining) a tree, noting that this would result in differing costs in different locations?*

This would be more equitable, and readily occurs in the case of street tree removals approved under Section 221 of the Local Government Act where the fee covers the planting, establishment and ongoing maintenance of the tree.

17. *What are the implications of increasing the off-set fees for the removal or regulated or significant trees?*

It might help to better incentivise the retention of existing mature trees as opposed to paying into the fund. This would lead to better contextual design outcomes and ensure the longevity of the established tree.

In terms of setting the fee one option may be consideration of adopting a similar approach to the native vegetation clearance offset, using a Significant Environmental Benefit methodology and incorporating some urban relevant criteria i.e., contribution to reducing heat island effect and amenity contribution.

Public Realm Tree Planting

18. *Should the criteria within the Planning and Development Fund application assessment process give greater weighting to the provision of increased tree canopy?*

Any measure that is likely to boost funding in this area and promote tree planting at the neighborhood scale is supported, provided it can demonstrate it would have tangible benefits outside simply improving the amenity of an area (i.e., linking it to larger environmental, social, and economic outcomes).

Infill Policy

A key premise of the South Australian Planning Reforms, and as identified in the PDI Act and State Planning Policies, is the focus on good design outcomes under the Code. Good design and placemaking must be a central objective of the Code and must be given adequate weight in the assessment process.

Expert Panel Discussion Paper Questions

Design Guidelines

19. *Do you think the existing design guidelines for infill development are sufficient? Why or why not?*

While the aspiration of the planning system to promote good design is evident, the outcomes on the ground indicate that this is not being fully realized.

State Planning Policy 2 explicitly aims to “recognize the unique character of areas by identifying the valued physical attributes in consultation with communities, and respect the characteristics and identities of different neighbourhoods, suburbs and precincts by ensuring development considers existing and desired future context of place.”

Currently, these objectives have not been met by the Code. The reduction of the number of zones overall, and stripping away of well developed, locally responsive policy guidance, has resulted in standardised policy across many neighbourhoods and suburbs which fails to recognise and respect unique character.

To this end the Design Guidelines - Design Quality and Housing Choice prepared by the Office for Design and Architecture and the Principles of Good Design Guidelines could form the basis of a detailed and comprehensive guideline suite in tandem with a mechanism for local neighborhood planning. To be effective, these would need to be designated as advisory material for the purposes of section 66(5) of the PDI Act.

In addition, it is considered that the Local Design Review program should be reviewed and councils provided with incentives to set them up. The program was introduced with a view to improve design outcomes at the local level, however no councils have established a panel. The lack of detailed design policies and local contextual guidance within the Code which can be used during an assessment has been cited as one of the reasons take up of the program has not been initiated.

20. *Do you think there would be benefit in exploring alternative forms of infill development? If not, why not? If yes, what types of infill development do you think would be suitable in South Australia?*

While it is widely accepted that building sustainable densities in our urban and township areas is vital to healthy, vibrant and sustainable communities, it is considered that the current policy should be reviewed to gain a greater understanding of cumulative impacts from infill development, particularly as it relates to the loss of local character, the loss of the tree canopy, car parking, stormwater and other council managed infrastructure, and both public and private open space impacts.

Strategic Planning

21. What are the best mechanisms for ensuring good strategic alignment between regional plans and how the policies of the Code are applied spatially?

The transition to the new planning system has removed agency from local government and the local community to shape development policy in their neighborhoods – as sited above. This was a by-product of delivering a State-based system and the efficiencies and capabilities this promised. While potential in the latter is being realized, the compromise of the former has never been fully corrected or compensated.

Strategic planning processes provide an opportunity to build up community capacity and restore confidence with the public that planning is supporting community aspirations. While structure plans and concept plans provide opportunities for these types of conversations, they do not drill down into the detail of what makes a neighborhood unique or provide a place-based approach.

Across metropolitan Adelaide there are examples of how growth strategies particularly focused on infill development in established areas have been completely misaligned with the aspirations of the community.

Strategic planning in the new system will be critical to ensure that community aspirations are being understood and implemented through policy in the Code. Whether the current mechanisms available will enable this is yet to be seen. The Expert Panel is encouraged to consider other strategic planning mechanisms across other jurisdictions and provide guidance to the Minister on whether these may be appropriate in South Australia.

Infrastructure Australia's Planning Liveable Cities (2018) review provides relevant context across multiple jurisdictions. The review examined how Australia's largest cities sequence housing related infrastructure and housing development in Sydney, Melbourne, Brisbane, Perth and Adelaide. This review included planning processes at State and local levels and funding arrangements. The research identified numerous challenges to sequencing infrastructure and (housing) growth including lack of coordination, lack of anticipation and community suspicion of the quality and suitability of new development. The key recommendations were:

- establish a process to better strategically plan for Australia's future population. Partner with Federal, State, territory and local governments.
- Develop local strategic plans that translate metropolitan strategies into tangible outcomes at the 'place' level.
- Ensure local governments are adequately resourced and empowered to plan and deliver local strategic plans.

One example from the UK that provides a community with scope to develop a Neighbourhood Plan appears to be a model that could be adapted to the South Australian context and given effect through the PDI Act.

22. What should the different roles and responsibilities of State and local government and the private sector be in undertaking strategic planning?

It is considered that the State should be responsible for the broader state-based interests and targets, with local government or Joint Planning Boards facilitating a place-based approach to the implementation of those directions at a local level i.e., through Neighbourhood Plans or equivalent etc. It is considered that councils are better placed to deliver a process like this as they:

- Can bring together a range of stakeholders who have an interest in the successful development of the place;
- Can focus the weight of community engagement at the strategic level to enable the community to contribute to 'telling the story' of an area, beyond individual projects; and
- They know their existing infrastructure assets and networks and where to deliver improved outcomes.

One area that the State could focus on would be to embed the State level strategic objectives and targets into the ePlanning system giving them better visibility for government, practitioners, and the general public. To support this reporting functionality the ePlanning system should be expanded to provide integrated and timely information on how development activity at a local level is contributing to state level objectives and targets.

Car Parking Policy

Expert Panel Discussion Paper Questions

Code Policy

23. What are the specific car parking challenges that you are experiencing in your locality? Is this street specific and if so, can you please advise what street and suburb.

The integration of increased residential density and car parking provision at Hamilton Hill Estate in Woodforde has proved challenging where on-street car parking has been relied upon to offset relevant car parking rate shortfalls. This is a common issue within the Housing Diversity Neighbourhood Zone where significant uplift in density has been experienced.

Where public transport hubs have been developed, for example the Crafers Park and Ride, there is insufficient parking to cater for the average weekday patronage demand, with the car parking estimated to be at 218% over capacity.

24. Should car parking rates be spatially applied based on proximity to the CBD, employment centres and/or public transport corridors? If not, why not? If yes, how do you think this could be effectively applied?

Using Hamilton Hill as a case study the latest census data for Woodforde demonstrates that the percentage of households in Woodforde with two or more cars is 62%. This suggests that the preference in Woodforde for two or more vehicles per household conflicts with the Code policy of 0.75-1.25 spaces per dwelling requirement, using residential flat buildings as an example.

Woodforde is 10km from the CBD, where it takes approximately 20 minutes by car or 50 minutes by public transport to reach. Based on the latest census data 66% of people in Woodforde travelled by car to work with only 7% travelling by public transport.

Using the Woodforde example a car parking rate applied spatially based on proximity to the CBD or employment centres is unlikely to be an effective approach, where vehicle ownership is high and public transport services are not attracting high levels of patronage.

25. *Should the Code offer greater car parking rate dispensation based on proximity to public transport or employment centres? If not, why not? If yes, what level of dispensation do you think is appropriate?*

Using the Hamilton Hill example and applying it more generally across the inner metro areas there appears to be a conflict between density targets and household preferences relating to vehicle ownership and travel modes. Using contemporary data such as the census as a starting point to analyse the possibility of the spatial application of car parking rates, would provide an understanding of the gap between the desired outcome (Code policy) and the actual (household preference) of a given area.

Infrastructure investment particularly in public transport provision in areas targeted for renewal or density uplift should be prioritised at the point of land being re-zoned where that re-zoning would allow for car parking rate dispensations.

26. *What are the implications of reviewing carparking rates against contemporary data (2021 Census and ABS data), with a focus on only meeting average expected demand rather than peak demand?*

Applying an average expected demand to neighbourhood areas promotes a quantitative approach over other qualitative considerations, namely convenience and amenity.

The census data should certainly be utilised as suggested above, but not in a manner that further exacerbates issues relating to car parking within local areas.

27. *Is it still necessary for the Code to seek the provision of at least one (1) covered carpark when two (2) on-site car parks are required?*

Before policy refinement regarding undercover parking spaces, research should be conducted into household preference. New dwellings are typically proposed with double garaging and covered parking is a selling point for properties on the market. If a development is designed with no covered car parking it is likely that a future owner will apply for covered parking which, depending on the development design, may result in carports forward of the dwelling which is not desirable and not supported by Code policy.

Design Guidelines

28. *What are the implications of developing a design guideline or fact sheet related to off-street car parking?*

In principle, a fact sheet summarising Code policies and how to provide safe and convenient manoeuvring would likely assist some small-scale applicants.

Electric Vehicles

29. *EV charging stations are not specifically identified as a form of development in the PDI Act. Should this change, or should the installation of EV charging stations remain unregulated, thereby allowing installation in any location?*
30. *If EV charging stations became a form a development, there are currently no dedicated policies within the Code that seek to guide the design of residential or commercial car parking arrangements in relation to EV charging infrastructure. Should dedicated policies be developed to guide the design of EV charging infrastructure?*

Whether or not EV charging stations constitute development depends on specific details. For example, some involve building work, illuminated advertising or require variations to approved car parking areas particularly if parking spaces are removed to accommodate the infrastructure. The legislation must be clearer about when EV charging stations constitute development to streamline the roll-out of this infrastructure. The Code can assist siting and design outcomes where it constitutes development by providing policies including:

- traffic management (e.g. safe and convenient access for cars using the chargers, impacts on car parking provision etc);
- design and appearance of the infrastructure; and
- future proofing, particularly for communal car parking areas.

Car Parking Off-Set Schemes

31. *What are the implications of car parking fund being used for projects other than centrally located car parking in Activity Centres (such as a retail precinct)?*
32. *What types of projects and/or initiatives would you support the car parking funds being used for, if not only for the establishment of centrally located car parking?*

Adelaide Hills Council has no car parking fund established, however in principle car parking funds could be used for projects which reduce car dependence. However, it is considered there should be better strategic investment in public transport and integration with land use planning at State level.

Commission Prepared Design Standards

33. *Do you think there would be benefit from the Commission preparing local road Design Standards?*

The Design Standards for the creation of new local roads in greenfield areas and large subdivisions could be beneficial. However, Adelaide Hills is generally more concerned about Design Standards which affect the existing public realm (footpaths, roads etc) as they may supersede and be in conflict with existing Council policy and standards and may not provide an appropriate level of guidance to respond to the site conditions, as quite often the road

infrastructure i.e. stormwater system is not at the same standard to the more built-up areas of Adelaide.

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e-Planning System and the Plan SA Website

User Experience

Over 2500 consents have been issued by the Adelaide Hills Council since the 19 March 2021. This level of engagement with the ePlanning portal has provided staff with hours of interaction with the ePlanning system. Insights gained during this process have informed helpdesk requests and ongoing dialogue with Plan SA to assist with further system improvements and refinements.

The following responses are informed by this experience across the Development Services team at Adelaide Hills Council.

Expert Panel Discussion Paper Questions

Website Re-Design

1. *Is the Plan SA website easy to use?*

The general view across the organisation is that it is effective in assisting with undertaking day to day tasks. Notwithstanding, feedback provided from members of the community and applicants suggests it can be difficult to navigate and find the information required – as cited above.

2. *What improvements to the Plan SA design would you make to enhance its usability?*

Please refer to a summary of suggested improvements below:

- Faster access provided to the resource's library.
- An additional link provided from the DA Register to the Public Notifications Page.
- Improvements to the global search functionality for both the Code and the website.
- The ability to search individual Zones should be made available in SAPP. Currently only Zone families can be displayed at one time. Such functionality would assist with strategic and policy investigations.
- Property selection continues to be a challenging area.

Mobile Application for Submission of Building Notifications and Inspections

3. *Would submitting building notifications and inspections via a mobile device make these processes more efficient?*

It is considered that the legislation needs to marry up with the platform in terms of how the notifications are requested. There would be clear benefits for both contractors and inspectors from a customer experience perspective. Submitting inspection requests via a mobile provides a greater degree of flexibility for those making requests and an ability for Inspectors to respond to requests in a timely manner. Any mobile based solution should be built with capacity to provide more accurate reporting of notifications.

4. *Where relevant, would you use a mobile submission function or are you more likely to continue to use a desktop?*

It is considered that building officers would make use of a mobile solution, as it would make it a more efficient process based on experience with other tools. Office staff would be more likely to continue to use a desktop.

Online Submission Forms

5. *Is there benefit to simplifying the submission process so that a PlanSA login is not required?*

It is considered that there may well be benefits to this, particularly for one-off users. This could be developed as a guest login option as found on other platforms.

6. *Does requiring the creation of a PlanSA login negatively impact user experience?*

Feedback from applicants suggests that it can be a barrier for people to engage in the process.

7. *What challenges, if any, may result from an applicant not having a login with PlanSA?*

If users are provided permissions to submit documentation there may be potential security issues, forgery or application tampering. Such an approach is not supported if it results in emails being sent outside the portal between applicants and a relevant authority that would increase record/data management.

Increase Relevant Authority Data Management

8. *What would be the advantages of increasing relevant authorities' data management capabilities?*

There are examples where restricted permissions are causing delays and double handling in the processing of applications. Providing Administrative level permissions for Council staff (i.e., Org Admin) in certain circumstances would provide opportunity for quick fixes and genuine mistakes to be rectified (i.e., updating development locations, nature of development or appeal conditions etc.). If there is concern about providing this permission, one suggestion is to run it as a pilot program to test user capability and resolve any issues prior to a formal roll out.

9. *What concerns, if any, do you have about enabling relevant authorities to 'self-service' changes to development applications in the DAP?*

This additional functionality should only be made available to Councils as significant financial contributors to the system.

Inspection Clocks

10. *What are the advantages of introducing inspection clock functionality?*

Inspection clock functionality would potentially improve reporting functionality, visibility and transparency.

11. *What concerns, if any, would you have about clock functionality linked to inspections?*

There are circumstances where the customer makes a request for an inspection outside the notification system. Currently there is no way to record this in the system despite being notified. If a legitimate reason there should be a stop clock function.

Currently the clock runs on business days which means if a notification is submitted after 5pm on a given day this counts as a notification day. It is considered that this should be refined to only accrue as a day if submitted before 12pm on that day.

12. *What, if any, impact would enabling clock functionality on inspections be likely to have on relevant authorities and builders?*

It is considered that if more notifications are coming through this will stretch resource levels and one outcome is that it could increase pressure on both the builder and the inspector, noting that councils are not always appropriately resourced, and this is compounded by a shortage of qualified Building Officers.

The industry could be better educated about the process and given tips on how to manage it against competing demands. Failing this, expiations could be automated and more frequently issued based on legislative breaches as a means to encourage more notification compliance.

One question arises regarding whether the clock would be visible to everyone and, if so, how will it be represented in the system. It would be beneficial if it could be supplemented by a timeline that outlines notification steps.

It is considered that the collection that the lodgement fee at the application submission stage should be automated.

13. *Would you be supportive of the lodgement fee being paid on application, with planning consent fees to follow verification?*

From a customer perspective it is not ideal to have separate invoices issued and feedback has been received supporting this view.

If this approach is trying to capture a fee for the verification process could it be achieved another way? i.e., after 3 failed mandatory information requests.

14. *What challenges, if any, would arise as a consequence of 'locking in' the Code provisions at lodgement? How could those challenges be overcome?*

The system should have capacity to automate it via a lodgement snapshot, however there are instances where elements of an application change based on new information. When this occurs there will be elements with no applicable policy from which to make an assessment against. Code Amendments may also come into effect that could impact the proposal.

This could potentially be overcome by an automated notification to the relevant authority and the use of the assessing officer notes section to flag and/or include the Code Provisions on the Verification Snapshot. Both potential workarounds would be clunky and unlikely to resolve the legislative conflicts that are likely to arise.

Combined Verification and Assessment Processes

15. *What are the current system obstacles that prevent relevant authorities from making decisions on DTS and Performance Assessed applications quickly?*

This suggested approach appears to be creating more complexity. It is considered that better education and instructions that enable applicants to better understand the lodgement requirements would be more beneficial.

16. *What would be the advantages of implementing a streamlined assessment process of this nature?*

It is considered that if it could be achieved with a simple and elegant solution it is likely to provide a level of efficiency for simple applications.

17. *What, if any, impact would a streamlined assessment process have for non- council relevant authorities?*

Non-council relevant authorities could issue incorrect Building Consent as they would not yet have seen the Planning Consent documents e.g. incorrect "Nature of Development". This would potentially remove opportunity for Council oversight through consistency checks and could potentially place the burden on Council to investigate or appeal an incorrect decision.

18. *What are the advantages of the e-Planning system being able to automatically issue a Decision Notification Form?*

It is considered that this would create an interesting dynamic from an appeal or compliance perspective. In these instances, who would be responsible for tending to the appeal and investigating development breaches?

19. *What do you consider would be the key challenges of implementing an automatic system of this nature?*

In general it removes a level of oversight from the process, regarding development details and outcomes.

20. *If this was to be implemented, should there be any limitations attached to the functionality (i.e., a timeframe for payment of fees or the determination will lapse)?*

It is considered that such an approach should supplement the process, in addition to being limited to very specific types of applications.

Building Notification through PlanSA

21. *Would you be supportive of mandating building notifications be submitted through PlanSA?*

It is considered that this would be beneficial as currently it is time consuming and resource intensive to manage this process outside of the portal.

22. *What challenges, if any, would arise as a consequence of removing the ability for building notifications to be received by telephone or in writing to a relevant council? How could those challenges be overcome?*

The Notifications screen landing page should allow users to pick a builder from a building database.

Education and outreach to assist understanding of required documents particularly for commencement notifications.

Helpdesk and troubleshooting information should also be made available to support this function.

23. *Would this amendment provide efficiencies to relevant authorities?*

It is considered that this will streamline the process provided the notification can address the above issues. However, if users cannot easily enter the required information then it will still result in phone calls/emails to councils. As such, User Experience should drive the development of any solution.

Remove Building Consent Verification

24. *Would you be supportive of removing the requirement to verify an application for building consent?*

Not in all circumstances, at Council the opportunity is taken to request the Building/Compliance Fees & request the necessary Building Mandatory Information. As a general comment there is a sentiment among staff that it works reasonably well as it is.

25. *What challenges, if any, would arise as a consequence of removing building consent verification? How could those challenges be overcome?*

Without the Building Verification process obtaining the fees & required information will be challenging and difficult to monitor and will stall applications at the Building Consent stage.

The only way this could be supported is if the system was intuitive enough to identify deficiencies in the development documentation. The cost of pursuing this technological capability would need to be justified by the potential efficiency gains.

26. *What would be the implications of enabling multiple consents to be assessed at the same time?*

It doesn't provide opportunities to consider amendments at the Planning Stage and how it impacts Building Consent.

In one sense it may have the potential to reduce overall timeframes where Council is the relevant authority for both Planning & Building Consents. However, it is likely to result in difficulties where the relevant authorities are different for each consent

Innovation

Expert Panel Discussion Paper Questions

Automatic Assessment Checks for DTS Applications

27. *What do you consider would be the key benefits of implementing an automatic system of this nature?*

28. *What do you consider would be the key challenges of implementing an automatic system of this nature?*

If deployed effectively this could create system efficiencies. However, as with any automated system, there is always a risk of errors, so it is foreseeable that councils may still provide oversight of this process. It would require applicants to provide a consistent level of plan detail and specification, currently there are applicants who still submit hand drawn plans of a poor standard. Oversight of this process from a relevant authority also provides opportunity to identify inconsistencies or errors in the plans which may be more difficult for an automated system to do.

29. *Would you be supportive of the Government investing in developing this technology so that it may integrate with the e-Planning system?*

Based on the effort and investment already applied to developing streamlined assessment pathways in the new system, it is considered that there are other priorities which require resourcing which should be the State's focus.

3D Modelling for Development Application Tracker and Public Notification

30. *What do you consider would be the key benefits of the e-Planning system being able to display 3D models of proposed developments?*
31. *Do you support requiring certain development applications to provide 3D modelling in the future? If not, why not? If yes, what types of applications would you support being required to provide 3D modelling?*

Expanding tools that build capacity for practitioners and the community to understand outcomes associated with development is supported, provided it can meet a certain level of detail to help genuinely inform planning processes.

AHC has long adopted a Provision of 3D Models Policy that promotes the provision of 3D Models for certain applications subject to public notification. This approach has been received well by proponents and the community and assists greatly in the public notification process, whilst providing staff and CAP Members additional context in which to make an assessment against.

It is acknowledged that this may come at an expense to proponents and as such should only be required for development of certain type and scale, whereby developing such modelling is a comparatively small cost in the scheme of the project.

32. *Would you be supportive of the Government investing in developing this technology so that it may integrate with the e-Planning system?*

This is technology that is already available and being applied. Although it would be more useful than automatic assessment checks, it should not be prioritised over other system improvements.

Augmented Reality Mobile Application

33. *Would you be supportive of the Government investing in developing this technology so that it may integrate with the e-Planning system?*

While the development of this capacity could certainly play a part in increasing participation in planning processes and demystifying development outcomes, it is not considered a priority at

this point in time and in some ways would be duplicating the 3D model if this capacity was to be deployed more widely.

It is considered that this technology would be better deployed as part of engagement processes relating to strategic planning such as Regional Planning and Code Amendments.

Accessibility through Mobile Applications

- 34. Do you think there is benefit in the e-Planning system being mobile friendly, or do you think using it only on a computer is appropriate?*
- 35. Would you be supportive of the Government investing in developing this technology so that the PlanSA website and the e-Planning system is functional on mobile?*

As demonstrated above regarding building notification requests there is a strong appetite for building the mobile capacity of the system. Perhaps at this stage the focus could be on critical component parts as opposed to an entire system roll-out. In addition to building notification requests, SAPPA, Planning and Design Code search functionality and Public Notification in the DAP could be the first priority parts to be deployed in mobile friendly versions.

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Appendix 2
Covering Letter

24 January 2022

John Stimson
Chair – Expert Panel
Planning System Implementation Review
GPO Box 1815
Adelaide SA 5001

Dear John,

Adelaide Hills Council Submission to the Expert Panel – Planning System Implementation Review

The Adelaide Hills Council appreciates the opportunity to contribute to further refinement and improvement of the State Planning System via the Planning System Implementation Review (the Review) led by the Expert Panel (the Panel).

Council have been active and engaged throughout the South Australian Planning reform process and have provided numerous submissions to the State Planning Commission and Planning and Land Use Services on all aspects of the new system including the Planning, Development and Infrastructure Act legislation, the community engagement charter, key strategic documents, the Planning and Design Code and related statutory instruments, as well as providing support and testing of the ePlanning Portal and engaging regularly with the Plan SA website. We consider that this level of involvement in the reforms and the ongoing day to day interaction with the system makes us a key stakeholder with an intimate knowledge and understanding of the new system.

From this perspective there is a general view that the reform process has delivered a planning system that has demonstrated its capacity over the last 18 months to stand up to the rigours and demands of a fully integrated State based planning system. It is however also acknowledged that the system has great potential and scope for improvement and Council would encourage the Expert Panel to take a holistic approach to the review that equitably balances the concerns of practitioners, stakeholders and the community.

The process of reviewing the system following implementation is considered best practice and there is some interest to understand how the Review will measure the new system against any projected impacts that were identified throughout the reform process. A logical starting point being to measure the system against the recommendations of the original Expert Review and objectives.

It's acknowledged that the key issues that have emerged in the Adelaide Hills Council through the reform process and the subsequent 21 months of operation in the new system are varied, with some issues a result of the architecture of the PDI Act, and others relating to policy gaps or shortfalls in the Planning and Design Code or the customer experience and operational efficiency of the Development Assessment Portal. The Council submission to the Expert Panel enclosed captures these issues and presents them in two parts. Part I of the submission addresses key issues for the Adelaide Hills Council including suggested reform recommendations, these are in addition to the discussion paper topic questions which have been addressed in Part II. It's noted that development

trend data and assessment experiences have been presented for context and to provide a sound evidence base to support further investigations where relevant. If it would assist with further informing the Panel's view my staff would be happy to provide further context/analysis as required.

If key issues and areas of concern raised in the enclosed submission can be addressed via subsequent amendments to the Act or the Code, there is opportunity for positive impact to our community. In particular, improved development assessment processes and outcomes, better opportunity for Council to shape stronger local strategic directions and policy and improved customer experience for those undertaking development in the Adelaide Hills Council area.

Should you wish to clarify any of the matters raised by the submission please do not hesitate to contact Natalie Armstrong – Director Development and Regulatory Services on 8408 0546 or via email narmstrong@ahc.sa.gov.au.

We appreciate the opportunity to contribute to the continual enhancement of the Planning System in South Australia to support great planning outcomes across the Adelaide Hills and wish you all the best as you prepare to provide recommendations to the State Government in early 2023.

Yours sincerely

David Waters
Acting Chief Executive Officer
Adelaide Hills Council

Enc. A – AHC Submission to the Expert Panel

Appendix 3

Submission with Feedback

Submission with Feedback

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List of Abbreviations

CAP – Council Assessment Panel

DAP – Development Assessment Portal

PDI Act – Planning Development and Infrastructure Act 2016

PDI Regulations – Planning Development and Infrastructure (General) Regulations 2017

P + D Code – Planning and Design Code

PLUS – Planning and Land Use Services (State Planning Department)

SCAP – State Commission Assessment Panel

SPC – State Planning Commission

TNV – Technical and Numeric Variation

APPENDIX 3

Adelaide Hills Council – Key Issues

The following section addresses key issues identified by the elected body and staff over the course of the reform process and the subsequent 21 months of operation in the new system.

General comments in relation to key issues in the PDI Act

ePlanning Levy

The PDI Act requires that councils make an annual contribution to the ePlanning system based on the reported total cost of development applications lodged within the Council area within a budget year. For the Adelaide Hills Council, the ePlanning levy is in the order of \$60,000 per year. This is a significant investment from Council and is in addition to the maintenance of Council's own systems which are still necessary to manage development applications (e.g. *Development Act 1993* applications) and GIS systems that support this function.

While it is acknowledged that improvements are being made to the ePlanning system, there remains hold ups in workflow and this is causing frustrations and ongoing work arounds for staff and applicants alike. As a result Council is making significant contributions to a system which currently does not meet a full range of needs, whilst also investing in inhouse Council systems to cover the functionality gaps.

Recommendation:

Review the extent of the contribution to the ePlanning system and confirm how contributions from Council are being used. In addition, recommend that Local Government as a key investor in the system be provided more agency to direct the prioritisation of improvements to the ePlanning system.

Note: The lodgement fee for development applications is retained by the State Government for maintenance of the system.

Accredited Professionals – scope to assess Council lodged applications

The introduction of the PDI (Accredited Professional) Regulations 2019 enacted regulation 30 which is affecting the capacity of Council's accredited building staff to assess applications either lodged by Council or located on Council owned land. The relevant excerpt from the regulations is provided below:

An accredited professional must not perform any function of an accredited professional in relation to a development—

(c) if the accredited professional is employed by any person or body associated with any aspect of the development.

The interpretation of subregulation (c) is resulting in building staff having to direct applicants (in some cases Council and community groups) to engage a private certifier to undertake the building rules assessment component of an application. It is considered the effect of this clause is causing unreasonable delays and cost implications for applicants and does not adequately acknowledge an accredited professional's ability to make sound professional judgement or assess perceived risks.

Recommendation:

An exemption should be provided to Accredited Professionals working in Local Government when dealing with these matters, in the same way that employees of the Crown are afforded an exemption via Regulation 30(2).

Council Assessment Panels

It is considered that the reduction in the number of elected members from assessment panels has been unnecessary and resulted in a reduction in community voices and local knowledge in the decision-making process.

Recommendation:

A review of the current limit of one elected member on local CAPs should be considered in order to understand the impact of the loss of the community voice and local knowledge in the decision-making process.

Commented [MH1]: I think one EM is enough., particularly as CAPs are skills based

Commented [JS2R1]: There has been mixed views in the Chamber regarding this issue. It's noted that the position is consistent with the LGA's submission.

Use of land (motorbike trails/parks)

There are forms of land uses traditionally considered ancillary to rural properties, in particular constructed motorbike trails/parks, that are increasingly causing impacts on amenity and landscape character in the Adelaide Hills as more residents establish rural land holdings primarily for lifestyle purposes.

Recent examples demonstrate that the repetitive use of motorcycles on custom made trails (which in their own right do not trigger a development application where the mounds are less than 3 metres in height) is increasing the incidence of land use conflict between neighbouring properties. Issues relating to noise, dust, erosion and a diminished rural setting often cited as primary concerns. Based on these impacts, there may be a preference to seek an amendment to the PDI Act to provide certain thresholds that, when breached, would trigger development for this type of use. The view being that this would provide the ability for Council to mitigate the impacts through the development application process.

There is also an argument to say that the *Local Nuisance and Litter Control Act 2016* could pull this type of issue in, but much like SAPOL being tasked to resolve disputes, it would appear to be treating the symptom and not the cause, whereby the land use activity is proliferating without any clear guidance or direction regarding things like siting, hours of use, appearance etc.

Recommendation:

The Panel is encouraged to give consideration to whether the PDI legislation and the Code could provide a framework to capture this land use activity as development so as to provide a means to mitigate its impacts. It is acknowledged that such an approach may well challenge the accepted application of schedule 4 part 5(2) of the PDI Regulations and would therefore require a standalone clause addressing motorbike trails/parks, much like clauses in this Schedule relating to heavy vehicle parking or the parking of a caravan or motorhome. One suggestion is that a threshold outlining an appropriate distance from a sensitive receiver (i.e. less than 500m and not visible from a public road) would be an effective way to both incentivise the siting of these activities whilst providing a pathway for further mitigation should the activity trigger development.

Practice Direction 14 – Site Contamination

Despite recent changes, Practice Direction 14 is still proving challenging to apply for a range of development types. For Adelaide Hills this issue primarily arises where a site has historical horticultural uses, and there is confusion in the industry amongst planning staff and consultants as to the status of horticulture in Practice Direction 14 and whether it is captured under the agricultural definition. Where no discretion is provided via the Practice Direction, the cost impost (estimated between \$5000-\$7500) for an applicant to engage a suitable consultant to provide a Preliminary Site Investigation is not always commensurate with the risk.

Recommendation:

Further refinement is recommended to improve clarity regarding when a Preliminary Site Investigation is and is not required based on the application of Practice Direction 14.

Note: The recent announcement by PLUS and the EPA that additional investigations will be commenced to explore further refinement of the Practice Direction is welcomed.

Definitions

While the new system has delivered improved definition framework, it continues to be an area that causes confusion and tension in the development assessment process. This is a result of definitions applying across the legislation and its designated instruments such as the Planning and Design Code. While the imperative for definitions to be embedded across these documents is understood, consideration should be given to providing a compendium of definitions. Guidance could also be provided on how to reconcile definitions where they are inconsistent such as:

- Advertisement
- Sensitive Use, and
- Adjacent and adjoining land

In addition, there remains land uses mentioned in the Code that are not defined (i.e. transportation distribution).

Recommendation

Consider whether the Act should provide instruction for all definitions relevant to the Planning System to be collated in a specific location (i.e. the Plan SA website) to benefit the sector, in particular those engaging with the system as non-practitioners. In addition, consideration should be given to further refining and expanding the land use definitions in the Code to assist with development assessment processes.

General Comments in relation to key issues in the Planning and Design Code

Ability for councils to effect policy change

The Planning and Design Code managed by the State Planning Commission, provides councils with limited ability to effect policy change. Under the Development Act, although Development Plan Amendments required approval from the Minister, a council was able to propose changes to all aspects of its Development Plan (i.e. Council wide policy, zones, policy areas etc). With respect to the Code, a council is only able to propose changes to TNVs, Area Statements, sub-zones and the application of zoning and overlays but not the content of the policies.

In this respect, council Code Amendments are limited to picking a policy outcome from a standardised suite or format. A council can also propose to create or apply a sub-zone, but sub-zones have been used sparingly in the Code and where they have been applied the recommended draft policy put forward by Council has not been fully adopted in the Code.

This issue is demonstrated by the Adelaide Hills Subzone drafting process, whereby Council staff were invited to provide a policy framework for the subzone as part of the Phase 3 Code development. The proposal sought to have the 'median rule' policy (as expressed by DTS/DPF 2.1) referenced in both the Desired Outcomes and the Performance Outcomes. The intention was to maximise the weighting of the policy and ensure development outcomes were promoted comparable to those achieved under the Development Plan. Following the release of Phase 3 of the Code however, it was evident that this proposal was not adopted in full and the DO's and POs were given a more generic wording convention with no reference to the median rule. No explanation or follow-up was provided to staff as to why the proposed policy framework was amended.

In this example the lack of agency to effect policy change has resulted in a fundamental weakness in the policy when applied to Performance Assessed land division applications, with recent proposals demonstrating that the intent of the policy can be undermined in certain circumstances. Without further support from the Commission to address this issue Council may be forced to resolve this via a standalone Code Amendment. This is unfortunate in the circumstances whereby Council had been provided assurance that a policy framework in the Code would achieve the same outcomes delivered under the Development Plan.

Recommendation:

While a return to local policy documents (i.e. Development Plans) is not viable, new ways of developing and embedding localised policy, such as through clearer pathways to establishing sub-zones or undertaking neighbourhood planning – an approach popular in the UK, should be explored and made available to councils and communities with support from PLUS.

'Second and third' generation of the Code

Four Discussion Papers were prepared by PLUS in 2018/2019 to support the transition to the Planning and Design Code. They covered the following topics:

- People & Neighbourhoods
- Productive Economy
- Integrated Movement Systems, and
- Natural Resources & Environment

These papers outlined a range of existing, emerging and innovative policy directions for the new planning system and their level of priority, indicating transition ready policy and policy reform marked 'Generation 1' or 'Generation 2'. Following the introduction of the Code this messaging regarding the generational advancement of the Code has been absent.

Recommendation:

These policy directions and associated timeframes are reassessed and it be outlined how and when councils are able to progress or influence these policy changes in the Code.

Loss of Local Policy

The replacement of 72 Development Plans with one State-wide Code has resulted in a substantial loss of local policy. Previous submissions from Council on the Code during consultation have detailed the extent to which local policy was lost in the transition. Below is a summary of key policy features which have no commensurate policy criteria in the Code.

Desired Character Statements

Desired Character Statements provided vital context and specific guidance for many local policy considerations that have not been adequately replaced in the Planning and Design Code. This affects multiple issues such as land use distribution, streetscape character outcomes, traffic and access requirements etc. Examples of Lost policy include:

Country Living Zone (Adelaide Hills Subzone)

Generally, new allotments will only be created where they match the median allotment size in the locality, where they will be connected to a mains sewer system, and where issues such as access, vegetation removal, stormwater management, and slope as well as the provision of essential services have been appropriately addressed.

Mature vegetation will provide a defining feature of the zone and will dominate views from all locations. This vegetation will be a mixture of exotic and native species and will be situated on verges, reserves and within private properties

Front fences will be non-reflective and low or visually permeable to enable views to the front garden.

Stirling District Centre Zone (Suburban Mainstreet Zone)

The built form of the Centre should continue to consist primarily of small-scale, ground-level, "main street" types of development with retail, commercial, and medical activities fronting the roadways, and a wider range of activities facing the off-road parking areas.

The primary retail area of the Centre should be retained between Avenue Road/Pomona Road and Johnston Street/Merrion Terrace. Buildings in the primary retail area should generally show a continuous single storey active retail face on the Mt Barker Road frontage, interspersed with walkways to off-street parking areas.

The distinctive village character of the Centre is largely defined by its avenues of mature, exotic, ornamental street trees, along with the garden features and landscaped areas within the Centre's road reserves and parks.

It is essential that the functionality and streetscape appeal of the above features is retained and enhanced over time, and should not be adversely encroached upon by buildings, traffic management works or vehicle access points.

Township Zone

In the Balhannah, Birdwood, Lobethal, Oakbank and Woodside townships, smaller allotments to an absolute minimum of 500 square metres will be created where the existing character of the locality is retained and external impacts are managed effectively.

The valued historic character of built form along and adjacent to main streets will be protected. This will be achieved through sympathetic additions and alterations which reflect the style, design, scale, siting and materials of existing buildings.

Residential development will be in keeping with the form, scale, siting, materials, and colours of existing buildings, and as described in the policy areas. In addition, buildings will incorporate:

- front verandahs;
- garages or carports either under the main roof or set to the side or rear;
- low front fences of various styles and materials;
- side and rear fences of metal sheeting, post and wire or timber;
- substantial rear yards;
- landscaping containing trees and bushes;
- pitched corrugated iron or tiled roofs; and
- traditional building materials such as brick, stone or rendered walls.

It is considered that the loss of Desired Character Statements impacted Adelaide Hills Townships disproportionately due to the specific and localised policy content regarding infill policy and character considerations referenced within the individual township policy areas being lost.

Concept Plans

The Stirling Concept Plan was not deemed worthy to transition from the Council's Development Plan to the Code. While TNVs have been used in some circumstances in lieu of concept plans, it is considered these are not an adequate substitute, as Concept Plans also illustrated other features such as desired pedestrian movement networks, important views, portions of sites that should be specific building heights, locations requiring additional interface treatment etc. This, combined with loss of nuanced and locally specific design policy has reduced the effectiveness of the policy framework for new development.

Policy Areas (Subzones)

AHC contains one (1) Code subzone. Comparatively, under the Development Plan the Council had 63 Policy Areas. It is noted that some of the location specific policy in Policy Areas has been transitioned to the Code through Historic Character Area Statements and TNVs, however these are not considered to be sufficiently detailed, instructive and fail to commensurately replace Policy Areas. Although an aim of the Code framework was to 'simplify' and 'standardise' zones to make it easier for Code users, the reluctance to allow more subzones has resulted in the significant loss of valuable local policy. It is considered the Code can still operate in a clear and transparent way while accommodating more subzones and it is recommended that additional subzones are permitted where variation from zone policy is justified.

Scenic Routes

The AHC Development Plan had a map (Figure AdHi(EC/1) that referenced scenic routes within the Council area. This map provided the basis for a range of development plan principles, largely concerned with minimising the visual impact with areas of scenic and landscape quality. It is considered that the loss of scenic routes creates a material gap in policy that has not been adequately addressed in the Code.

Recommendation:

The State Government and PLUS should commit to working with and supporting councils to identify and provide a pathway to address lost policy from Development Plans as a result of the transition to the Planning and Design Code as a matter of priority.

Peri-Urban Policy

The Adelaide Hills is part of the peri-urban region, which in recent times has been subject to increased attention, largely evidenced by the establishment of Character Preservation Districts, the Environment & Food Production Area and the focus on improving policy to attract value adding activities in the Productive Rural Landscape Zone formally the Watershed (Primary Production) Zone (one of only five genuine areas of policy reform to occur during the Planning Reform process).

Despite these measures, there remains a concern regarding the future of primary production in the region and a lack of strategic guidance. Some particular issues relevant to the peri-urban area include; forms and effects of urban encroachment and hobby farming, impacts of land use conflict and its influence on the 'right to farm' agenda, and a lack of clarity as to whether supportive conditions for food and wine production are being created.

In the Adelaide Hills primary production land is largely captured by the Productive Rural Landscape Zone. Potential areas of investigation are summarised below:

- Explore land capability mapping being represented in the Code via an overlay. The Primary Production Priority Area mapping produced by PIRSA provides the evidence base for such an approach and this would align to the aspirations of State Planning Policy 8: Primary Industry.
- Strengthen policy discouraging farmland fragmentation particularly where boundary realignment is concerned.
- Ensure rural diversification policy is appropriately geared to support the long term sustainability of primary industry. For example tourism accommodation proposals for multiple units with no discernible link to primary production are increasing. In the absence of clear strategic guidance and a strong policy framework to better guide these proposals they are slipping through policy gaps within the Code. The encroachment on primary production land and the subsequent impacts to land capability and interface issues with genuine primary industry operations is not well understood individually or cumulatively.
- Ensure that interface between land use policies are being called up correctly and consistently in the Code for relevant land uses in the Productive Rural Landscape Zone and is flexible enough to capture the varying land use conflicts found in the peri-urban region.
- Explore whether non-primary production land uses in the Productive Rural Landscape Zone warrant more guidance in the Code (i.e. Depot, Truck Parking). Specific criteria could provide limited scope whilst ensuring impacts are mitigated via screening and restricted land area.

Recommendation:

Support peri-urban planning by designating and recognising the Adelaide Peri-Urban area as a sub-region for the purposes of Regional Planning and set up a working group to explore relevant strategic issues as part of the regional planning process and to provide ongoing guidance to future Code Amendments and policy development.

Commented [MH3]: In addition, we should seek a clearer definition to what is rural land e.g. the land around Randell's cottages at Gumeracha is CLEARLY NOT primary Production Zone. There is a similar case near Aldgate/Bridewater area

Commented [JS4R3]: Zoning should be a sound indicator of appropriate use. It doesn't always correlate though with the underlying land use or its capability, particularly where primary industry is concerned (i.e. Randell's Cottages). This is something we could identify as part of the Regional Planning process - looking at all the anomalies across the district and mapping a pathway to have them addressed via appropriate Zone changes. There is varying degrees of departure and so we may need to look at a priority based approach.

Commented [LM5]: This was an issue that was discussed at the last CAP meeting. While the new code now permits tourist accommodation there is a lack of policy to guide these developments. Clearly we want to have low-intensity tourist accommodation in the Productive Rural Landscape zone. There needs to be clear guidance on the number of accommodation units (say maximum of 3 units) and maximum number of occupants in each (say 6 people maximum). We don't want e.g. caravan parks in the Productive Rural Landscape zone.

Commented [JS6R5]: Its noted that the current code policy, is geared toward quite a low scale and low intensity TA archetype. The challenges in assessing these proposals are varied and there's arguably a mix of issues from strategic, statutory through to the market preferences and the required scale to make the investment viable. I'm not sure any of these areas are aligned currently and it is a work in progress to get some refinement on this.

Environmental Performance/Sustainability Policy

Consistent feedback has been provided since the inception of the Code which has identified that not all the policy provisions relating to Environmental Performance from the Design in Urban Areas and Design general Development Policies are linked to relevant Performance Assessed development (i.e. residential or commercial) within zones.

PO 4.1 to PO 4.3 of the Design in Urban Areas and Urban General Development Policies are not linked to Performance Assessed development in Table 3 of relevant zones. The provisions read as follows:

Environmental Performance: PO 4.1: *Buildings are sited, oriented and designed to maximise natural sunlight access and ventilation to main activity areas, habitable rooms, common areas and open spaces.*

Environmental Performance: PO 4.2: *Buildings are sited and designed to maximise passive environmental performance and minimise energy consumption and reliance on mechanical systems, such as heating and cooling.*

Environmental Performance: PO 4.3: *Buildings incorporate climate-responsive techniques and features such as building and window orientation, use of eaves, verandahs and shading structures, water harvesting, at ground landscaping, green walls, green roofs and photovoltaic cells.*

None of the provisions appear in Table 3 – Applicable Policies for Performance Assessed Development in any zone where residential or commercial development appears as a Performance Assessed Development Type.

In addition, it is recommended that the Stormwater Management and Urban Tree Canopy Overlay be expanded to township localities.

The omission of these policies is a missed opportunity to raise the bar on imperative environmental design outcomes for new buildings and should be applied to all relevant residential and commercial Development types.

Recommendation:

Apply the highlighted criteria to Performance Assessed residential and commercial development and explore the potential for this to be expanded to DTS.

General Comments in relation to key issues in the e-Planning System and Plan SA Website

User Experience

While the Development Assessment Portal (DAP) is certainly an impressive product, there is still a lot of room for improvement. Staff consider there to be a range of seemingly little issues, that cumulatively have an impact on workflow and performance, the following have been provided as an example:

- The need to work between multiple tabs
- Hold ups drafting and editing various system generated documents
- Issues in progressing certain workflows (i.e. variations)
- Page structure variability and legibility,
- Fee payment problems,
- Poor automated notification capacity, and
- Administrative work arounds.

Recommendation

The DAP should be reviewed and improved to ensure optimal user experience.

Public Notification

Staff have developed numerous work arounds to deal with deficiencies in the DAP when administering the public notification workflow process. Some of the main issues include:

- No automated CAP invitations sent from the Portal
- No automated confirmation to Representors to confirm receipt of their representation
- The Representors form does not ask for a residential address as a mandatory field. Providing a PO Box is somewhat challenging when trying to ascertain a Representor's relationship to a proposal
- Finalising public notification on a Thursday is problematic when deployments are taking place and the Portal is shut down. This typically means a Representor is having to email Council directly outside of the DAP
- There is no way to notify multiple parties of Council's Assessment Panel (CAP) details and this must be done manually outside of the portal.

In addition, any subsequent appeal process is quite cumbersome whereby staff must send a request to the Plan SA Helpdesk requesting that the conditions of consent are altered based on the Court order.

Recommendation

The DAP public notification workflow and representor touch points should be reviewed and improved to assist council staff streamline this process.

Record Management

Staff have expressed ongoing issues with regard to record management in the DAP. A summary of the particular issues are provided below:

- Poor naming protocols for files when uploaded by applicants, causing delays and confusion for staff
- Upload size limits requiring staff to split documents into parts for approved documentation, and

- Sending and receiving emails outside of the portal for applications continues to be a challenge for file management purposes.

Recommendation

The options available to applicants should be simplified and this could be supported with some guidance material to assist and speed up the verification process, in addition to capacity for system learning to assist with file recognition should be incorporated. Size limit caps should be removed for uploaded files. It is considered that capacity in the DAP portal should be developed to allow emails to be sent directly from the portal, eliminating frustrating work arounds and file management issues.

Planning Assessment Processes

To expedite the assessment process and minimise double handling/manual duplication of Policy, pre-loaded applicable Code criteria should be incorporated into the system generated Planning Assessment Spreadsheets.

Staff continue to encounter issues relating to how the time clock is represented in the system, whereby it is difficult for a relevant authority or an applicant alike to ascertain where the clock is up to. In addition, it is noted that when the clock is paused under a hold request, the system disables functionality to continue with the assessment.

Recommendation

Capacity for the system to pre-load applicable Code criteria into the planning assessment spreadsheets for Performance Assessed applications should be developed. It has been suggested that the clock could be embedded at the top of every page when working in an open application. In addition it is considered that this time affords a relevant authority to start to populate the Assessment Spreadsheet and other relevant tasks is important part of ensuring statutory timeframes are met when the file comes off hold.

Code Policy Representation

The Guide to Planning and Design Code outlines the hierarchy of policy in the code, whereby Overlays sit above Zones. It is questioned why Zones are reproduced above Overlays when the system generates applicable Code policy for an application. It is considered that this may create confusion, particularly for applicants.

Staff and applicants have expressed frustration when trying to extract the correct TNV for allotments via SAPPA.

In addition, when analysing the distribution of Zoning across the State or region, there is no way to drill down beyond a group of Zones i.e. Neighbourhood to search individual Zones in SAPPA. This creates challenges around interpreting Code application and understanding Zones within a broader State based planning framework.

Recommendation

Consideration should be given to whether the Code hierarchy could be better reflected in the system generated documentation. Improve the functionality of SAPPA in order to easily determine applicable TNV requirements for an allotment. Allow users to search individual Zones and Subzones within SAPPA to assist with Strategic and Policy investigations

Strategic planning objectives/progress provided greater visibility in the ePlanning Environment

The ePlanning environment has ushered in a new era of planning in South Australia. Up to this point there has been a substantial focus on developing the capability of the system to respond to the demands of the development assessment process, it is acknowledged that this has taken considerable effort. The logical next phase would be for the State to invest in, and modernise, how strategic planning is executed and represented in the ePlanning environment.

Recommendation

Consideration should be given to developing capability in the ePlanning platform to provide greater visibility of strategic planning objectives and progress toward the State targets to support the development of strategic direction and development assessment processes to ensure that outcomes are being delivered in alignment with higher order strategies.

Reporting Functionality

The reliability and useability of the reporting functionality via Power BI has been unreliable and difficult to extract the relevant reports and undertake detailed analysis down to the application or staff level.

Recommendation

Recent upgrades have improved the Council reporting tool and continuous refinement and improved capability is needed to ensure it is meeting the needs of a full range of users including Development Assessment and Strategic and Policy Planning staff and this might require ongoing engagement.

APPENDIX 3

Adelaide Hills Council – Response to Discussion Paper Questions

The following section addresses the Expert Panel discussion paper questions informed by Council and staff experience over the course of the reform process and the subsequent 21 months of operation in the new system.

Planning Development and Infrastructure Act 2016 Reform Options

Public Notification and Appeals

Based on the system reports Council notified 98 applications in the 21/22 financial year. Of those which received representations electing to be heard, 30 went to the Council Assessment Panel for a decision representing 3% of all applications lodged last financial year. By comparison, Council notified 123 applications in the 19/20 financial year and of those which received representations electing to be heard, 15 went to the Council Assessment Panel for a decision, representing 1.25% of all applications lodged that year.

Council was subject to six (6) appeals in the 2021/22 financial year. Of these, one (1) was submitted by the proponent and three (3) were appealed via third party rights. The other two were judicial reviews but by third parties rather than the proponent. Council was still assessing transitional applications lodged under the Development Act in 2021/22 and hence there were still third party appeals of decisions.

By comparison, Council was subject to eight (8) appeals in the 2019/20 financial year and, of these, four (4) were submitted by the proponent and four (4) were appealed via third party appeal rights. Two (2) of the proponent appeals were for judicial review of development categorisation.

The analysis has revealed there has been a 25% decrease in appeals comparing data from the financial year before the new system was introduced and data for a full financial year in the new system.

Expert Panel Discussion Paper Questions

1. What type of applications are currently not notified that you think should be notified?

There is a mixed view amongst staff that the level of notification is adequate in the PDI system. It is recognised that the community view is that the new system has stripped away notification rights and there have been instances where Council has received requests from community members seeking clarification as to why certain approved and subsequently constructed developments were not subject to notification. Most recently a query was received from a community member questioning why the construction of an adjacent Ancillary Accommodation building had not been notified. While there are still instances of the community questioning the notification processes in the new system, staff have noted that there has not been a notable spike for these sorts of enquiries when compared to the processes under the Development Act.

It is also noted that with other Code Amendments in train, in particular the Miscellaneous Technical Enhancement, there may be potential scope for more applications to be notified. For instance, if land division in the Productive Rural Landscape Zone was to be removed from the Restricted Development pathway (which Council strongly opposes), Council would question whether there should be a notification trigger comparable under a Restricted pathway.

2. What type of applications are currently notified that you think should not be notified?

The potential to remove small scale and anticipated development i.e. verandahs in Hills Face Zone, from notification should be explored and it is noted that the draft MTE Code Amendment indicates that this is likely to be addressed.

It is noted that some staff have flagged that a cautious approach is often being adopted to the application of the minor clause in Table 5 of Zones. This is occurring in the absence of a clear position from the Commission on the scope of such a clause and what reasonably constitutes minor. In the absence of clear direction on this issue the potential threat of an appeal if such a determination was challenged is leading to inconsistent application of this clause.

3. *What, if any, difficulties have you experienced as a consequence of the notification requirements in the Code? Please advise the Panel of your experience and provide evidence to demonstrate how you were adversely affected.*
4. *What, if any, difficulties have you experienced as a consequence of the pathways for appeal in the Code? Please advise the Panel of your experience and provide evidence to demonstrate how you were adversely affected.*

In the absence of an example, it is noted that under the PDI Act appeals against the merits of a Relevant Authority decision for proposals are weighted toward proponents, with representors and other interested third parties not given the same opportunity to appeal. There is a view that as a result the appeal right framework lacks equity and the system is weaker as a result.

5. *Is an alternative planning review mechanism required? If so, what might that mechanism be (i.e. merit or process driven) and what principles should be considered in establishing that process (i.e. cost)?*

There is mild staff support for a tribunal system model to manage planning related appeals, and it is seen as a potential way to complement a more equitable appeal right model. However, it is noted that the Environment Resources and Development Court provides opportunity for conciliation between parties and the benefit and efficiency of establishing a new tribunal process is queried.

Accredited Professionals

Council has a limited number of Deemed to Satisfy applications due to Overlay restrictions such as the Mount Lofty Water Catchment Areas and Hazard Bushfire Risk. As a relevant authority Adelaide Hills issued 39 Deemed to Satisfy (DTS) consents out of a total of 54 in the 21/22 financial year. This accounts for 72% of all DTS applications lodged. Of the remaining 15 DTS consents 12 were issued by building certifiers, accounting for less than a quarter of all DTS applications lodged.

Expert Panel Discussion Paper Questions

6. *Is there an expectation that only planning certifiers assess applications for planning consent and only building certifiers assess applications for building consent?*

In principle there is a view that building certifiers should only deal with building certification matters. This is because giving building certifiers the ability to determine a departure from DTS criteria as minor, is providing opportunity for them to act outside the scope of their expertise. In addition, the PDI Act has introduced the ability for planning certifiers to assess these straightforward applications, and it is considered that they are best placed as accredited planning practitioners to enact this function.

7. *What would be the implications of only planning certifiers issuing planning consent?*

It is considered that with only planning certifiers provided scope to issue planning consent the system would be more harmonious. Further improvements could include the removal of the clause that allows certifiers the scope to deem one or more departures from the relevant DTS criteria as minor.

There has been examples where a certifier has issued planning consent with minor departures and building consent and then subsequently issued a Minor Variation under s76 of the PDI Act, whereby staff consider the minor variation to be beyond what could reasonably be considered a minor departure.

Improvements in this area would result in less need for councils to take on a 'surveillance' role to ensure that certifiers are following the process reasonably and then reporting.

8. *Would there be any adverse effects to Building Accredited Professionals if they were no longer permitted to assess applications for planning consent?*

In the case of applications lodged in the Adelaide Hills the implications are likely to be relatively minor for building certifiers as the data demonstrates that only 12 out of 54 (roughly 20%) applications for DTS applications have been lodged by a building certifier.

Impact Assessed Development

Expert Panel Discussion Paper Questions

9. *What are the implications of the determination of an Impact Assessed (Declared) Development being subject to a whole-of-Government process?*

It is considered that a whole-of-Government approach touted in the discussion paper is likely to add additional time to the process, however in the interests of transparency and promotion of a more democratic model, there would appear to be sufficient public interest for this approach.

Local Heritage in the PDI Act

Expert Panel Discussion Paper Questions

10. *What would be the implications of having the heritage process managed by heritage experts through the Heritage Places Act (rather than planners under the PDI Act)?*

In line with the State Parliament's Environment Resources and Development Committee's report on Heritage in SA, there is in principle support for moving the local heritage place regime from the PDI Act into the Heritage Places Act. This approach would potentially remove Council from having to preside over a local heritage listing process that has a political dimension, which can obstruct sound heritage listing recommendations.

It does raise some procedural queries, in particular whether such a reform would need to be supported by changes to the Planning and Design Code to facilitate formal referrals under the Local Heritage Place Overlay. This would also require that a referral fee be charged.

It is noted that such an approach has the potential to reduce Council's spending on a Local Heritage Advisory Service to refer an application under the Local Heritage Place Overlay. Instead this cost would be shifted to applicants – currently Council facilitates this process by providing this service free of charge in the interest of promoting heritage protection and appropriate adaptive re-use.

In addition this advice is sort as an internal referral so it doesn't add to the assessment timeframe. If a statutory referral were established this would provide scope for the clock to account for this important expert advice.

11. What would be the implications of sections 67(4) and 67(5) of the PDI Act being commenced?

It is considered that these sections are problematic and are unlikely to support an objective outcome. Heritage Areas should be designated on their heritage merits and not subject to a quasi-political process. As such it is recommended that these sections of the Act be removed or remain inactive and that the Commission provide clarity for councils on what scope they have to establish new Historic Character Areas.

Deemed Consents

Council has been subject to two (2) deemed consent processes.

Expert Panel Discussion Paper Questions

12. Do you feel the deemed consent provisions under the PDI Act are effective?

It is considered that a fundamental question needs to be explored – what is Deemed Consent trying to achieve? To support this investigation the data should be interrogated and those councils that have been subjected to a deemed consent process should be interviewed along with applicants. This would assist in understanding whether this process is being used in response to genuine delays or whether it is being used in a disingenuous manner, particularly where complex applications are being considered.

Based on experience the option for an applicant to trigger the deemed consent process should be removed where they and a council have agreed to enter negotiations as part of the assessment process, regardless of whether the assessment clock has expired or not.

Council is also aware of examples where proponents are threatening to use deemed consent as a mechanism to broker consent. When delivering good planning decisions, the focus for development assessment staff should be on appropriate land use and built form outcomes, and not on procedural intimidation. When used in this manner deemed consent is divisive for the sector.

In addition, it would be useful to examine how many of the applications in the system where a decision was made outside of the legislated assessment timeframe, would have been subject to a potential refusal had additional time not been taken to negotiate a satisfactory outcome. Such an analysis would reveal the circumstances that are leading to the clock expiring and how deemed consent is/is not influencing these processes. The alternative to negotiating a satisfactory outcome out of time is that a relevant authority may be more inclined to issue refusals more frequently.

From an outcome perspective any analysis would benefit from examining whether the process expedited a decision or merely delayed it and incurred additional costs to the proponent and Council. Based on experience the impacts from a time and cost perspective appear to outweigh any benefit.

A thorough understanding of these factors will likely reveal whether Deemed Consent is an effective mechanism in its current form or whether it needs to be refined. One potential alternative would be to replace the deemed consent process with a 'notice of decision' trigger. Such a function could provide Council with the opportunity to refuse or consent to the application within a 10 day window of a 'notice' being triggered.

13. Are you supportive of any of the proposed alternative options to deemed consent provided in this Discussion Paper? If not, why not? If yes, which alternative (s) do you consider would be most effective?

Alternative 1

Deemed approval appears to be addressing the symptom and not the cause of the delay. Quite often it is the result of the incorrect application of the Deemed to Satisfy criteria, particularly the use of the minor clause. Having the minor clause removed or additional clarity provided around the application of the minor clause should be pursued in advance of any consideration to the idea of a deemed approval.

Alternative 2

Final development approval issued by a private accredited professional would be problematic from a consistency perspective. There are instances where the Building Consent is not consistent with the Planning Consent. The consistency check in this regard is an important step that must occur within the statutory timeframe prior to issuing the final approval, however it is not recognised as an official step within the workflow of the system.

There are also instances where a planning consent has been issued subject to a reserved matter. In instances where this matter requires technical input before sign-off i.e. from council's stormwater or traffic engineer, it is not understood how such a process could be conducted by a privately accredited professional.

Alternative 3

There is a view that the complexity of the application should dictate the assessment timeframe or at least provide a scaled approach to timeframes. In AHC there are examples where a simple residential decking has the same assessment timeframe as a major rural industry proposal. Based on this assessment timeframes should be examined and consideration given to how they could be made more equitable for both the proponent and the relevant authority.

While the relationship between assessment timeframes and deemed consent should be examined closely as part of the review, it is considered that it should only be refined in order to promote proportional refinement based on the level of complexity of an application and not indiscriminately reduced based on averages.

Additional suggestions for Deemed Consent refinement or viable alternatives

When a proponent agrees to put an application on hold to address a specific matter or provide additional information, they should not be able to trigger a Deemed Consent when the application is taken off hold to upload the requested revised plans or additional information.

Commented [MH7]: I understood that DC was to ensure that councils don't unduly delay decisions, I like the concept of a 10 day or less trigger

Commented [JS8R7]: Noted

Commented [MH9]: Some where, in order to make the process more efficient, shorten the time in which agencies have to make their comments on referrals

Commented [JS10R9]: Good point - we have added some commentary to capture this (see third paragraph)

The generic conditions that must be applied to a Deemed Consent are unlikely in most cases to suit a proponent, particularly for complex applications. This is likely to be a factor in why deemed consent has not been more widely triggered.

There needs to be a greater emphasis on proponents to take more responsibility to provide information in a timely manner and pursue statutory referral advice or agreement (in accordance with Section 122) prior to lodging the Development Application, particularly where there is likely to be complex technical considerations in high-risk areas. Where there has been long delays in providing this information, consideration to an RFI verification process should be considered. This workflow process would provide a Relevant Authority the opportunity to review documents and seek additional technical input particularly where internal referral's may be required. In addition, referral agency timeframes could be reviewed and refined based on a scaled approach noting risk profile .

The expectation that despite delays to respond to an RFI or address a statutory referral, Council is still required to turn around a decision on short notice creates a lot of pressure at the end of an application process. Based on this experience there may be reasonable justification to consider a more flexible approach to timeframes in instances where long delays have occurred.

Verification of development applications

Council's average verification time is 3 days or less. At the time of drafting, 83 applications were in verification, 13 of those were under assessment, 49 were awaiting mandatory information, 21 were awaiting fee payment with 1 overdue.

At Adelaide Hills Council the verification process is initiated and managed by individual statutory planners once a file has been allocated to them. Verification competes with the full set of tasks required throughout the assessment process.

Expert Panel Discussion Paper Questions

14. What are the primary reasons for the delay in verification of an application?

The view of verification varies among the staff. While some use it to its full potential and view it as a critical process to determine the procedural matters, others see it as a process that creates confusion for the average applicant and at times friction in the delivery of good customer service.

With respect to the latter, issues come about in the verification process when applicants fail to respond adequately to multiple requests for information. For staff this is time consuming and the process is not captured by the statistics in any meaningful way, as a result there is little recognition of this work.

One potential option to resolve this is to provide a relevant authority a mechanism to 'refuse to proceed' to an assessment where multiple failures to respond to the Schedule 8 mandatory documentation at the verification stage has occurred. This option could become available to a relevant authority following three failed attempts to procure the mandatory documentation.

15. Should there be consequences on a relevant authority if it fails to verify an application within the prescribed timeframe?

Where there have been genuine delays without good reason, recouping the time lost at verification from the assessment timeframe may be reasonable in certain circumstances. However, such an approach should be applied cautiously taking into account the competing

Commented [MH11]: Staff should also be aware of good customer service

Commented [JS12R11]: Noted

pressures and workload demands of an average council development assessment team, staff resourcing issues and other procedural pressures applied via deemed consent or appeals.

With respect to the suggestion of a ranking system, it is considered that metrics alone do not reflect the various challenges that a relevant authority faces in the day to day delivery of the development assessment function. To name and shame would be a cynical response and not one conducive to supporting the image or culture of the sector.

16. Is there a particular type or class of application that seems to always take longer than the prescribed timeframe to verify?

Feedback provided by staff has suggested that it varies depending on the applicant's understanding of the process and ability to supply the mandatory documentation.

17. What would or could assist in ensuring that verification occurs within the prescribed timeframe?

The process would be streamlined if the critical information could be provided up front. A workflow option to restrict lodgement of applications that don't meet minimum standards for critical information (using AI or machine learning as touted in the ePlanning Discussion Paper) could assist.

18. Would there be advantages in amending the scope of Schedule 8 of the PDI Regulations?

Any changes must not push the issue down the line. Some information is critical to determine the procedural pathway and this should remain the priority in considering any Schedule 8 refinements.

Additional suggestions for Verification refinement:

Due to resource implications there could be a mechanism in the verification process that allows a relevant authority to ask for a 'pre-lodgement' fee following failure to meet multiple requests for further information. This could provide a secondary option if the suggestion that councils be afforded a mechanism to not proceed to an assessment is being considered.

The issue of communication is one that appears particularly important around the lodgement and verification stages. The impersonal wording of the system generated email notifications does little to inform the applicant of the process they have engaged in and the steps required to gain a Development Authorisation. Perhaps some better visual cues might assist i.e., progress timeline on the application landing page in the ePlanning portal or an explanatory video embedded in the email notification.

One way to assist relevant authorities, and councils in particular, at the verification phase, would be for the Panel to undertake some benchmarking and provide recommended guidance on the average file load per planner across the State, taking into account the varying factors and/or similarities of each relevant authority.

Commented [MH13]: Surely staff can prepare guidelines for developers so that correct information is supplied at time of lodgement

Commented [JS14R13]: We address this on page 22 in some respect. PLUS have developed a range of guidelines hosted on the PLAN SA website

Planning and Design Code Reform Options

Character and Heritage

The Adelaide Hills Council has a rich cultural and built heritage, consisting of 103 State heritage places, 1 State Heritage Area, 241 local heritage places and 3 Historic Character Areas.

While the framework in the new planning system has strengthened character and heritage protection in areas with a strong underlying policy setting, for areas previously reliant on the localised policy content expressed by Desired Character Statements – a key feature of Development Plan zones, there remains policy gaps. In the Adelaide Hills this is best represented within townships throughout the Onkaparinga Valley and Torrens Valley, where there is a lack of contextual guidance within the Planning and Design Code to guide development outcomes in these historic towns.

It is considered that the character and heritage framework should be reviewed and consideration given to a mechanism that could promote and enhance the existing features of our regional and rural towns and their local context.

Expert Panel Discussion Paper Questions

1. *In relation to prong two (2) pertaining to character area statements, in the current system, what is and is not working, and are there gaps and/or deficiencies?*

Currently, staff do not have enough practical experience applying the Historic Area Statements to proposed developments to form a conclusive view on whether it is delivering the intended outcomes.

It is noted that staff were actively involved in helping draft the current statements based on the development plan for the Planning and Design Code. To this end the statements contain suggested content, noting that some of the wording was refined or made more generic in nature.

Council would welcome the opportunity to revisit the Statements, but due to these areas only impacting a small portion of the council area would be unlikely to do this if it had to initiate its own Code Amendment to do so.

2. *Noting the Panel's recommendations to the Minister on prongs one (1) and two (2) of the Commission's proposal, are there additional approaches available for enhancing character areas?*

As mentioned, Council does not have any designated Character Areas. However, there is potential scope based on previous Heritage surveys for the establishment of Character Areas in some Townships. If elevating these areas was a position the Council elected to pursue, a clearer understanding from the Commission on the scope or thresholds for the creation of Character Areas would be useful.

3. *What are your views on introducing a development assessment pathway to only allow for demolition of a building in a Character Area (and Historic Area) once a replacement building has been approved?*

It is assumed that the most efficient way to address this via a development assessment pathway would be to make the demolition an accepted development in the underlying Zone subject to a clause relating to an approved replacement building on the site – or something to that effect.

Such an approach is viewed as having an inherent weakness because it would be contingent on a separate approval being enacted, which in some cases may not eventuate despite the demolition of the original building on a site. Where the original buildings are representative, this could erode the character values of an area over time.

4. *What difficulties do you think this assessment pathway may pose? How could those difficulties be overcome?*

In order to overcome potential shortfalls, an alternative could be to tie the demolition to the new build as a combined application through a Performance Assessed pathway. In this circumstance it would provide additional assurances that an appropriate replacement building must be constructed should the proponent proceed with the demolition.

Such an approach would give rise to potential compliance implications, particularly where stage 1 demolition is undertaken but stage 2 building construction is not progressed. This might lead to Land Management Agreement arrangements being used where additional assurances are justified.

Council planning staff would be largely reliant on advice from a Heritage Advisor as to the appropriateness of the replacement building within the context of the existing building and the locality. This may result in different interpretations and approaches across the State. It is suggested additional tailored policy and guidelines be developed to support such assessments and promote a degree of consistency across the sector.

Commented [MH15]: Get a bond

Commented [JS16R15]: Bonds are good for infrastructure provision where its being provided by a proponent and Council will sign off and take ownership. In this particular circumstance an LMA might be a better approach.

Tree Policy

In the 2021/22 Financial year the 8 regulated trees (3 significant) were granted planning consent for removal.

Adelaide Hills has varying canopy cover across urban and township areas. The Crafers, Stirling, Aldgate and Bridgewater locality would have some of the highest levels of canopy cover in the state, while this tapers off dramatically for some of the established townships.

In addition, Adelaide Hills Council operates in a highly complex environment for tree policy, where regulated tree legislation intersects with large tracts of native vegetation and high bushfire risk areas. While some of the changes brought on via the reform process are assisting, it continues to be a challenging area to navigate and one that continually causes friction at the application stage through to construction and the ongoing management of land.

Expert Panel Discussion Paper Questions

Native Vegetation

5. *What are the issues being experienced in the interface between the removal of regulated trees and native vegetation?*

There is a general sense that the intersecting clauses of the PDI Regulations and the Native Vegetation Act (see Table 1) creates a complex scenario for proponents and relevant authorities to navigate as part of the Development Assessment process.

Legislation	Section	Exemption/Exclusion	Conditions
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NVR 2017 Part 2 - — CFS approval — fire hazard reduction, Division 2, Clause 19	Fire prevention and control (large trees)	Clearance of vegetation that is growing or is situated within 20 metres of a dwelling consisting of a tree that has a trunk circumference (measured at a point 1 metre above the base of the tree) of 2 metres or more.	Clearance of the vegetation is undertaken in accordance with the written approval of the Chief Officer of SACFS and any applicable bushfire management plan
PDI (General) Regulations 2017 Schedule 4 Exclusions from definition of development Part 18, Clause 1(b)	Removal of trees in certain cases	A tree-damaging activity in relation to a regulated tree (including a tree that also constitutes a significant tree) if— the tree is within 20 m of a dwelling in a Medium or High Bushfire Risk area within a Hazards (Bushfire Protection) Overlay under the Planning and Design Code	Does not apply to trees outside the Regulated and Significant Trees Overlay

Table 1: Relevant excerpts from PDI Act and Native Vegetation Act

While the legislation has been designed to work reciprocally, it results in some interesting outcomes particularly when tree retention is concerned. For example, there are occasions where a proponent is electing to retain a large native regulated tree(s) within 20m of a proposed dwelling, where the risk of the tree has been assessed as low or reasonable based on its form, characteristics and the site context. However, due to the tree(s) proximity to the proposed building its removal is being factored into the Significant Environmental Benefit (SEB) calculation as part of the native vegetation clearance offset fee for the development. In some instances, the offset fees are substantial and despite the intention to retain the tree a proponent is being charged for its hypothetical removal on the grounds that the legislation facilitates it.

This example causes some tension in a couple of areas. Firstly, it disincentivises the proponent from retaining the tree in the first place, and also discourages contextual design responses that balance tree retention through design and siting. In addition, if the SEB has factored in a removal yet the proponent elects to keep the regulated tree, it is then subject to the Planning and Design controls that ensure the proposed development does not impact the health and longevity of the tree. This often requires the applicant or Council to engage an Arborist to provide a technical assessment.

6. *Are there any other issues connecting native vegetation and planning policy?*

Another area that is problematic is the declaration relating to native vegetation clearance that forms a mandatory step in the lodgement process. There have been examples where this declaration has been ticked by an applicant, however when staff have undertaken a site visit there is a strong likelihood that native vegetation will be impacted by the proposal. This is leading to inconsistent approaches, with some agency staff commenting that the declaration is not enough until verified via desktop review or ground-truthing.

In bushfire prone areas the development assessment process would benefit from a more collaborative approach between agencies. There have been examples where the CFS has withheld their comments through the mandatory referral process until the Native Vegetation Council provides their referral response, and vice versa. It noted that in 2021 the South Australian Productivity Commission released a report on the Development Referral Review, with section 2.3.4 providing recommendations that could address this issue.

Conditional SEBs applied as part of the Development Application process (one approval approach) has been suggested as a way to better integrate the development assessment and native vegetation clearance process.

Tree Canopy

7. *What are the implications of master planned/greenfield development areas also being required to ensure at least one (1) tree is planted per new dwelling, in addition to the existing provision of public reserves/parks?*

In considering the planting of trees in master planned communities the benefits could include the following:

- Tree planting can be planned upfront and considered holistically at the neighbourhood or precinct level. It would therefore be an easier proposition than trying to achieve equivalent outcomes in existing built-up areas.
- Using projections, a developer should be able to project the level of canopy cover over set timescales 5 > 10 > 20 years. This would assist monitoring strategic targets for urban tree canopy cover for a given area.
- For greenfield master planned communities often subject to longer commutes and increased living costs associated with being located on the periphery of cities, the tree canopy cover coupled with energy efficient design could provide considerable energy efficiency improvements to these developments, reducing running costs associated with residential development.
- If the tree planting is focussed on the public realm the entire responsibility for maintaining that cover will be inherited by the Council. Tree canopy cover is a social issue as much as environmental and economic and so the responsibility should be shared by the community.
- There would appear to be benefit in incorporating landscaping plans into the Building Envelope Plan process to facilitate a streamlined approach for future dwellings whilst capturing the one tree policy.
- Master planning has the advantage of working with constraints from the outset and so developers should be able to design a neighborhood that can deliver one tree per house. It seems that in the current climate, particularly around environmental awareness, this would be a marketing tool for new homebuyers in new communities.
- It also presents opportunities for precinct level environmental performance outcomes addressing areas such as urban tree canopy, stormwater re-use and carbon emissions etc.

8. *If this policy was introduced, what are your thoughts relating to the potential requirement to plant a tree to the rear of a dwelling site as an option?*

It is considered that species selection would be critical, for example in north/south facing rear yards a deciduous tree would be optimal to provide summer shade and let winter sun in.

Such a policy may also impact allotment configuration, for example backyards may have to be larger to accommodate a mature tree. This conflicts somewhat with urban consolidation policies

Commented [MH17]: Can we get a contribution from the applicant towards the planting of street trees (including on going maintenance for the first year. Is there still a TREE FUND

Commented [JS18R17]: Provision of green infrastructure including street trees is best planned for at the land division stage. Council has the ability to enter a bonding agreement. Council's approach to this hasn't been consistent however and there are instances where there is a reluctance to enter bonding agreements which has resulted in less than desirable outcomes. The tree fund is in operation and collects the offsets from regulated tree removal and disperses them in open space projects.

and minimum private open space requirements often being inadequate to accommodate such an outcome.

Tree Protections

9. What are the implications of reducing the minimum circumference for regulated and significant tree protections?

It is considered that reducing the circumference minimum for regulated tree protection provides more potential for trees to reach a mature size. This would significantly improve the projections for urban tree canopy cover over a longer timescale, based on the premise that it is more effective to protect an established tree than to plant another one as its replacement.

With potential for more trees to be defined as regulated, there is potential development impact costs, consultant costs and potential delays in the assessment process. As such any significant change should be carefully scrutinized.

It is noted that the formula for Tree Protection Zone (TPZ) calculation scales based on the tree's diameter at breast height (measured at 1.4 metres above natural ground level). As a result, although more trees could be captured as regulated, development exclusion areas or TPZ's are likely to be less restrictive for smaller trees. It may be that further analysis would be able to explore whether reducing the minimum circumference size to increase tree protection across metropolitan Adelaide could be achieved, without adversely impacting development potential across targeted infill areas. It is acknowledged that achieving such an outcome may be reliant on innovative design responses, which might test the market preference for dwellings that maximize site coverage.

There are also anecdotal reports of a shortage of suitably qualified Arborists to undertake the detailed technical assessments required to support the development assessment process. Any such change could significantly increase demand for these specialized services, and any industry shortages would impact development application timeframes.

10. What are the implications of introducing a height protection threshold, to assist in meeting canopy targets?

An undesirable outcome would be that tall trees with limited canopy spread could be captured i.e., pencil pines or palm trees etc. As a result, it may be more effective to only introduce such a threshold in tandem with a crown spread protection threshold.

Capturing the height data to support an application may be challenging and subjective. This would not be an ideal outcome from a procedural perspective and thought should be given to how this data could be reasonably captured and whether that should form part of Schedule 8 requirements (i.e., tree height captured at the survey stage).

11. What are the implications of introducing a crown spread protection, to assist in meeting canopy targets?

This would be more beneficial if applied in tandem with a height protection threshold.

PDI Regulation 3F – Regulated and significant trees – Subclause 6 allows maintenance pruning of a regulated tree up to 30% of the tree crown without the need for an approval. This allowance would undermine any crown spread protection thresholds and would need to be considered as part of any reform package.

12. *What are the implications of introducing species-based tree protections?*

From a biodiversity perspective this could be a great outcome for endemic species that provide vital habitat.

From a climate adaptation perspective, this could also be a good outcome whereby trees that have a higher heat threshold i.e., native tropical, or sub-tropical varieties etc. are afforded protection in recognition of their ability to remain viable in a warming climate.

It is not uncommon for species identification to be challenging, even between experts in the field. This could potentially give rise to procedural challenges.

Additional Comments regarding adopting minimized or increased threshold protections for trees

Increasing the protection of established trees would be an effective and fast way to halt urban tree canopy loss at what is considered an important transition period and would allow sufficient data to be compiled over the short term to understand whether the Urban Tree Canopy Overlay impacts and projections are proving effective in achieving tree canopy targets.

Increasing the protection of established trees would address the tension between, on the one hand, trying to promote urban tree canopy cover while at the same time having some of the most lax regulations for trees in the country – which currently reveals a misalignment of policy intent vs outcomes.

It is considered that a Practice Guideline would be useful to deal with TPZ encroachments and outline approaches to protect established trees through design and siting.

In addition, stronger Planning and Design Code performance outcomes to encourage more responsive design outcomes should supplement protection threshold reforms.

The PDI Act in Part 7 Division 4 – Procedural Matters and Development Facilitation Clause 119 – Application and provision of information Subclause (8) states the following:

A relevant authority should, in dealing with an application that relates to a regulated tree that is not a significant tree, unless the relevant authority considers that special circumstances apply, seek to assess the application without requesting the applicant to provide an expert or technical report relating to the tree.

This clause often puts the burden back on the Relevant Authority to make an assessment against the relevant performance criteria in the Code. If tree protection is expanded consideration would need to be given to the likely impact of this clause on a Relevant Authority.

Distance From Development

13. *Currently you can remove a protected tree (excluding *Agonis flexuosa* (Willow Myrtle) or *Eucalyptus* (any tree of the genus) if it is within ten (10) metres of a dwelling or swimming pool. What are the implications of reducing this distance?*

The rationale for the ten metre exclusion zone from a dwelling or swimming pool is unknown. Anecdotally it is said that the pool safety and potential structural impacts may be the reason that this exclusion has been justified. However, this is contradicted by the fact a Willow Myrtle or a Eucalyptus is excluded from this clause.

The policy should be reviewed to reconcile the inconsistencies and blunt approach of this clause, particularly if consideration to an expanded protection threshold criteria is being considered. It is noted that trees within proximity to dwellings mitigate more effectively against the impacts of a warming climate with respect to heat island impacts and energy efficiency.

14. *What are the implications of revising the circumstances when it would be permissible to permit a protected tree to be removed (i.e. not only when it is within the proximity of a major structure, and/or poses a threat to safety and/or infrastructure)?*

It is considered that the revision of this criteria should only be considered where it reduces the circumstances when a protected tree can be removed. An expanded set of circumstances will only exacerbate the loss of urban tree canopy across metropolitan Adelaide.

While there are likely legitimate reasons for a tree within proximity to a dwelling or swimming pool to be considered for removal, 10 metres is a generous exclusion, particularly in a built-up urban context. In many cases in neighborhoods where significant infill has occurred it would be unlikely that the next generation of trees – as they mature, would be protected if this clause remains in its current form.

There is a view that trees need to be valued and managed as the dynamic living organisms that they are. Maintenance and care to reduce risk (or perception of it) are important considerations – like any other asset. Community education could be delivered in this space by Landscape Boards to assist in building understanding and capacity in this area.

The Urban Tree Canopy Off-set Scheme

15. *What are the implications of increasing the fee for payment into the Off-set scheme?*

Any measure that is likely to boost funding in this area and promote tree planting at the neighborhood scale is viewed as a positive.

16. *If the fee was increased, what are your thoughts about aligning the fee with the actual cost to a council of delivering (and maintaining) a tree, noting that this would result in differing costs in different locations?*

This would be more equitable, and readily occurs in the case of street tree removals approved under Section 221 of the Local Government Act where the fee covers the planting, establishment and ongoing maintenance of the tree.

17. *What are the implications of increasing the off-set fees for the removal or regulated or significant trees?*

It might help to better incentivise the retention of existing mature trees as opposed to paying into the fund. This would lead to better contextual design outcomes and ensure the longevity of the established tree.

In terms of setting the fee one option may be consideration of adopting a similar approach to the native vegetation clearance offset, using a Significant Environmental Benefit methodology and incorporating some urban relevant criteria i.e., contribution to reducing heat island effect and amenity contribution.

Public Realm Tree Planting

18. *Should the criteria within the Planning and Development Fund application assessment process give greater weighting to the provision of increased tree canopy?*

Any measure that is likely to boost funding in this area and promote tree planting at the neighborhood scale is supported, provided it can demonstrate it would have tangible benefits outside simply improving the amenity of an area (i.e., linking it to larger environmental, social, and economic outcomes).

Infill Policy

A key premise of the South Australian Planning Reforms, and as identified in the PDI Act and State Planning Policies, is the focus on good design outcomes under the Code. Good design and placemaking must be a central objective of the Code and must be given adequate weight in the assessment process.

Expert Panel Discussion Paper Questions

Design Guidelines

19. *Do you think the existing design guidelines for infill development are sufficient? Why or why not?*

While the aspiration of the planning system to promote good design is evident, the outcomes on the ground indicate that this is not being fully realized.

State Planning Policy 2 explicitly aims to “recognize the unique character of areas by identifying the valued physical attributes in consultation with communities, and respect the characteristics and identities of different neighbourhoods, suburbs and precincts by ensuring development considers existing and desired future context of place.”

Currently, these objectives have not been met by the Code. The reduction of the number of zones overall, and stripping away of well developed, locally responsive policy guidance, has resulted in standardised policy across many neighbourhoods and suburbs which fails to recognise and respect unique character.

To this end the Design Guidelines - Design Quality and Housing Choice prepared by the Office for Design and Architecture and the Principles of Good Design Guidelines could form the basis of a detailed and comprehensive guideline suite in tandem with a mechanism for local neighborhood planning. To be effective, these would need to be designated as advisory material for the purposes of section 66(5) of the PDI Act.

In addition, it is considered that the Local Design Review program should be reviewed and councils provided with incentives to set them up. The program was introduced with a view to improve design outcomes at the local level, however no councils have established a panel. The lack of detailed design policies and local contextual guidance within the Code which can be used during an assessment has been cited as one of the reasons take up of the program has not been initiated.

20. *Do you think there would be benefit in exploring alternative forms of infill development? If not, why not? If yes, what types of infill development do you think would be suitable in South Australia?*

While it is widely accepted that building sustainable densities in our urban and township areas is vital to healthy, vibrant and sustainable communities, it is considered that the current policy should be reviewed to gain a greater understanding of cumulative impacts from infill development, particularly as it relates to the loss of local character, the loss of the tree canopy, car parking, stormwater and other council managed infrastructure, and both public and private open space impacts.

Strategic Planning

21. What are the best mechanisms for ensuring good strategic alignment between regional plans and how the policies of the Code are applied spatially?

The transition to the new planning system has removed agency from local government and the local community to shape development policy in their neighborhoods – as sited above. This was a by-product of delivering a State-based system and the efficiencies and capabilities this promised. While potential in the latter is being realized, the compromise of the former has never been fully corrected or compensated.

Strategic planning processes provide an opportunity to build up community capacity and restore confidence with the public that planning is supporting community aspirations. While structure plans and concept plans provide opportunities for these types of conversations, they do not drill down into the detail of what makes a neighborhood unique or provide a place-based approach.

Across metropolitan Adelaide there are examples of how growth strategies particularly focused on infill development in established areas have been completely misaligned with the aspirations of the community.

Strategic planning in the new system will be critical to ensure that community aspirations are being understood and implemented through policy in the Code. Whether the current mechanisms available will enable this is yet to be seen. The Expert Panel is encouraged to consider other strategic planning mechanisms across other jurisdictions and provide guidance to the Minister on whether these may be appropriate in South Australia.

Infrastructure Australia's Planning Liveable Cities (2018) review provides relevant context across multiple jurisdictions. The review examined how Australia's largest cities sequence housing related infrastructure and housing development in Sydney, Melbourne, Brisbane, Perth and Adelaide. This review included planning processes at State and local levels and funding arrangements. The research identified numerous challenges to sequencing infrastructure and (housing) growth including lack of coordination, lack of anticipation and community suspicion of the quality and suitability of new development. The key recommendations were:

- establish a process to better strategically plan for Australia's future population. Partner with Federal, State, territory and local governments.
- Develop local strategic plans that translate metropolitan strategies into tangible outcomes at the 'place' level.
- Ensure local governments are adequately resourced and empowered to plan and deliver local strategic plans.

One example from the UK that provides a community with scope to develop a Neighbourhood Plan appears to be a model that could be adapted to the South Australian context and given effect through the PDI Act.

22. *What should the different roles and responsibilities of State and local government and the private sector be in undertaking strategic planning?*

It is considered that the State should be responsible for the broader state-based interests and targets, with local government or Joint Planning Boards facilitating a place-based approach to the implementation of those directions at a local level i.e., through Neighbourhood Plans or equivalent etc. It is considered that councils are better placed to deliver a process like this as they:

- Can bring together a range of stakeholders who have an interest in the successful development of the place;
- Can focus the weight of community engagement at the strategic level to enable the community to contribute to 'telling the story' of an area, beyond individual projects; and
- They know their existing infrastructure assets and networks and where to deliver improved outcomes.

One area that the State could focus on would be to embed the State level strategic objectives and targets into the ePlanning system giving them better visibility for government, practitioners, and the general public. To support this reporting functionality the ePlanning system should be expanded to provide integrated and timely information on how development activity at a local level is contributing to state level objectives and targets.

Car Parking Policy

Expert Panel Discussion Paper Questions

Code Policy

23. *What are the specific car parking challenges that you are experiencing in your locality? Is this street specific and if so, can you please advise what street and suburb.*

The integration of increased residential density and car parking provision at Hamilton Hill Estate in Woodforde has proved challenging where on-street car parking has been relied upon to offset relevant car parking rate shortfalls. This is a common issue within the Housing Diversity Neighbourhood Zone where significant uplift in density has been experienced.

Where public transport hubs have been developed, for example the Crafers Park and Ride, there is insufficient parking to cater for the average weekday patronage demand, with the car parking estimated to be at 218% over capacity.

24. *Should car parking rates be spatially applied based on proximity to the CBD, employment centres and/or public transport corridors? If not, why not? If yes, how do you think this could be effectively applied?*

Using Hamilton Hill as a case study the latest census data for Woodforde demonstrates that the percentage of households in Woodforde with two or more cars is 62%. This suggests that the preference in Woodforde for two or more vehicles per household conflicts with the Code policy of 0.75-1.25 spaces per dwelling requirement, using residential flat buildings as an example.

Woodforde is 10km from the CBD, where it takes approximately 20 minutes by car or 50 minutes by public transport to reach. Based on the latest census data 66% of people in Woodforde travelled by car to work with only 7% travelling by public transport.

Using the Woodforde example a car parking rate applied spatially based on proximity to the CBD or employment centres is unlikely to be an effective approach, where vehicle ownership is high and public transport services are not attracting high levels of patronage.

25. *Should the Code offer greater car parking rate dispensation based on proximity to public transport or employment centres? If not, why not? If yes, what level of dispensation do you think is appropriate?*

Using the Hamilton Hill example and applying it more generally across the inner metro areas there appears to be a conflict between density targets and household preferences relating to vehicle ownership and travel modes. Using contemporary data such as the census as a starting point to analyse the possibility of the spatial application of car parking rates, would provide an understanding of the gap between the desired outcome (Code policy) and the actual (household preference) of a given area.

Infrastructure investment particularly in public transport provision in areas targeted for renewal or density uplift should be prioritised at the point of land being re-zoned where that re-zoning would allow for car parking rate dispensations.

26. *What are the implications of reviewing carparking rates against contemporary data (2021 Census and ABS data), with a focus on only meeting average expected demand rather than peak demand?*

Applying an average expected demand to neighbourhood areas promotes a quantitative approach over other qualitative considerations, namely convenience and amenity.

The census data should certainly be utilised as suggested above, but not in a manner that further exacerbates issues relating to car parking within local areas.

27. *Is it still necessary for the Code to seek the provision of at least one (1) covered carpark when two (2) on-site car parks are required?*

Before policy refinement regarding undercover parking spaces, research should be conducted into household preference. New dwellings are typically proposed with double garaging and covered parking is a selling point for properties on the market. If a development is designed with no covered car parking it is likely that a future owner will apply for covered parking which, depending on the development design, may result in carports forward of the dwelling which is not desirable and not supported by Code policy.

Design Guidelines

28. *What are the implications of developing a design guideline or fact sheet related to off-street car parking?*

Commented [MH19]: Forget the proximity to public transport. Modern households have at least two cars and as children grow older and additional vehicles will arrive. (They stay at home longer too!)

Commented [JS20R19]: Agreed! In the hills its 2.+

In principle, a fact sheet summarising Code policies and how to provide safe and convenient manoeuvring would likely assist some small-scale applicants.

Electric Vehicles

29. *EV charging stations are not specifically identified as a form of development in the PDI Act. Should this change, or should the installation of EV charging stations remain unregulated, thereby allowing installation in any location?*
30. *If EV charging stations became a form a development, there are currently no dedicated policies within the Code that seek to guide the design of residential or commercial car parking arrangements in relation to EV charging infrastructure. Should dedicated policies be developed to guide the design of EV charging infrastructure?*

Whether or not EV charging stations constitute development depends on specific details. For example, some involve building work, illuminated advertising or require variations to approved car parking areas particularly if parking spaces are removed to accommodate the infrastructure. The legislation must be clearer about when EV charging stations constitute development to streamline the roll-out of this infrastructure. The Code can assist siting and design outcomes where it constitutes development by providing policies including:

- traffic management (e.g. safe and convenient access for cars using the chargers, impacts on car parking provision etc);
- design and appearance of the infrastructure; and
- future proofing, particularly for communal car parking areas.

Car Parking Off-Set Schemes

31. *What are the implications of car parking fund being used for projects other than centrally located car parking in Activity Centres (such as a retail precinct)?*
32. *What types of projects and/or initiatives would you support the car parking funds being used for, if not only for the establishment of centrally located car parking?*

Adelaide Hills Council has no car parking fund established, however in principle car parking funds could be used for projects which reduce car dependence. However, it is considered there should be better strategic investment in public transport and integration with land use planning at State level.

Commission Prepared Design Standards

33. *Do you think there would be benefit from the Commission preparing local road Design Standards?*

The Design Standards for the creation of new local roads in greenfield areas and large subdivisions could be beneficial. However, Adelaide Hills is generally more concerned about Design Standards which affect the existing public realm (footpaths, roads etc) as they may supersede and be in conflict with existing Council policy and standards and may not provide an appropriate level of guidance to respond to the site conditions, as quite often the road

infrastructure i.e. stormwater system is not at the same standard to the more built-up areas of Adelaide.

APPENDIX 3

e-Planning System and the Plan SA Website

User Experience

Over 2500 consents have been issued by the Adelaide Hills Council since the 19 March 2021. This level of engagement with the ePlanning portal has provided staff with hours of interaction with the ePlanning system. Insights gained during this process have informed helpdesk requests and ongoing dialogue with Plan SA to assist with further system improvements and refinements.

The following responses are informed by this experience across the Development Services team at Adelaide Hills Council.

Expert Panel Discussion Paper Questions

Website Re-Design

1. *Is the Plan SA website easy to use?*

The general view across the organisation is that it is effective in assisting with undertaking day to day tasks. Notwithstanding, feedback provided from members of the community and applicants suggests it can be difficult to navigate and find the information required – as cited above.

2. *What improvements to the Plan SA design would you make to enhance its usability?*

Please refer to a summary of suggested improvements below:

- Faster access provided to the resource's library.
- An additional link provided from the DA Register to the Public Notifications Page.
- Improvements to the global search functionality for both the Code and the website.
- The ability to search individual Zones should be made available in SAPP. Currently only Zone families can be displayed at one time. Such functionality would assist with strategic and policy investigations.
- Property selection continues to be a challenging area.

Mobile Application for Submission of Building Notifications and Inspections

3. *Would submitting building notifications and inspections via a mobile device make these processes more efficient?*

It is considered that the legislation needs to marry up with the platform in terms of how the notifications are requested. There would be clear benefits for both contractors and inspectors from a customer experience perspective. Submitting inspection requests via a mobile provides a greater degree of flexibility for those making requests and an ability for Inspectors to respond to requests in a timely manner. Any mobile based solution should be built with capacity to provide more accurate reporting of notifications.

4. *Where relevant, would you use a mobile submission function or are you more likely to continue to use a desktop?*

It is considered that building officers would make use of a mobile solution, as it would make it a more efficient process based on experience with other tools. Office staff would be more likely to continue to use a desktop.

Online Submission Forms

5. *Is there benefit to simplifying the submission process so that a PlanSA login is not required?*

It is considered that there may well be benefits to this, particularly for one-off users. This could be developed as a guest login option as found on other platforms.

6. *Does requiring the creation of a PlanSA login negatively impact user experience?*

Feedback from applicants suggests that it can be a barrier for people to engage in the process.

7. *What challenges, if any, may result from an applicant not having a login with PlanSA?*

If users are provided permissions to submit documentation there may be potential security issues, forgery or application tampering. Such an approach is not supported if it results in emails being sent outside the portal between applicants and a relevant authority that would increase record/data management.

Increase Relevant Authority Data Management

8. *What would be the advantages of increasing relevant authorities' data management capabilities?*

There are examples where restricted permissions are causing delays and double handling in the processing of applications. Providing Administrative level permissions for Council staff (i.e., Org Admin) in certain circumstances would provide opportunity for quick fixes and genuine mistakes to be rectified (i.e., updating development locations, nature of development or appeal conditions etc.). If there is concern about providing this permission, one suggestion is to run it as a pilot program to test user capability and resolve any issues prior to a formal roll out.

9. *What concerns, if any, do you have about enabling relevant authorities to 'self-service' changes to development applications in the DAP?*

This additional functionality should only be made available to Councils as significant financial contributors to the system.

Inspection Clocks

10. *What are the advantages of introducing inspection clock functionality?*

Inspection clock functionality would potentially improve reporting functionality, visibility and transparency.

11. *What concerns, if any, would you have about clock functionality linked to inspections?*

There are circumstances where the customer makes a request for an inspection outside the notification system. Currently there is no way to record this in the system despite being notified. If a legitimate reason there should be a stop clock function.

Currently the clock runs on business days which means if a notification is submitted after 5pm on a given day this counts as a notification day. It is considered that this should be refined to only accrue as a day if submitted before 12pm on that day.

12. What, if any, impact would enabling clock functionality on inspections be likely to have on relevant authorities and builders?

It is considered that if more notifications are coming through this will stretch resource levels and one outcome is that it could increase pressure on both the builder and the inspector, noting that councils are not always appropriately resourced, and this is compounded by a shortage of qualified Building Officers.

The industry could be better educated about the process and given tips on how to manage it against competing demands. Failing this, expiations could be automated and more frequently issued based on legislative breaches as a means to encourage more notification compliance.

One question arises regarding whether the clock would be visible to everyone and, if so, how will it be represented in the system. It would be beneficial if it could be supplemented by a timeline that outlines notification steps.

It is considered that the collection that the lodgement fee at the application submission stage should be automated.

13. Would you be supportive of the lodgement fee being paid on application, with planning consent fees to follow verification?

From a customer perspective it is not ideal to have separate invoices issued and feedback has been received supporting this view.

If this approach is trying to capture a fee for the verification process could it be achieved another way? i.e., after 3 failed mandatory information requests.

14. What challenges, if any, would arise as a consequence of 'locking in' the Code provisions at lodgement? How could those challenges be overcome?

The system should have capacity to automate it via a lodgement snapshot, however there are instances where elements of an application change based on new information. When this occurs there will be elements with no applicable policy from which to make an assessment against. Code Amendments may also come into effect that could impact the proposal.

This could potentially be overcome by an automated notification to the relevant authority and the use of the assessing officer notes section to flag and/or include the Code Provisions on the Verification Snapshot. Both potential workarounds would be clunky and unlikely to resolve the legislative conflicts that are likely to arise.

Combined Verification and Assessment Processes

15. What are the current system obstacles that prevent relevant authorities from making decisions on DTS and Performance Assessed applications quickly?

This suggested approach appears to be creating more complexity. It is considered that better education and instructions that enable applicants to better understand the lodgement requirements would be more beneficial.

16. What would be the advantages of implementing a streamlined assessment process of this nature?

It is considered that if it could be achieved with a simple and elegant solution it is likely to provide a level of efficiency for simple applications.

17. What, if any, impact would a streamlined assessment process have for non- council relevant authorities?

Non-council relevant authorities could issue incorrect Building Consent as they would not yet have seen the Planning Consent documents e.g. incorrect "Nature of Development". This would potentially remove opportunity for Council oversight through consistency checks and could potentially place the burden on Council to investigate or appeal an incorrect decision.

18. What are the advantages of the e-Planning system being able to automatically issue a Decision Notification Form?

It is considered that this would create an interesting dynamic from an appeal or compliance perspective. In these instances, who would be responsible for tending to the appeal and investigating development breaches?

19. What do you consider would be the key challenges of implementing an automatic system of this nature?

In general it removes a level of oversight from the process, regarding development details and outcomes.

20. If this was to be implemented, should there be any limitations attached to the functionality (i.e., a timeframe for payment of fees or the determination will lapse)?

It is considered that such an approach should supplement the process, in addition to being limited to very specific types of applications.

Building Notification through PlanSA

21. Would you be supportive of mandating building notifications be submitted through PlanSA?

It is considered that this would be beneficial as currently it is time consuming and resource intensive to manage this process outside of the portal.

22. What challenges, if any, would arise as a consequence of removing the ability for building notifications to be received by telephone or in writing to a relevant council? How could those challenges be overcome?

The Notifications screen landing page should allow users to pick a builder from a building database.

Education and outreach to assist understanding of required documents particularly for commencement notifications.

Helpdesk and troubleshooting information should also be made available to support this function.

23. Would this amendment provide efficiencies to relevant authorities?

It is considered that this will streamline the process provided the notification can address the above issues. However, if users cannot easily enter the required information then it will still result in phone calls/emails to councils. As such, User Experience should drive the development of any solution.

Remove Building Consent Verification

24. Would you be supportive of removing the requirement to verify an application for building consent?

Not in all circumstances, at Council the opportunity is taken to request the Building/Compliance Fees & request the necessary Building Mandatory Information. As a general comment there is a sentiment among staff that it works reasonably well as it is.

25. What challenges, if any, would arise as a consequence of removing building consent verification? How could those challenges be overcome?

Without the Building Verification process obtaining the fees & required information will be challenging and difficult to monitor and will stall applications at the Building Consent stage.

The only way this could be supported is if the system was intuitive enough to identify deficiencies in the development documentation. The cost of pursuing this technological capability would need to be justified by the potential efficiency gains.

26. What would be the implications of enabling multiple consents to be assessed at the same time?

It doesn't provide opportunities to consider amendments at the Planning Stage and how it impacts Building Consent.

In one sense it may have the potential to reduce overall timeframes where Council is the relevant authority for both Planning & Building Consents. However, it is likely to result in difficulties where the relevant authorities are different for each consent

Innovation

Expert Panel Discussion Paper Questions

Automatic Assessment Checks for DTS Applications

27. What do you consider would be the key benefits of implementing an automatic system of this nature?

28. What do you consider would be the key challenges of implementing an automatic system of this nature?

If deployed effectively this could create system efficiencies. However, as with any automated system, there is always a risk of errors, so it is foreseeable that councils may still provide oversight of this process. It would require applicants to provide a consistent level of plan detail and specification, currently there are applicants who still submit hand drawn plans of a poor standard. Oversight of this process from a relevant authority also provides opportunity to identify inconsistencies or errors in the plans which may be more difficult for an automated system to do.

29. *Would you be supportive of the Government investing in developing this technology so that it may integrate with the e-Planning system?*

Based on the effort and investment already applied to developing streamlined assessment pathways in the new system, it is considered that there are other priorities which require resourcing which should be the State's focus.

3D Modelling for Development Application Tracker and Public Notification

30. *What do you consider would be the key benefits of the e-Planning system being able to display 3D models of proposed developments?*

31. *Do you support requiring certain development applications to provide 3D modelling in the future? If not, why not? If yes, what types of applications would you support being required to provide 3D modelling?*

Expanding tools that build capacity for practitioners and the community to understand outcomes associated with development is supported, provided it can meet a certain level of detail to help genuinely inform planning processes.

AHC has long adopted a Provision of 3D Models Policy that promotes the provision of 3D Models for certain applications subject to public notification. This approach has been received well by proponents and the community and assists greatly in the public notification process, whilst providing staff and CAP Members additional context in which to make an assessment against.

It is acknowledged that this may come at an expense to proponents and as such should only be required for development of certain type and scale, whereby developing such modelling is a comparatively small cost in the scheme of the project.

32. *Would you be supportive of the Government investing in developing this technology so that it may integrate with the e-Planning system?*

This is technology that is already available and being applied. Although it would be more useful than automatic assessment checks, it should not be prioritised over other system improvements.

Augmented Reality Mobile Application

33. *Would you be supportive of the Government investing in developing this technology so that it may integrate with the e-Planning system?*

While the development of this capacity could certainly play a part in increasing participation in planning processes and demystifying development outcomes, it is not considered a priority at

Commented [MH21]: In all these proposals, are there any costs (I think there will be) Who pays. Will it come from increased efficiencies resulting in savings generating funds to implement changes?

Commented [JS22R21]: The view with these sorts of measures is that they should only be required for applications of a certain type and scale (i.e. scale or \$ figure). It is not all sunk costs for the applicant as experience demonstrates that there are benefits of adopting this approach as it can assist with the engagement process and also help inform staff and CAP assessment.

this point in time and in some ways would be duplicating the 3D model if this capacity was to be deployed more widely.

It is considered that this technology would be better deployed as part of engagement processes relating to strategic planning such as Regional Planning and Code Amendments.

Accessibility through Mobile Applications

- 34. Do you think there is benefit in the e-Planning system being mobile friendly, or do you think using it only on a computer is appropriate?*
- 35. Would you be supportive of the Government investing in developing this technology so that the PlanSA website and the e-Planning system is functional on mobile?*

As demonstrated above regarding building notification requests there is a strong appetite for building the mobile capacity of the system. Perhaps at this stage the focus could be on critical component parts as opposed to an entire system roll-out. In addition to building notification requests, SAPP, Planning and Design Code search functionality and Public Notification in the DAP could be the first priority parts to be deployed in mobile friendly versions.

APPENDIX 2

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 January 2023
AGENDA BUSINESS ITEM**

Item:	12.4
Responsible Officer:	Deryn Atkinson Manager Development Services Development & Regulatory Services
Subject:	Request to Waive Land Management Agreement Requirement for Building Setback at 9 Woodland Way Teringie
For:	Decision

SUMMARY

The current owner of 9 Woodland Way (Lot 5) (“land”) has lodged Development Application 22022313 for a two storey addition to their existing two storey dwelling on the land. The land was established as part of 1995 Land Division Application (Development Application 030/D013/95), which created 14 allotments along Woodland Way and Gilburn Court at Teringie. During the land division assessment, a Land Management Agreement (LMA) was entered into under the former *Development Act 1993* between the District Council of East Torrens and the developer of the subdivision. The LMA includes a clause requiring building setbacks to be 8m from the front boundary.

The land owner seeks the agreement of the Council to waive the LMA requirements of an 8m building setback for the two storey addition he is currently seeking consent for. This development is one that required public notification and the relevant authority for determining the proposal in Development Application 22022313 is the Council Assessment Panel (CAP). The LMA was signed under the seal of the District Council of East Torrens and the request is required to be determined by the Council and not staff.

The CAP is yet to consider the development and will need to have regard to the decision of Council in relation to the waiver request.

RECOMMENDATION

Council resolves:

- 1. That the report be received and noted.**
- 2. That pursuant to clause 9.2 of the Land Management Agreement registered on Certificate of Title Volume 5391 Folio 572, known as 9 Woodland Way Teringie, Council agrees to the waiver of the land owner’s obligations in relation to clause 2 for building setbacks, subject to the Council Assessment Panel granting Planning Consent to Development Application 22022313 for the two storey dwelling addition.**
- 3. The Acting Chief Executive Officer be authorised to provide written communication of Council’s agreement to the waiver of Land Management Agreement obligations above to the land owner.**

1. BACKGROUND

The original LMA was entered into as part of a land division application to create 14 allotments in 1995 (Development Application 030/D013/95). The LMA provides obligations on the owner not to erect a dwelling closer than 8 metres to the boundary with Woodland Way amongst other obligations in relation to fencing and outbuildings.

The existing dwelling on the land received Development Approval on 8 December 2009 (Development Application 473/1237/07) and was constructed in 2010.

On 12 July 2022, Development Application 22022313 for a two storey addition to the existing two storey dwelling on the land was lodged with the Council. The proposal is under assessment and will be determined by the Council Assessment Panel at a date yet to be determined. The additions include a new master bedroom and ensuite on the lower level and living room and new entry on the upper level.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal Built Environment

Objective B2 Preserve and enhance the unique character of the Hill's for current and future generations

The owner of the land at 9 Woodland Way Teringie seeks the agreement of Council to waive compliance with clause 2 of the existing Land Management Agreement (LMA) obligations to allow part of a two storey dwelling addition to be located closer than 8m to the front boundary with Woodland Way. Consistent building setbacks are considered to generally maintain streetscape character which collectively contributes to the wider character of residential areas in the Hills. However in this circumstance, as the proposed building addition will be adjacent to the unmade portion of Woodland Way it is not considered that the proposed addition at a closer setback will have greater impact on the streetscape than an 8m building setback would. Thus it is considered it will not impact negatively on the character of the locality.

➤ Legal Implications

The *Planning, Development and Infrastructure Act 2016* (PDI Act) and *Development Act 1993* have provisions to permit the Council to enter into Land Management Agreements in relation to development. The subject LMA was entered into under the provisions of the *Development Act 1993* as part of the division of land to create 14 allotments in 1995. Clause 9.2 of the LMA permits the Council to waive all or part of the LMA obligations by the owner and such request for waiver should not be unreasonably refused.

If the Council decides to waive compliance with clause 2 of the LMA in regard to building setbacks (subject to the CAP determining to grant Planning Consent for the two storey dwelling addition) no amendment to the LMA is necessary. The decision is simply communicated to the applicant.

➤ **Risk Management Implications**

As a procedural issue, it is necessary for the CAP to ascertain if Council is willing to agree to the partial waiver of the owner’s obligations in the existing LMA to assist in mitigating the risk of:

Procedural challenge of the assessment process or, of any decision that the Council Assessment Panel may make in relation to Development Application 22022313, in relation to the consideration to LMA and its terms, including the ability to waive compliance with the terms of the LMA leading to legal action over the development.

Inherent Risk	Residual Risk	Target Risk
Medium (3C)	Low (1C)	Low (1C)

The LMA includes the waiver clause below which permits the Council to waive compliance by the land owner with part, or all of the owner’s obligations of the LMA. By the owner seeking the agreement of Council for a waiver of the setback obligations, procedural risk is mitigated.

The LMA waiver clause also imposes an obligation on the Council to not refuse a request for waiver of the owner obligations unreasonably when planning staff do not believe the proposal will negatively impact on the streetscape or the character of the locality.

9.2 The Council may waive compliance by the Owner with the whole or any part of the obligations on the part of the Owner herein contained

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(and any such request for waiver will not be refused unreasonably)
provided that no such waiver shall be effective unless expressed in writing and signed by the Council.

There are other existing controls in place for reviews of Council decisions which also mitigate the risk to Council in making a decision on the landowner’s request.

➤ **Financial and Resource Implications**

Not Applicable – no amendment to the LMA is necessary.

➤ **Customer Service and Community/Cultural Implications**

A Land Management Agreement is a public document which can be accessed by anyone for a fee. There are community expectations that the terms of LMAs are generally adhered to in order to provide certainty of future development.

➤ **Sustainability Implications**

Not Applicable

➤ **Engagement/Consultation conducted in the development of the report**

Committee Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

Administration: Not Applicable

External Agencies: Not Applicable

Community: Public Notification of Development Application 22022313 for a two storey dwelling was undertaken under the PDI Act and one representation from an adjoining owner was received during the notification period. This representor raised concern with the proposed building setback and has requested to be heard when the application is determined by CAP.

➤ **Additional Analysis**

The rationale for clause 2 in the LMA seems to be to maintain a consistent building setback from the road reserve of both Woodland Way and Gilburn Court for the 14 allotments.

Whilst the Development Plan no longer exists, and the LMA is over 25 years old, the Planning and Design Code has continued the intent of the setback policy in the Hills Neighbourhood Zone through Performance Outcome 5.1. This provision seeks for building setbacks from the primary street boundaries to be consistent with the existing streetscape generally.

To assist with interpretation of the performance assessment outcomes the policy includes a standard outcome as part of the corresponding designated performance feature (DPF) 5.1. The Code provides in (DPF) 5.1 that, where new development has a similar setback to the average setback of buildings which face the same primary street, it will meet the performance outcome 5.1 (refer extract from the Hills Neighbourhood Zone below):

Primary Street Setback	
PO 5.1 Buildings are set back from primary street boundaries consistent with the existing streetscape.	DTS/DPF 5.1 The building line of a building set back from the primary street boundary: <ul style="list-style-type: none"> (a) at least the average setback to the building line of existing buildings on adjoining sites which face the same primary street (including those buildings that would adjoin the site)
Planning and Design Code - 22 December 2022 - Version 2022.24	<ul style="list-style-type: none"> not separated by a public road or a vacant allotment) (b) where there is only one existing building on adjoining sites which face the same primary street (including those that would adjoin if not separated by a public road or a vacant allotment), not less than the setback to the building line of that building or (c) not less than 8m where no building exists on an adjoining site with the same primary street frontage.

The DPF is only one way to meet the outcome sought and it provides a guide. It does not necessarily need to be satisfied. There is still discretion to make a planning judgement that the outcome can be met in another way, considering other factors and, noting the Code policies are not mandatory requirements. The CAP as the relevant authority will need to make a planning judgement in determining whether the proposed development will impact on the existing streetscape.

In the instance of 9 Woodland Way, the existing dwelling has a setback of 8m. The proposed dwelling addition is 4.6m from the front boundary at the closest point, with the bulk of the addition setback at a distance of 6.6m. A dwelling exists on the adjoining land at 11 Woodland Way and this has a slightly greater setback than 8m to the primary street frontage. The land adjoining to the west (7 Gilburn Court) has frontage to a different primary street, but the LMA applies to this land and thus the 8m setback also applies to this land.

The proposal is thus not consistent with the average building setback or the LMA setback terms.

An aerial view of the locality is provided in Figure 1 and 2 below.



Figure 1 – Wider Locality and Streetscape



Figure 2 – Enlargement of Locality

The land owner explains in its request that, for the addition to the dwelling to work both on a functional level with the existing floor plan and to maintain a generous side setback with the neighbouring property at 7 Gilburn Court, it has been necessary to design the addition with a reduced front setback.

Staff consider the main factors which justify departure from the terms of the LMA in this instance, to be:

- The road protuberance (unmade road reserve) that exists between Gilburn Court and Teringie Way breaks up the streetscape and creates a separation between the two roads preventing through vehicular access.
- The addition is on the western side of the existing dwelling and is adjacent to the unmade portion of the road reserve rather than the sealed road section.
- There is a difference in ground levels between 7 Gilburn Court and 9 Woodland Way of several metres.
- Existing vegetation on the land is able to be retained with the reduced building setback which will assist to reduce views of the addition from Gilburn Court and maintain a sense of spaciousness between the dwellings at 7 Gilburn Court and 9 Woodland Way.
- Existing vegetation in the road reserve will assist to reduce views of the addition from the public realm.
- The addition is limited to 8480mm in width and the reduced setback applies only to the addition with the remainder of the existing dwelling achieving the 8m setback from the front boundary.

Procedurally, the CAP will need to have regard to the decision of Council in relation to the waiver of the LMA building setback and consider all the information, including concerns raised in the representation. Without Council's agreement to the waiver of the building setback clause of the LMA prior to CAP's consideration of the proposal, there will be a risk of breach of the terms of the LMA should the CAP determine to grant Planning Consent to the proposal.

3. OPTIONS

Council has the following options:

- I. To agree to the request of the land owner to waive the LMA obligation in relation to the building setback of the proposed dwelling addition. This will avoid a risk of the LMA terms being breached should the CAP determine to grant Planning Consent to Development Application 22022313 (Recommended)
- II. To decline the request of the land owner to waive the LMA obligation in relation to the building setback of the proposed dwelling addition. This will necessitate a redesign of the dwelling addition and possibly lodgement of a new development application. (Not Recommended)

4. APPENDICES

- (1) Request from landowner to waive Land Management Agreement obligation
- (2) Land Management Agreement
- (3) Development Plans

Appendix 1

*Request from landowner to waive Land Management
Agreement obligation*

From:
Sent: Wednesday, 7 December 2022 9:11 AM
To:
Subject: 9 Woodland Way - Request to waive LMA 8 m setback

[EXTERNAL]

Hi Darren

Further to our previous discussions and communication, I formally seek to waive the 8 m setback in the LMA. In making this request, I understand that the LMA allows for discretion to be applied by Council, which appears to make sense given that the LMA is over 25 years old and was drafted at a time when guidance was gleaned from the 1996 District Council of East Torrens Development Plan.

In relation to the proposed extension, this presents the most architectural merit to the simple existing built form in a way that is consistent with the current front façade orientation. Foremost, maintaining ample side setbacks and creating a visible architectural entry statement has driven the design approach.

We explored providing a front setback of larger than 5 m, however this only served to significantly reduce the setbacks to the side boundary shared with 7 Gilbert Court. In order to achieve the requisite increase in floor area and room functionality the proposed design and front setback was considered far preferable to both properties in relation to privacy considerations and retaining space between buildings. As stated, pushing the proposed extension forward of the 8m front boundary setback in the LMA has allowed this to be achieved and also enabled the best outcome regarding (a) the flow of the floor plan at all levels, (b) the room proportions and (c) the orientation of the built form and presentation to the street frontage.

Achieving the 5 m side boundary setback to the extension also ensures that mature vegetation on the boundary is unaffected by the proposal, which again benefits 7 Gilbert Court and my family in terms of privacy and general appearance of the land.

In addition, the adjacent road reserve and council stormwater culvert works to blur the recognisable front boundary line (and need for 8m setback), when compared to the other houses with a typical parallel and obvious street road frontage relationship.

The position of the extension also best uses existing ground levels and avoids filling of the land, the design supports a simple excavation to reduce the perceived scale of the building. Basically, the siting and excavation will maintain the generally single storey presentation of the house when viewed from the cul-de-sac head. This would be less possible, if the extension was wider and with a reduced side boundary setback.

In the circumstances, I consider that the request to waive the 8 m setback in the LMA achieves a desirable and optimal outcome and I am hopeful of receiving support from Council.

Yours sincerely

Appendix 2

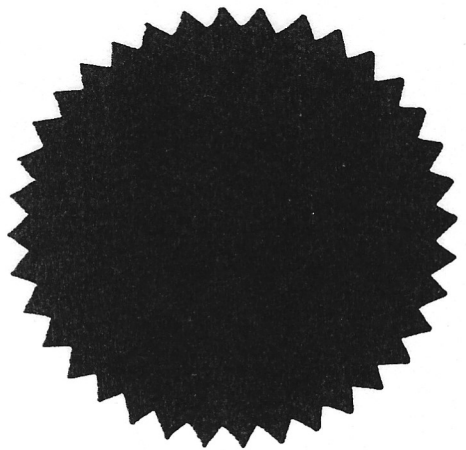
Land Management Agreement

APPLICATION TO REGISTER - DEVELOPMENT ACT 1993
LAND MANAGEMENT AGREEMENT

DISTRICT COUNCIL OF EAST TORRENS of 1 Crescent Drive, Norton Summit SA 5136 HEREBY APPLIES pursuant to the provisions of section 57(5) of the Development Act 1993 for the registration of the attached Deed dated the 25th day of *March* 1996 and made between DISTRICT COUNCIL OF EAST TORRENS aforesaid as the Council of the one part and BRENCORP PROPERTIES PTY LTD (ACN 008 663 134) of 48 Greenhill Road, Wayville, S.A. 5034 as the Owner of the other part as a Land Management Agreement pursuant to section 57(2) of the said Act. The Deed binds the WHOLE OF THE LAND comprised in Certificate of Title Register Book VOLUME 5301 FOLIO 257 and operates to control the management, preservation and conservation of the said portion of the said land.

DATED the 25th day of *March* 1996

THE COMMON SEAL of the DISTRICT COUNCIL OF EAST TORRENS was hereunto affixed in the presence of:



[Handwritten signature]
.....
Mayor

[Handwritten signature]
.....
Chief Executive Officer

[Handwritten initials]

The Owner HEREBY CONSENTS to the registration of the attached Land Management Agreement.

THE COMMON SEAL of
BRENCORP PROPERTIES PTY LTD

(ACN 008 663 134)

was hereunto affixed in the presence of:

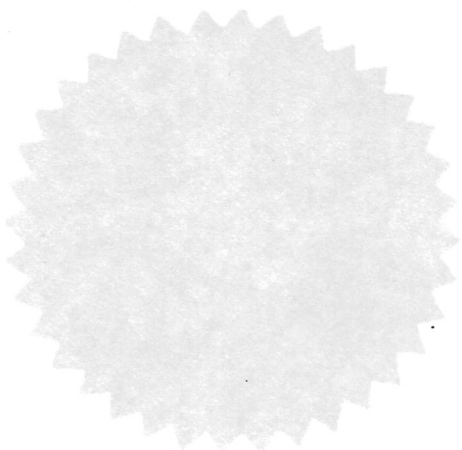


[Handwritten signature]
.....

Director

[Handwritten signature]
.....

Director/Secretary



[Faint handwritten signatures and text, including 'Mayor' and 'Chief Executive Officer']

THIS DEED IS MADE THE 25th DAY OF March 19 96

BETWEEN: DISTRICT COUNCIL OF EAST TORRENS of 1 Crescent
Drive, Norton Summit SA 5136 (hereinafter with its
successors and assigns called "the Council") of the one
part

COMMISSIONER OF STAMPS

S.A. STAMP DUTY PAID \$10.00
ORIGINAL STAMPED (Copy 1 of 2)
26/03/96 13:53:13 CG11322.2
DEED

AND BRENCORP PROPERTIES PTY LTD (ACN 008 663 134) of 48
Greenhill Road, Wayville, SA 5034 (hereinafter with its successors
and assigns called "the Owner") of the other part

WHEREAS:-

- A. The Owner is the proprietor of an estate in fee simple in the whole of the land comprised in Certificate of Title Register Book Volume 5301 Folio 257 (hereinafter called "the Land");
- B. By the Development Application numbered 030/DO13/95 (hereinafter called "the Development Application") the Owner applied to the Council for approval pursuant to the Development Act, 1993 (hereinafter called "the Act") to divide the Land into fourteen (14) allotments (excluding roads and reserves). A copy of the amended proposal plan of division relating to the Development Application is annexed hereto and marked with the letter "A" (hereinafter called "the Plan of Division");

- C. Annexed hereto and marked with the letter "B" is a plan which delineates building envelopes on certain of the proposed allotments the subject of the Plan of Division (hereinafter called "the Building Envelope Plan");
- D. The Council and the Owner wish to ensure that no dwelling shall be erected on any of the proposed allotments the subject of the Plan of Division nearer than eight (8) metres from the Gilburn Court and Woodland Way boundary of the Land;
- E. The Council acknowledges and accepts that given the topography of the Land the building envelopes depicted on the Building Envelope Plan are appropriate sites, although (subject to the provisions of Recital D of this Deed) not the only appropriate sites, for the erection of a dwelling within each of such building envelopes;
- F. Pursuant to the provisions of section 57(2) of the Act the Owner has agreed with the Council to enter into this Deed relating to the future management, preservation and conservation of the Land, subject to the terms and conditions that follow.

NOW THIS DEED WITNESSETH**1. Interpretation**

1.1 The parties acknowledge that the matters recited in clauses A to F inclusively of this Deed are true and accurate and agree that they shall form part of the terms of this Deed.

1.2 In the interpretation of this Deed unless the context shall otherwise require or admit :

1.2.1 words and phrases used in this Deed which are defined in the Act, shall unless otherwise defined by the provisions of this Deed, have the meanings ascribed to them by the Act;

1.2.2 references to a statute or subordinate legislation or to the Development Plan made pursuant to the Act, shall include all statutes, subordinate legislation and Development Plans amending, consolidating or replacing the statute or subordinate legislation or Development Plan referred to;

- 1.2.3 the term "The Owner" where the Owner is a company includes its successors, assigns and transferees and where the Owner is a person, includes his or her heirs, executors, administrators and transferees and where the Owner consists of more than one person or company the term includes each and every one or more of such persons or companies jointly and each of them severally and their respective successors, assigns, heirs, executors, administrators and transferees of the companies or persons being registered as the proprietor of an estate in fee simple in the Land subject however to such encumbrances, liens and interests as are registered and notified by memoranda endorsed on the Title thereof;
- 1.2.4 the term "person" shall include a corporate body;
- 1.2.5 the term "the Land" shall include any part or parts of the Land;
- 1.2.6 the term "dwelling" shall mean a building or part of a building used as a self-contained residence;

- 1.2.7 the term "outbuilding" shall mean a building which is constructed on an allotment delineated on the Plan of Division and which building is detached from, and ancillary to, a dwelling which is, constructed on the relevant allotment delineated on the Plan of Division;
- 1.2.8 words importing the singular number or plural number shall be deemed to include the plural number and the singular number respectively;
- 1.2.9 words importing any gender shall include every gender; and
- 1.2.10 any clause, headings or marginal notes are for reference purposes only and shall not be resorted to in the interpretation of this Deed.
- 1.3 If any provision of this Deed shall be found by a Court of competent jurisdiction to be invalid or unenforceable in law then in such case the parties hereby request and direct such Court to sever such provision from this Deed.

1.4 The law governing the interpretation and implementation of the provisions of this Deed shall be the law of South Australia.

1.5 The parties expressly declare and agree that where an inconsistency exists between the provisions of this Deed and the provisions of the Development Plan, the provisions of this Deed prevail.

2. Front set back distance for dwellings

The Owner shall not cause, suffer or permit to be erected on any of the allotments numbered 1-14 inclusively on the Plan of Division, any dwelling any part of which shall be nearer than eight (8) metres to the nearest boundary of the road reserve marked on the Plan of Division as "Gilburn Court" (hereinafter called "Gilburn Court") and "Woodland Way" (hereinafter called "Woodland Way").

3. Fencing Work

3.1 Subject to clause 3.2 of this Deed, the Owner shall not cause, suffer or permit the installation or construction of any fence upon the Land:

3.1.1 that is constructed of materials that are not of a low light reflective nature and of a dark natural colour so as

to blend with a natural landscape and minimise any visual intrusion;

- 3.1.2 that incorporates any secondhand materials;
- 3.1.3 that incorporates asbestos;
- 3.1.4 that incorporates galvanised iron or any other metal provided that the use of pre-treated permanently coloured metal sheets or formwork such as colourbond is not prohibited if:
 - (a) the fence satisfies the requirements of clauses 3.1.1 and 3.1.2 of this Deed;
 - (b) at the time of the erection of the fence there exists on the allotment in question a dwelling; and
 - (c) the fence is erected no closer to the nearest boundary of Gilburn Court or Woodland Way as the case may be than the alignment of the closest point of the front wall of the said dwelling to the said boundary.

3.2 The Owner shall not cause, suffer or permit to be installed or constructed any fence on the common boundary of allotment 4 and allotment 15 on the Plan of Division or on that section of the boundary of allotment 15 that is common with the north-eastern boundary of allotments 5 to 11 inclusively on the Plan of Division unless the said fence is installed or constructed in accordance with the following specifications :

3.2.1 the said fence shall be colourbond coated steel clad fencing;

3.2.2 the said fence shall be constructed to a height of 1.8 metres;

3.2.3 the sheet profile of the said fence shall be of the BHP Colourbond "Spandek" brand;

3.2.4 the colour of the said fence insofar as it faces onto the allotment numbered 15 in the Plan of Division shall be "weathered copper" from the BHP Colourbond range;

3.2.5 the said fence shall be capped and in the said "weathered copper" colour;

3.2.6 any framing associated with the said fence, such as post and rails, shall be situated on that side of the said fence that does not front onto the said allotment 15;

3.2.7 at the time of the installation or construction of the said fence there exists on the allotment abutting the said allotment 15 (upon which common boundary with the said allotment 15 the said fence is being installed or constructed), a dwelling.

4. Outbuildings

The Owner shall not cause suffer or permit any outbuilding to be erected on any of the proposed allotments the subject of the plan of division:

4.1 that is constructed of materials which are not of a low reflective nature and of dark natural colours so as to blend with the natural landscape and minimise any visual intrusion;

4.2 that incorporates any secondhand materials;

4.3 that incorporates asbestos;

4.4 that incorporates galvanised iron or any other metal provided that the use of the pre-treated permanently coloured metal sheets such as colourbond is not prohibited if:

- 4.4.1 the outbuilding satisfies the requirements of clauses 4.1 and 4.2 of this Deed;
- 4.4.2 at the time of the erection of the outbuilding there exists on the allotment in question a dwelling; and
- 4.4.3 the outbuilding is erected no closer to the nearest boundary of Gilburn Court or Woodland Way as the case may be than the alignment of the closest point of the front wall of the said dwelling to the said boundary.

5. Siting of dwellings

The Council acknowledges and accepts that :

- 5.1 given the topography of the Land, the building envelopes depicted on the Building Envelope Plan represent, in the case of each allotment delineated on the Building Envelope Plan that has a building envelope depicted on it, a suitable site for the construction of a dwelling; and
- 5.2 that subject to the terms of paragraph 2 of this Deed, the building envelopes depicted on the Building Envelope Plan do not represent, in the case of each allotment delineated on the Building Envelope Plan

that has a building envelope depicted on it, the only suitable site for the construction of a dwelling.

6. Dispute resolution

- 6.1 The parties to this Deed mutually acknowledge, covenant and agree that if any dispute or difference shall arise between any or all of the parties to this Deed in respect of any act matter or thing to be undertaken by any party or any decision to be made by any party to this Deed then any of the parties to this Deed shall be entitled to give to the other parties written notice of the dispute or difference and at the expiration of fourteen (14) days from the date of receipt of such notice unless such dispute shall have been otherwise settled between the parties the dispute or difference shall be and is hereby referred to a person agreed between the parties who is experienced and knowledgeable in respect of the matter or matters in dispute, who will investigate and determine the dispute in the capacity of an expert, not an arbitrator, or in the absence of agreement, to a person nominated by the President, or other principal office bearer for the time being of the Royal Australian Institute of Planners Incorporated (S.A. Division) (hereinafter called "RAPI") or in the event of that body ceasing to exist, by the President or other principal office bearer for the time

being of another body by whatever named called and having the same general purposes and functions as the RAPI.

6.2 If the person referred to in clause 6.1 of this Deed is unable to make a decision within two (2) weeks of the completion of the hearing or any extended period agreed in writing between the parties then another person shall be appointed in the manner prescribed in clause 6.1 of this Deed and shall enter upon the reference in lieu of the first person.

6.3 The decision of the person referred to in clauses 6.1 and 6.2 of this Deed shall be final and binding upon the parties.

6.4 The fees of the person referred to in clauses 6.1 and 6.2 of this Deed together with all other costs and expenses of and incidental to the decision (other than the parties' own costs, which includes legal costs) shall be borne equally by the parties to the dispute.

7. Operation of this Deed

The parties expressly declare and agree that the provisions of this Deed shall not be binding or impose any obligation upon them unless and until the date the Registrar-General deposits the Plan of Division in the Lands Titles

Registration Office pursuant to the provisions of the Real Property Act, 1886.

8. Rescission

In the event that any development authorisation obtained for the Development Application lapses or expires by virtue of the provisions of the Act without being implemented by the Owner or in the event that the Registrar-General does not deposit the Plan of Division in the Lands Titles Registration Office the Council agrees to rescind this Deed at the request of the Owner and the reasonable costs of and incidental to the preparation, stamping and registration of the Deed of Rescission should be borne by the Owner.

9. Miscellaneous Provisions

9.1 This Deed may not be varied except by a Supplementary Deed signed by the Council and the Owner (and any request for a variation shall not be refused by the Council unreasonably).

9.2 The Council may waive compliance by the Owner with the whole or any part of the obligations on the part of the Owner herein contained

(and any such request for waiver will not be refused unreasonably) provided that no such waiver shall be effective unless expressed in writing and signed by the Council.

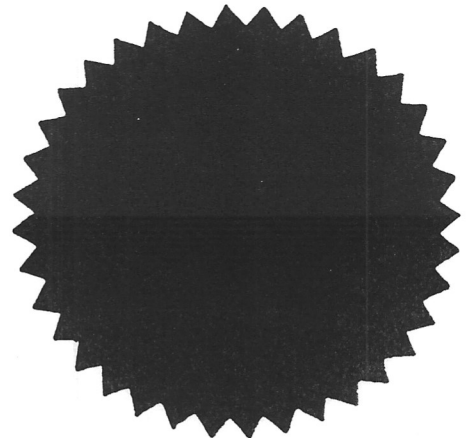
- 9.3 This Deed contains the whole agreement between the parties in respect of the matters referred to herein.
- 9.4 Notice for the purposes of this Deed shall without prejudice to any other means of giving notice be properly served on the Owner if it is in writing and signed for or on behalf of the Council and either delivered by hand or sent by post to the Owner to the last known address of the Owner. Such notice shall be deemed to have been given at the time of such delivery or upon the date five (5) days after such posting.
- 9.5 Notice for the purposes of this Deed shall without prejudice to any other means of giving notice be properly served on the Council if it is posted or delivered to the principal office of the Council.
- 9.6 The Council may delegate any of its powers under this Deed to any person.

9.7 The requirements of this Deed are at all times to be construed as additional to the requirements of the Act and any other legislation affecting the Land inclusively.

9.8 Each party shall do and execute all such acts documents and things as shall be necessary to ensure that this Deed is registered and a memorial thereof entered on the Certificate of Title for the Land pursuant to the provisions of Section 57(5) of the Act.

IN WITNESS WHEREOF the parties hereto have executed this Deed.

THE COMMON SEAL of the DISTRICT)
COUNCIL OF EAST TORRENS was)
hereunto affixed in the)
presence of:)



[Handwritten signature]
.....
Mayor

[Handwritten signature]
.....
Chief Executive Officer

THE COMMON SEAL of
BRENCORP PROPERTIES PTY LTD

(ACN 008 663 134)

was hereunto affixed in the
presence of:



[Handwritten signature]
.....

Director

[Handwritten signature]
.....

Director/Secretary

THE ETSA CORPORATION being a person with a legal interest in the Land by virtue of an easement over that portion of the Land marked "A" in the Certificate of Title for the Land hereby consents to the Owner entering this Deed.

ETSA CORPORATION)
by its duly constituted Attornies)

..... CLIVE ROBERT ARMOUR)
.....)

who certifies that he is the)

..... MANAGING DIRECTOR)
.....)

..... and)

..... TERRY GRANT PARKER)
.....)

who certifies that he is the)

..... GROUP MANAGER CORPORATE SERVICES)
..... of)

ETSA CORPORATION)
pursuant to Power of Attorney)
Registered No. 7969419)
in the presence of)

[Handwritten signature]
.....)

JANIS BARBARA MURFITT
20 Brunel Avenue
North Haven SA 5018
404 8258

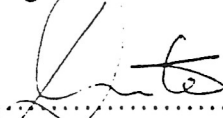
VICTORIA CATHERINE CAMPBELL
22 GROSVENOR PLACE
WIMBORNE SA 5127
2511501

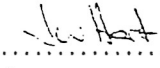
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SOUTH AUSTRALIAN WATER CORPORATION being entitled, the easement having vested pursuant to the South Australian Water Corporation Act, 1994, being a person with a legal interest in the Land by virtue of an easement for water supply purposes over that portion of the Land marked "B" in the Certificate of Title for the Land hereby consents to the Owner entering into this Deed.

Signed for and on behalf of the
SOUTH AUSTRALIAN WATER CORPORATION
by DAVID JOHN WHITE Acting Manager
Property duly authorised by an
Instrument of Authority dated
4 August 1995


.....
D J WHITE, Acting Manager Property
in the presence of:

Witness: 
.....
(signature)

Witness: JEFFREY WILLIAM HART
.....
(Print full name)

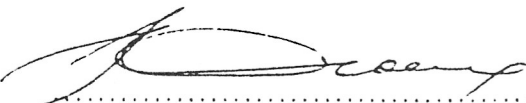
Address: c/- SA Water Corporation
GPO Box 1751
ADELAIDE SA 5000

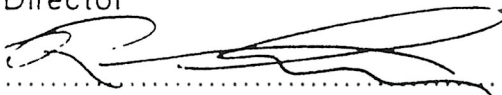
Telephone No.: 226 2095.....

THE OWNER HEREBY CERTIFIES pursuant to Section 57(4) of the Act that no other person has a legal interest in the Land.

THE COMMON SEAL of)
BRENCORP PROPERTIES PTY LTD)
(ACN 008 663 134))
was hereunto affixed in the)
presence of:)



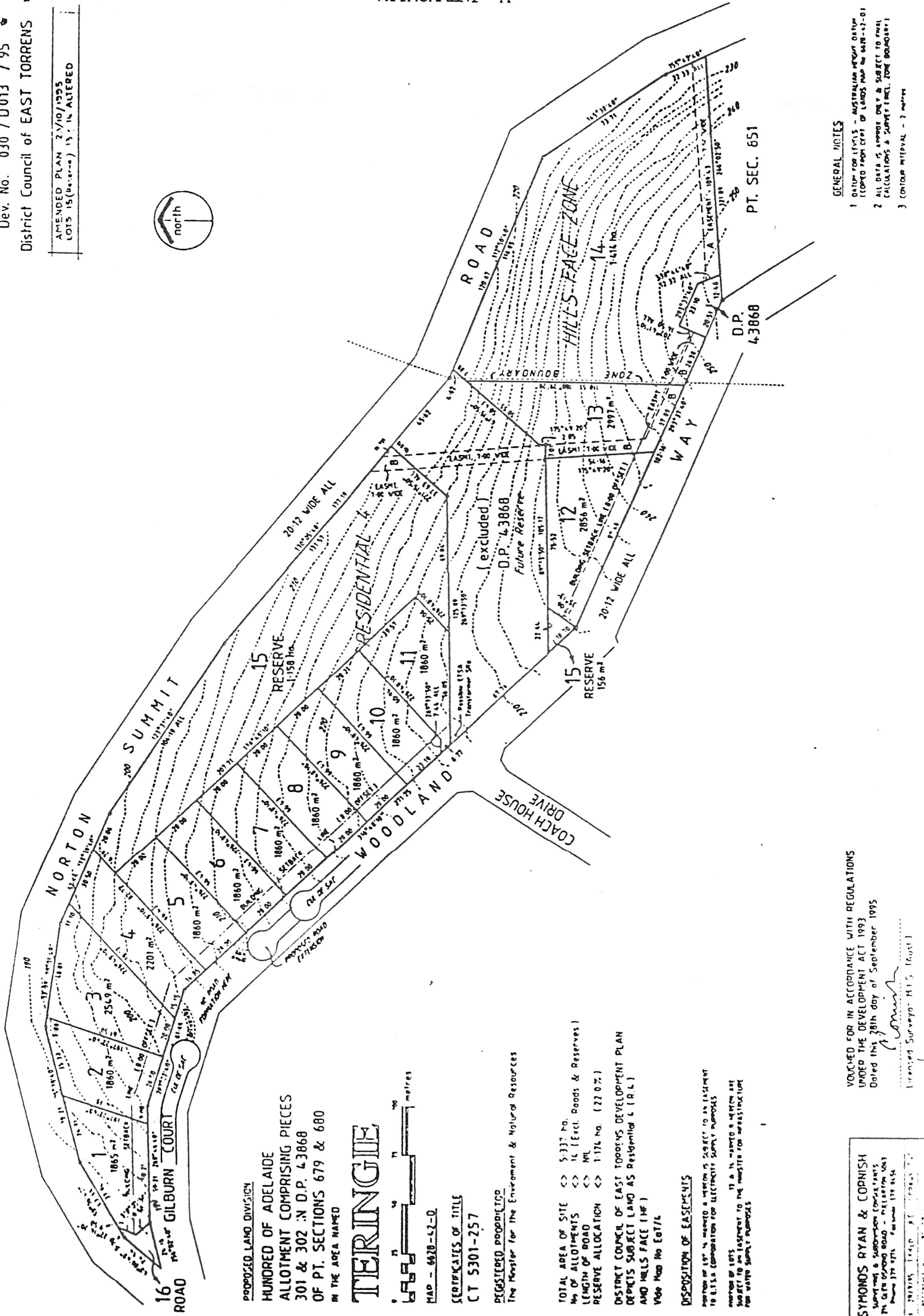
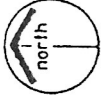

.....
Director


.....
Director/Secretary

Dev. No. 030 / 0013 / 95

District Council of East Torrens

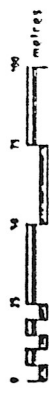
AMENDED PLAN 23/10/1995
LOTS 15 (hereinafter) IS TO BE ALTERED



PROPOSED LAND DIVISION

HUNDRED OF ADELAIDE
ALLOTMENT COMPRISING PIECES
301 & 302 IN D.P. 43868
OF PT. SECTIONS 679 & 680
IN THE AREA NAMED

TERLINGIE



MAP - 6628-42-0

CERTIFICATES OF TITLE

CT 5301-257

REGISTERED PROPOSAL

The Minister for the Environment & Natural Resources

TOTAL AREA OF SITE <> 5.337 ha.
No of ALLOTMENTS <> 16 (Excl. Roads & Reserves)
LENGTH OF ROAD <> 101 m
RESERVE ALLOCATION <> 1.176 ha. (22.0%)

DISTRICT COUNCIL OF EAST TORRENS DEVELOPMENT PLAN
DEPONENTS SUBJECT LAND AS Residential & (R.L.)
AND HILLS FACE (H.F.)
Vide Map No E0174

DISPOSITION OF EASEMENTS

WHEREAS the applicant has requested a variation to an easement
TO BE A COMBINATION FOR ELECTRICITY SUPPLY PURPOSES
WHEREAS the Council is of the opinion that the variation is
SUBJECT TO AN EASEMENT TO THE MASTERS FOR MASSIVE STRUCTURE
FOR WATER SUPPLY PURPOSES

GENERAL NOTES

1. PLAN FOR LOTS 15 - AUSTRALIAN OFFICE OF THE
COURT REPORT OF LOTS FOR 4478-42-01
2. ALL DATA IS SUBJECT TO BE SUBJECT TO FINAL
CALCULATIONS & SURVEY INSTRUMENT BOUNDARIES
3. CONTOUR INTERVAL - 7 metres

VOUCHED FOR IN ACCORDANCE WITH REGULATIONS
UNDER THE DEVELOPMENT ACT 1993
Dated this 28th day of September 1995

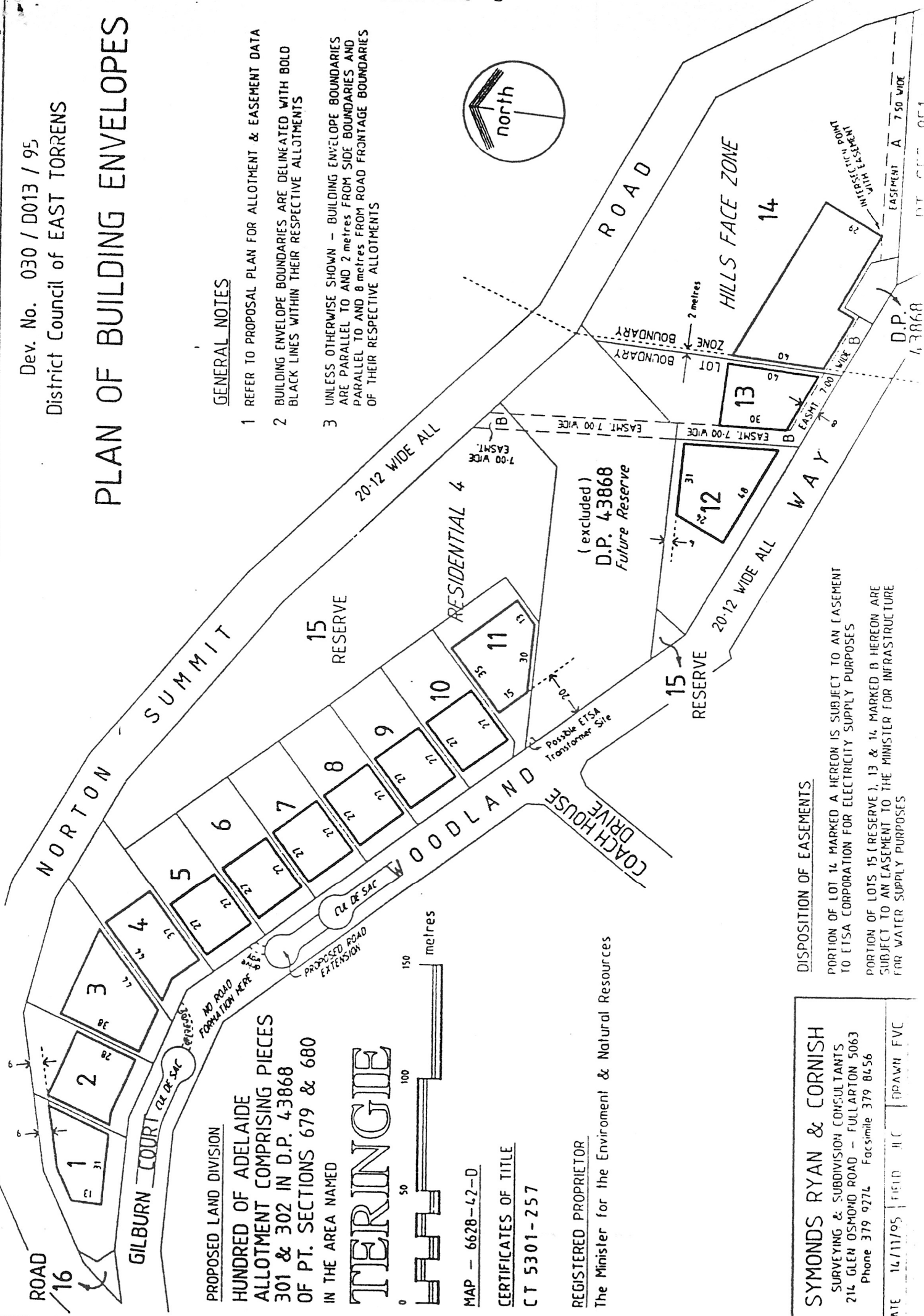
[Signature]
Licensed Surveyor: M.S. (Trust)

SYMONDS RYAN & COGNISH
Surveyors & Subdividers (Certificated)
111 GILBERT ROAD - ADELAIDE 5100 SA
Phone 336 4474 - Facsimile 336 4454

Dev. No. 030 / D013 / 95
 District Council of EAST TORRENS

PLAN OF BUILDING ENVELOPES

- GENERAL NOTES**
- 1 REFER TO PROPOSAL PLAN FOR ALLOTMENT & EASEMENT DATA
 - 2 BUILDING ENVELOPE BOUNDARIES ARE DELINEATED WITH BOLD BLACK LINES WITHIN THEIR RESPECTIVE ALLOTMENTS
 - 3 UNLESS OTHERWISE SHOWN - BUILDING ENVELOPE BOUNDARIES ARE PARALLEL TO AND 2 metres FROM SIDE BOUNDARIES AND PARALLEL TO AND 8 metres FROM ROAD FRONTAGE BOUNDARIES OF THEIR RESPECTIVE ALLOTMENTS



PROPOSED LAND DIVISION
 HUNDRED OF ADELAIDE
 ALLOTMENT COMPRISING PIECES
 301 & 302 IN D.P. 43868
 OF PT. SECTIONS 679 & 680
 IN THE AREA NAMED

TERLINGIE



MAP - 6628-42-D

CERTIFICATES OF TITLE
 CT 5301-257

REGISTERED PROPRIETOR
 The Minister for the Environment & Natural Resources

SYMONDS RYAN & CORNISH
 SURVEYING & SUBDIVISION CONSULTANTS
 214 GLEN OSMOND ROAD - FULLARTON 5063
 Phone 379 9274 Facsimile 379 8456

DATE 16/11/05 FIELD HC DRAWN FVC

DISPOSITION OF EASEMENTS
 PORTION OF LOT 14 MARKED A HEREON IS SUBJECT TO AN EASEMENT TO E.T.S.A CORPORATION FOR ELECTRICITY SUPPLY PURPOSES
 PORTION OF LOTS 15 (RESERVE), 13 & 14, MARKED B HEREON ARE SUBJECT TO AN EASEMENT TO THE MINISTER FOR INFRASTRUCTURE FOR WATER SUPPLY PURPOSES

8088282

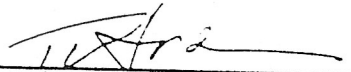
LANDS TITLES REGISTRATION
OFFICE
SOUTH AUSTRALIA

IN DUPLICATE

Series No	Prefix
	AG

FORM APPROVED BY THE REGISTRAR GENERAL

CERTIFIED CORRECT FOR THE PURPOSES
OF THE REAL PROPERTY ACT 1986

T.G. JORDAN 
Solicitor/Licensed Land Broker/Applicant

NOTES

This form may be used only when no panel form is suitable.

BELOW THIS LINE FOR OFFICE USE ONLY

Date		Time	
FEES			
R.G.O.	POSTAGE	ADVERT	NEW C.T.

EXAMINATION

<u>CORRECTION</u>	<u>PASSED</u>

BELOW THIS LINE FOR AGENT USE ONLY

Lodged by: AGENT CODE
R. V. JORDAN PTY. LTD
 Correction to: 217 EAST TERRACE
 ADELAIDE, S.A. 5000

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

1. LT 5301/257
 2.
 3.
 4.
 5.
- Assessor _____

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS

1.
2.
3.
4.
5.

DELIVERY INSTRUCTIONS (Agent to complete)
PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENT(S)

ITEM CT/CL REF.	AGENT CODE
<u>LT 5301/257</u>	<u>RVJO</u>

OFFICE
DATE

800000

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10 MAY 1966

REGISTERED/...../19

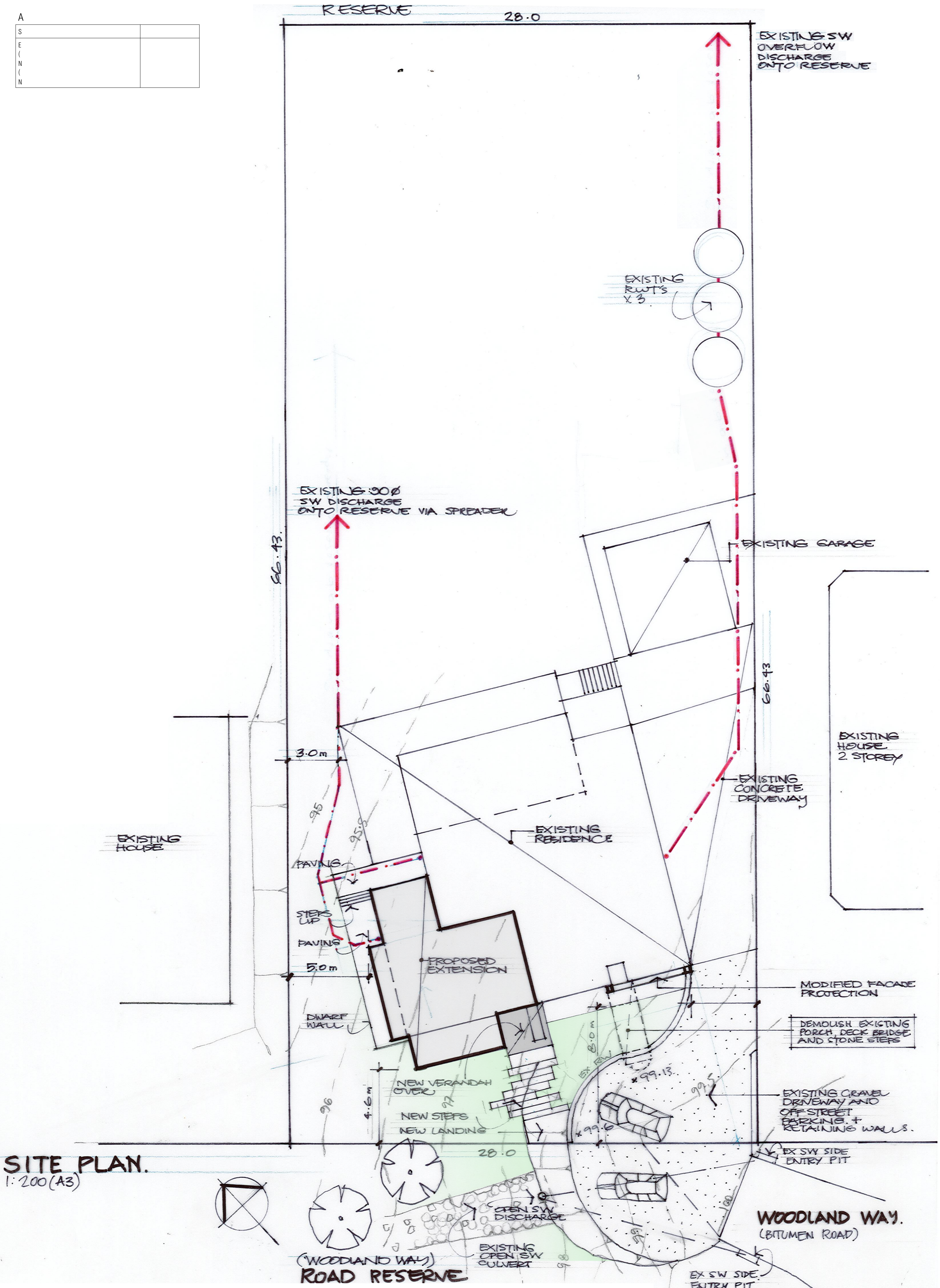
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REGISTRAR-GENERAL

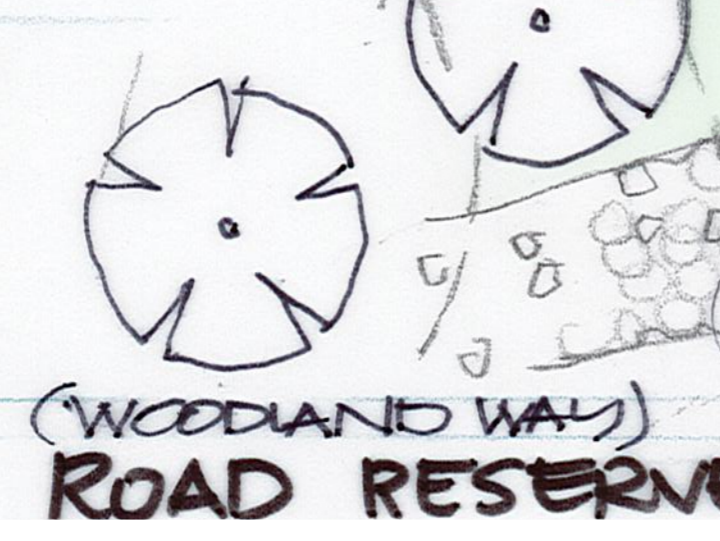
Appendix 3

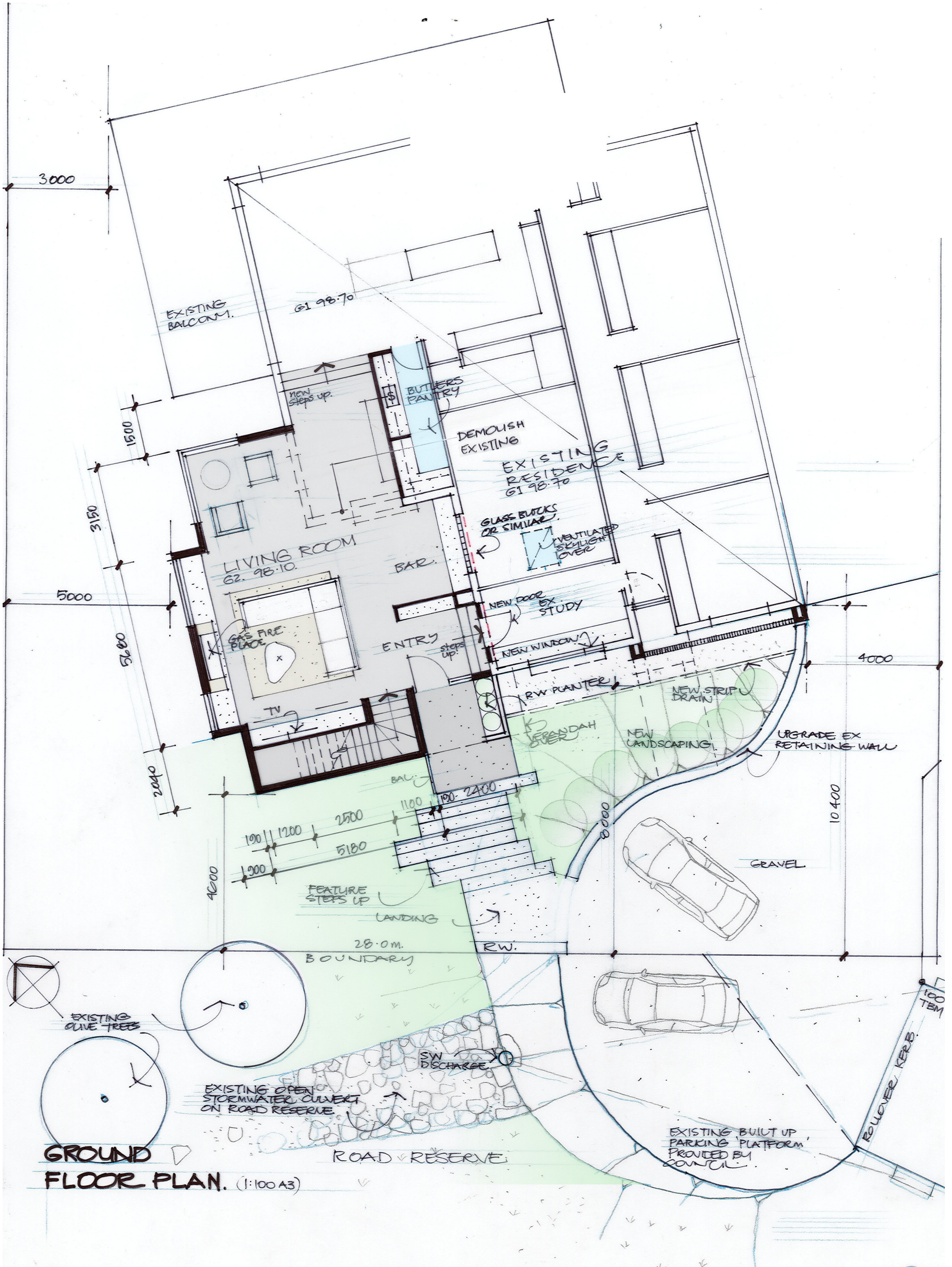
Development Plans

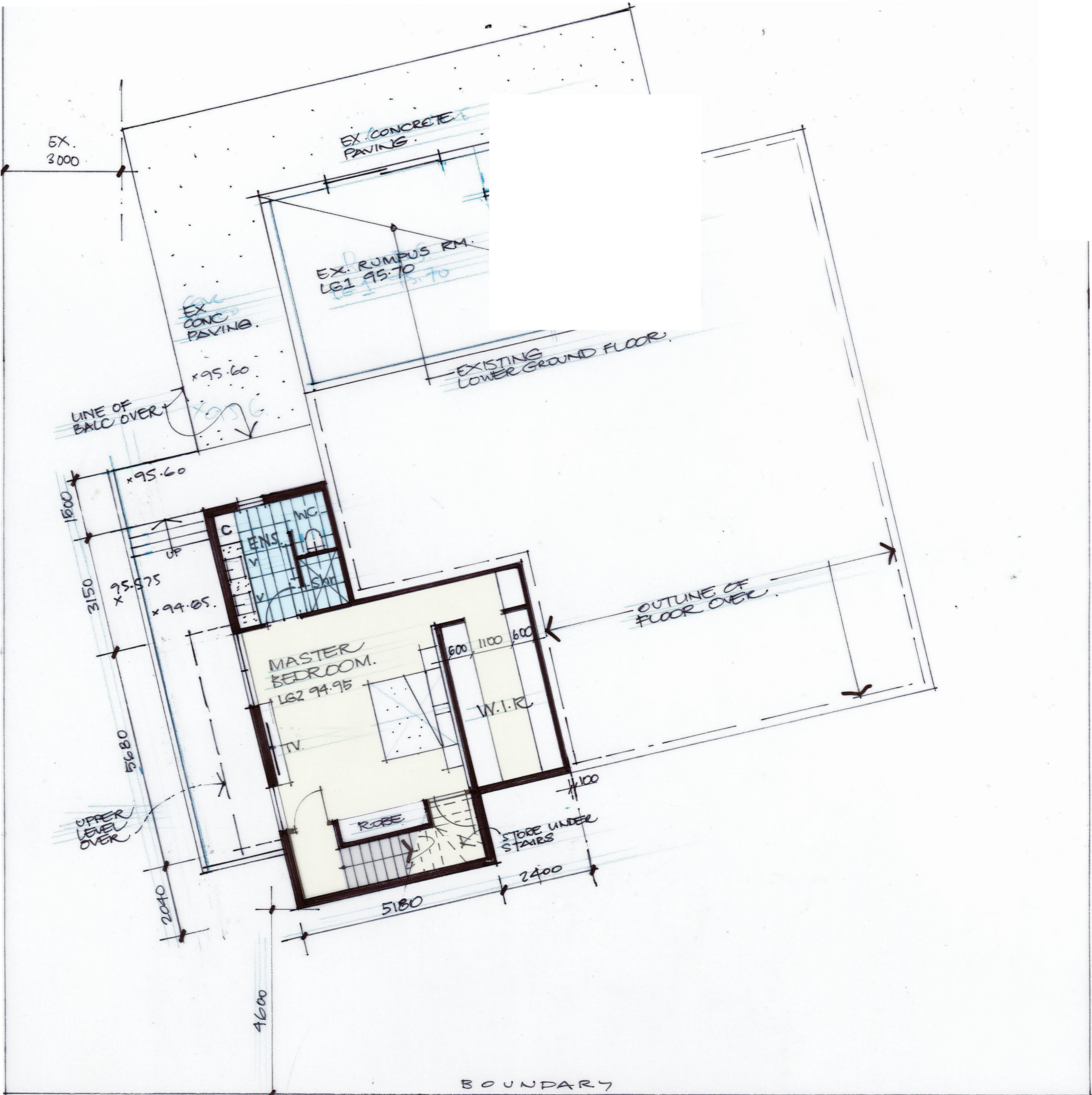
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SITE PLAN.
1:200 (A3)

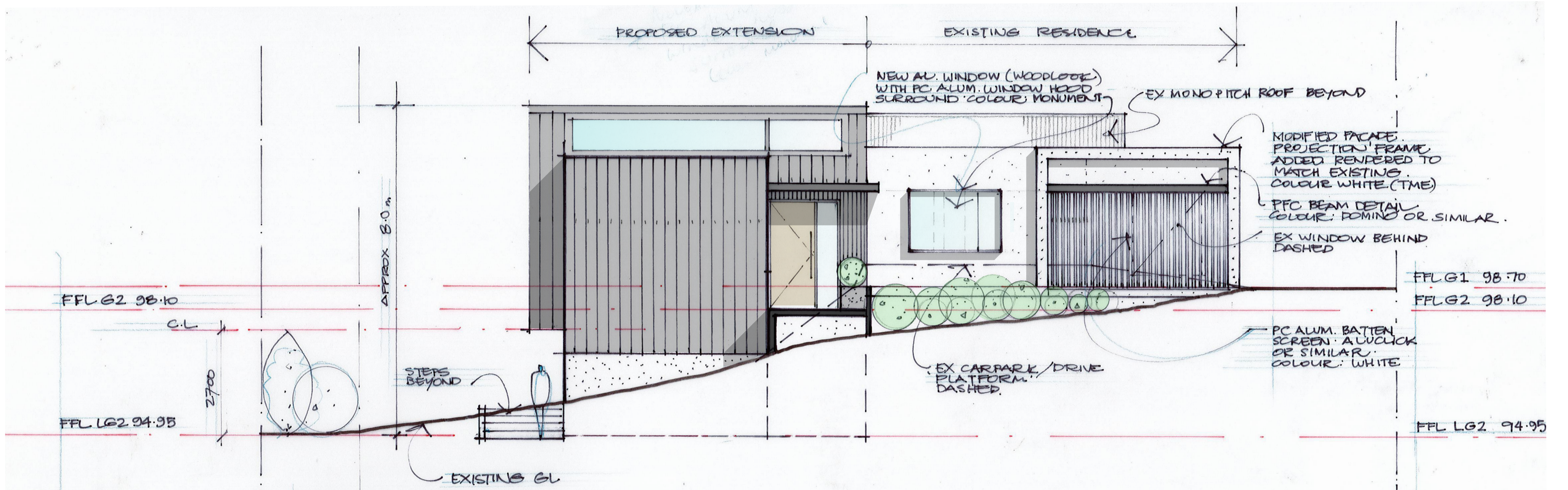




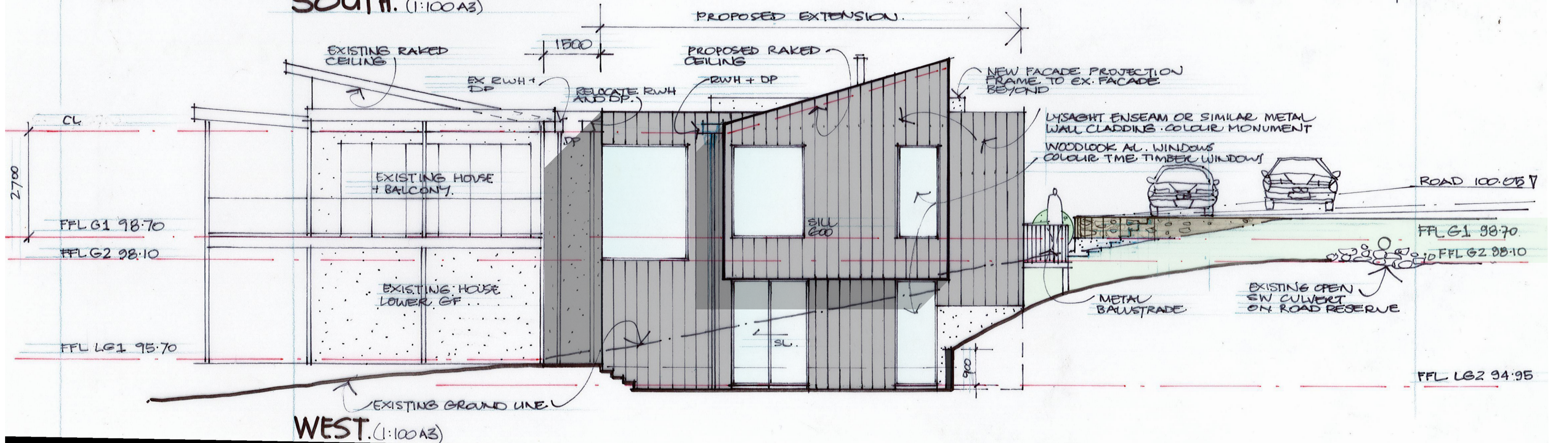


LOWER GROUND FLOOR PLAN. (1:100A3).

A	16.06.22	Issued to client	JD
B	30.06.22	Issued for Planning Consent	JD

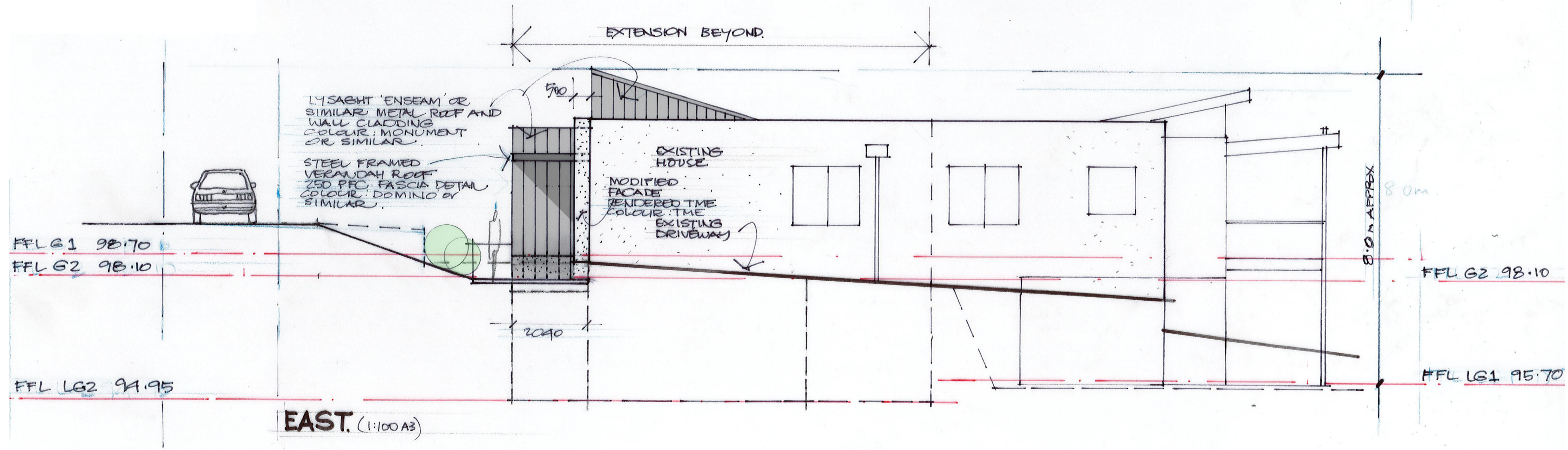
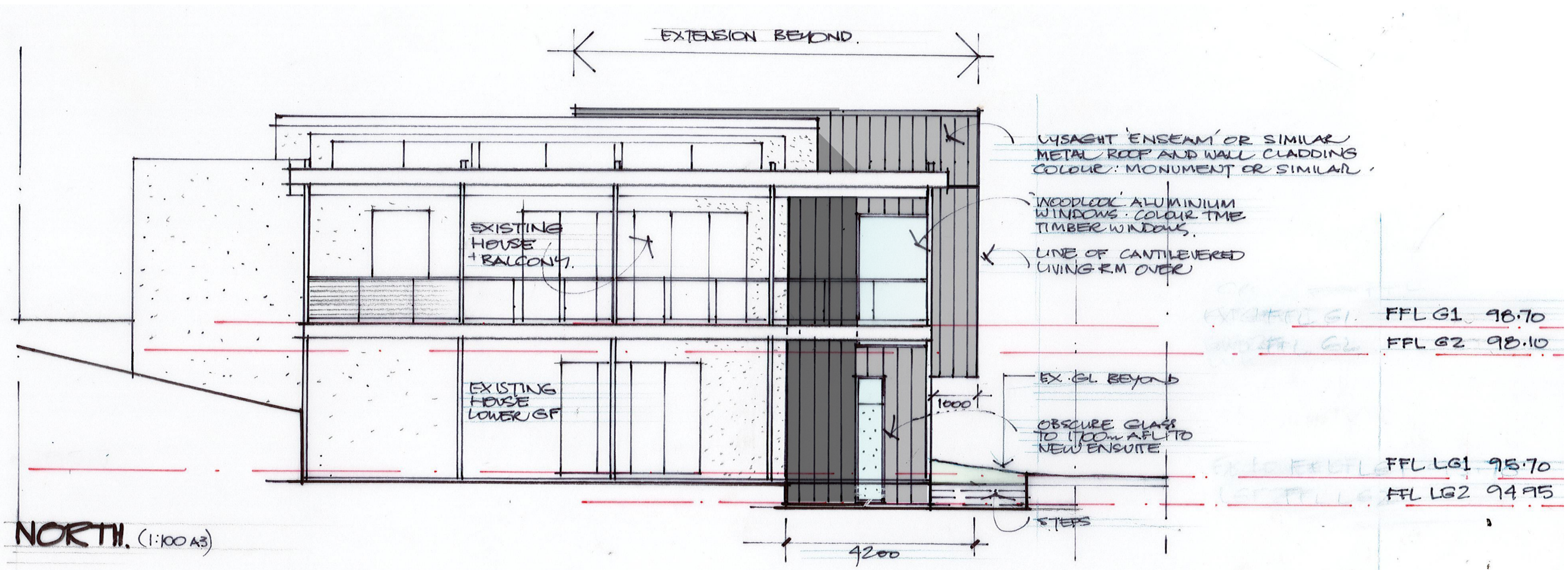


SOUTH. (1:100 A3)



WEST. (1:100 A3)

A	16.06.22	Issued to client	JD
B	30.06.22	Issued for Planning Consent	JD



A	16.06.22	Issued to client	JD
B	30.06.22	Issued for Planning Consent	JD

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 January 2022
AGENDA BUSINESS ITEM**

Item: 12.5

Responsible Officer: Karen Cummings
Manager, Property Services
Corporate Services

Subject: 37 Yanagin Road Greenhill – Revocation of Community land
Classification and Land Swap with Yanagin Reserve

For: Decision

SUMMARY

In approximately November 2021, as a result of an approach by the owner of the adjacent land at 37 Yanagin Road Greenhill, Council's Administration discovered an encroachment of privately owned infrastructure from land adjacent to Yanagin Reserve, Greenhill (refer to survey plan and aerial plan as shown in **Appendix 1**).

An encroachment can be defined as a structure or some other physical object that illegally protrudes onto another's land. Encroachments of private infrastructure on Council land present a risk in terms of public liability if those structures become unsafe, impacts on the environment, and the need to monitor and allow for access for maintenance of those structures. In order to remedy the encroachment, and thereby minimise the risk of private parties having infrastructure on Council land, Council's Administration has negotiated in principle an arrangement with the adjacent land owners of 37 Yanagin Road, Greenhill to complete a land swap of an area resulting in a net loss of Reserve area of 13m² (as shown in **Appendix 2**).

Yanagin Reserve (owned by Council) is subject to an existing Heritage Agreement. As a consequence of the proposed land swap, the existing Heritage Agreement would require an amendment to remove 162 sqm of land from the existing Agreement, and include an additional (new) area of land of 149 sqm. In order to undertake the proposed land swap, Council must also undertake a community land revocation process to remove the existing 162 sqm of land from the Community Land Register, and add back in a new open space area to be classified as community land of 149 sqm.

This report seeks Council approval to commence a community land revocation process with the intention of subsequently undertaking a land swap with the adjoining owners, and varying the existing Heritage Agreement.

RECOMMENDATION

Council resolves:

1. That the report be received and noted.
 2. That Council commence a revocation of community land process for the land identified in **Appendix 2** including consultation in accordance with Council's Public Consultation Policy and the *Local Government Act 1999* with the intention of undertaking a land swap with the owners of 37 Yanagin Road, Greenhill, together with varying the existing Heritage Agreement over Yanagin Reserve.
 3. That a report be brought back to Council following completion of the Community Consultation process.
-

1. BACKGROUND

The owners of 37 Yanagin Road Greenhill undertook a boundary survey whilst the property was under cooling off provisions in November 2021. It was discovered that the property's septic system and part of a carport / gutter had been built on the adjoining council reserve known as Yanagin Reserve in 2003. Both of these encroachments are shown on the survey plan at **Appendix 1**.

The placement of the waste system was approved by Council's Environmental Health department in the belief that the area that was inspected, and which had been fenced, was the true property boundary. It was noted at the time that the placement of the septic system was difficult due to the topography and rock faced slope of the land.

Prior to settlement of the property, the purchasers of the land contacted Council's property department to seek a possible resolution, particularly to the issue of the entire septic system having been built on the Council reserve. Council staff advised that an encroachment permit could be entered into for a 5 year term, while an investigation was undertaken to determine a suitable permanent solution. The possible outcome would be a boundary realignment resulting in the purchase of the affected area, or a land swap with a portion of the reserve.

2. ANALYSIS

Internal investigations were carried out and it was discovered that the adjoining Yanagin Reserve has an existing Heritage Agreement which was placed over the land in 2019. The Heritage Agreement is over 9.96 hectares of land as the Reserve scored a high Biodiversity score and is part of a large remnant native vegetation area in an area critical for conservation due to continual threat from weeds, pathogens (disease) and development. A copy of the existing Heritage Agreement is provided as **Appendix 3**.

In December 2021 council made contact with the Department for Environment and Water (DEW) on the advice of Council's Biodiversity Officer to ascertain if the Department would consider a boundary realignment to bring the adjoining property's septic system and corner of the existing garage into 37 Yanagin Road's property boundary. This would involve the Heritage Agreement being altered and partially removed from the reserve.

On the 28th of March 2022 advice was received from DEW noting that it would be likely that a variation to remove the section of land from the Heritage Agreement would be supported.

The advice received indicated that a new Plan would be required together with subsequent 'Variation' documents to the Heritage Agreement to be prepared. To formalise the removal of the piece of land from the Heritage Agreement, and until the documents are registered on title (for Yanagin Reserve), the land would still be considered part of the Heritage Agreement irrespective of any sale or transfer. It was advised that the proper administrative process must be followed to ensure registration.

The advice from DEW is that the change to the Heritage Agreement would only be provided after a community consultation process had been carried out, and Council had confirmed that the land would be sold / transferred to the adjacent land holder.

Following the above, a number of different options were presented to Council's Biodiversity team for consideration, and after further discussion between the land owner and Council's Property and Biodiversity teams, it was proposed that a 'land swap' would potentially ensure the best possible outcome for all parties.

A subsequent survey was undertaken (refer to **Appendix 2**) and due to the topography of the land, and plan lodgement requirements for simplified boundaries to be lodged with Land Services Group, the land swap, with a net difference of 13sqm in favour of the adjoining owner, is the preferred option for consideration of a boundary realignment.

On the 26th of October 2022, additional information was provided to Native Vegetation Branch (State Government) regarding the following:-

- Size of the area to be removed from the Heritage Agreement;
- What vegetation is present and if planted or remnant, and
- What biodiversity value the revised area represents.

In principle support has been obtained from representatives of the Department for Environment and Water (DEW) and Native Vegetation Branch to vary the Heritage Agreement to remove the 162sqm from the Heritage Agreement, and add back in 149sqm from the adjacent private property, resulting in a net loss of 13sqm from the existing Heritage Agreement area.

Following the public consultation process, a report will be prepared for consideration by Council to progress to the next stage of the revocation process, being an application to the Minister for Planning for approval for the revocation of the Community Land classification from the 162sqm of land proposed to be transferred to the adjacent property owner. At that time, approval for the land swap, together with the amendment to the Heritage Agreement will also be sought.

It should be noted that the current Heritage Agreement (**Appendix 3**) notes that "Item 3.3 – Management" is incomplete. Advice from Council's Open Space team is that the following annual works are undertaken at the Yanagin Reserve:

- Burning program – post burn weed follow up (\$2,500 per annum)
- Contractor weed management targeted in gully area (\$1,500 per annum)
- In house staff commitment for weed management along Greenhill Road (four days per annum)

If the proposal for the land swap moves forward and the Heritage Agreement is amended, the abovementioned information will be included in the new Heritage Agreement.

➤ **Strategic Management Plan/Functional Strategy/Council Policy Alignment**

Strategic Plan 2020-24 – A brighter future

Goal	A Prosperous Economy
Objective 2	Provide local infrastructure to drive growth and productivity
Priority E2.4	Manage and maintain Council assets to maximise their utilisation and benefit to the community.

Goal	A valued Natural Environment
Objective N1	Conserve and enhance the regional natural landscape character and amenity values of our region
Priority N1.1	Manage reserves and open space to support the community, whilst balancing biodiversity conservation, resource use and environmental impacts

Community Land is land held by the Council for the general benefit of the community. Community Land is used to provide places for people to interact, connect and enjoy as well as places for the conservation of our native flora and fauna.

➤ **Legal Implications**

Section 194 of the *Local Government Act 1999* governs the requirements for the revocation of Community Land. Yanagin Reserve is classified as community land under the provisions of the Act.

The Native Vegetation Council (NVC) is an advisory body established under the *Native Vegetation Act 1991*, and the Minister may not enter into, vary or terminate a Heritage Agreement without first consulting with and obtaining the approval of the NVC.

➤ **Risk Management Implications**

The engagement with the community to remove a portion of land immediately adjacent 37 Yanagin Road, Greenhill and Yanagin Reserve with a land swap will mitigate the risk of;

An unsustainable situation of an encroachment of adjoining septic infrastructure being left on Council land which will lead to long term risk management, of both a maintenance and biodiversity nature.

Inherent Risk	Residual Risk	Target Risk
High (3B)	Medium (3D)	Low (2D)

➤ **Financial and Resource Implications**

The council has met its own administration cost of the proposed land swap including the initial investigations with the adjoining landowner. Council has assisted the landowner by contributing to the cost of survey plans.

Undertaking a public consultation incurs an additional cost to Council for advertising. The costs to undertake the public notification in relation to advertising are estimated at \$1,000.

Given the net increase in land for the adjacent owner is 13sqm, it is proposed that aside from the administrative costs incurred, that there be no monetary compensation paid by the adjoining owner for the land. It is suggested that the adjacent land owner meet costs in relation to relocation of boundary fencing.

➤ **Customer Service and Community/Cultural Implications**

Not applicable.

➤ **Sustainability Implications**

The existing Heritage Agreement is to remain in place with some amendments to the area as outlined in this Report. Consultation with Councils Natural Resource Officer identified the existence of a Heritage Agreement being placed over the adjoining reserve known as Yanagin Reserve in March 2019 and the existence of the following vegetation in the area:

- The vegetation within the land being incorporated into the private property from the proposed boundary realignment is mostly highly modified urban garden. The area to the rear being incorporated back into the reserve contains some juvenile Eucalyptus obliqua (Stringybarks) and a large Exocarpis cupressiformis (Native Cherry), but largely clear of any notable understorey.
- The biodiversity value that the area represents is described in precinct 1 as Eucalyptus obliqua +/- E. leucoxylon Woodland over tall shrubs and sedges in the BushRAT. However, the area around the rainwater tank within the reserve and adjacent no 37 has been kept clear of understorey and mown for firefighting purposes, comprised mostly of exotic grasses

➤ **Engagement/Consultation conducted in the development of the report**

A Community consultation is proposed with a further report to come back to council.

Consultation on the development of this report was as follows:

<i>Council Committees:</i>	Not Applicable
<i>Council Workshops:</i>	Not Applicable
<i>Advisory Groups:</i>	Property Advisory Group in December 2021
<i>External Agencies:</i>	Native Vegetation Branch Department of Environment and Water
<i>Community:</i>	Not applicable

➤ **Additional Analysis**

During discussion between the owners and Council’s Property and Biodiversity teams, the owners of 37 Yanagin Road requested that access to maintain their infrastructure for example septic system & large rainwater tank, in the future be considered and in particular that access through the adjoining reserve be upheld. The biodiversity team have advised that they are in the process of updating the Management Plan for Yanagin reserve and will include the following statement in the Plan:-

“Council may apply an adopted standard of a 5 metre-wide conservation buffer zone along property boundaries adjacent reserves. Fuel reduction in the buffer zone is generally achieved by using a tractor-drawn slasher and brush cutting where necessary, during late November. Council will not under any circumstances revegetate with anything besides native grasses and ground covers within 5m of the property fence line. Council also have a requirement to maintain access to rainwater tanks for firefighting purposes, so these are slashed to maintain a bushfire buffer zone of 10m around firefighting structures, to ensure access by firefighting equipment.

As such, in the case of 37 Yanagin Road, a 5m wide conservation buffer zone alongside the fence will be able to be accessed by trucks and contractors should upgrades and maintenance to the resident’s septic and rainwater tanks be necessary. The residents will need to request permission to gain site access to No 37 through the reserve, as there will be some requirements for entering/exiting the reserve, including hygiene (wash down) procedures to prevent the spread of phytophthora, other pathogens and weeds.”

It is important that the issue of the private infrastructure on Council land be resolved, particularly as it relates to the entirety of the private septic tank on Council’s land. Keeping the system on Council’s existing Reserve could potentially cause maintenance and biodiversity, and risk issues in the future.

3. OPTIONS

Council has the following options:

- I. Resolve to commence the revocation of the community land process and to vary the Heritage Agreement to remove 162 sqm being a portion of the land known as Yanagin Reserve Certificate of Title Volume 5636 Folio 762. (Recommended)
- II. Not resolve to commence the revocation of the community land classification, and to not vary the Heritage Agreement. This would leave the adjoining owner’s septic system on the Council reserve and potentially cause maintenance and biodiversity implications in the future (Not Recommended)

4. APPENDICES

- (1) Identification of Encroachment
- (2) Survey Plan – Proposed new land swap boundary
- (3) Heritage Agreement

Appendix 1

Identification of Encroachment

Appendix 1

'Identification of Encroachment '

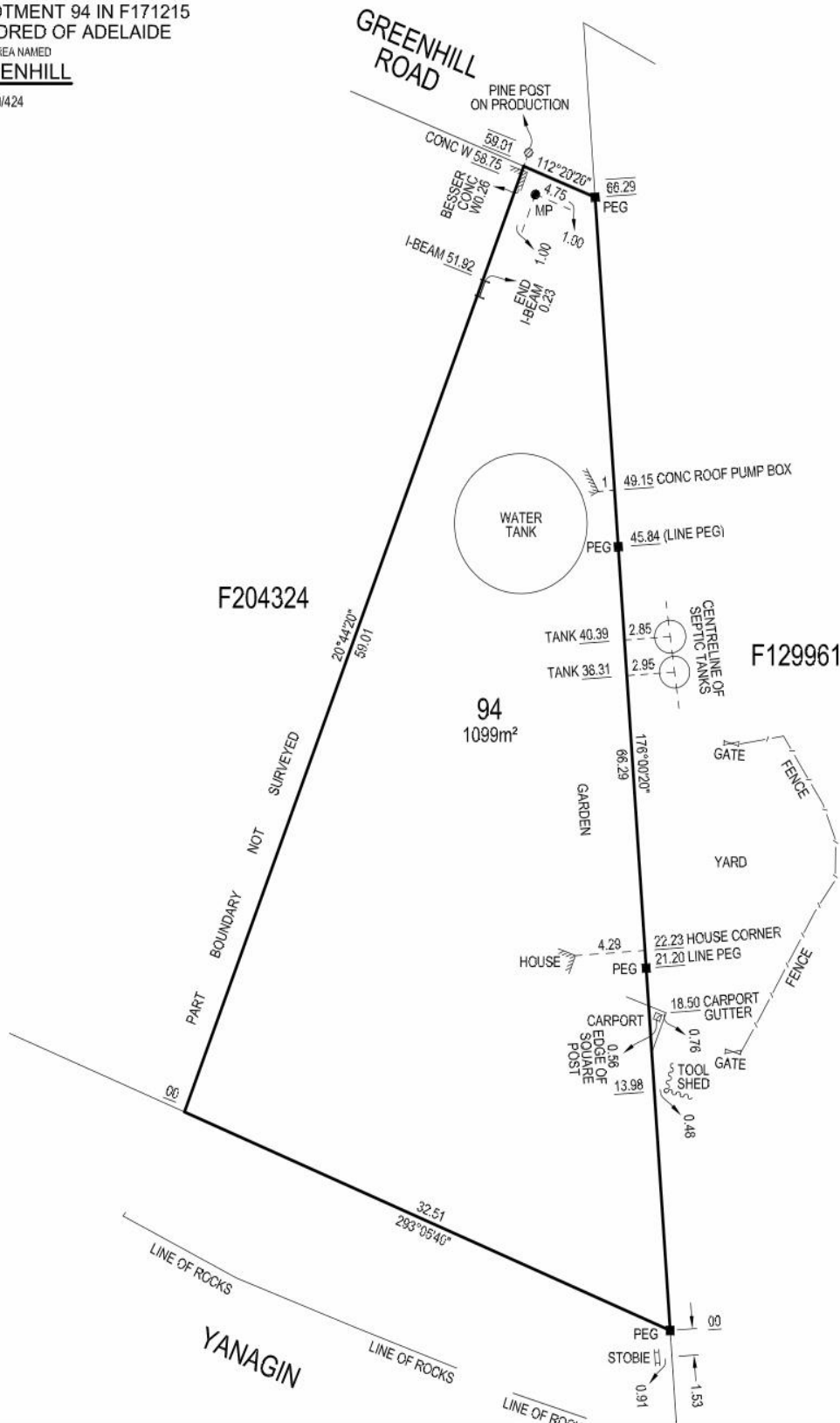


IDENTIFICATION SURVEY

ALLOTMENT 94 IN F171215
HUNDRED OF ADELAIDE

IN THE AREA NAMED
GREENHILL

CT 5350/424



Appendix 2

Survey Plan – Proposed new land swap boundary

PROPOSED PLAN OF DIVISION

Council: ADELAIDE HILLS COUNCIL

DEV. No.:

TITLE SYSTEM: REAL PROPERTY ACT

TITLE REFERENCE: CT 5350 /424
CT 5636 / 762

TOTAL AREA: 1464m²

MAP REFERENCE: 6628 / 48 / A

HUNDRED: ADELAIDE

AREA: GREENHILL

**ALLOTMENT 94 IN F171215
ALLOTMENT 7 IN F129961
YANAGIN ROAD**

STATEMENTS CONCERNING EASEMENTS ANNOTATIONS AND AMENDMENTS

PORTIONS OF LAND WITHIN ALLOTMENT 94 IN F171215 HATCHED GREEN ARE TO BE MERGED WITH ALLOTMENT 7 IN F129961

PORTIONS OF LAND WITHIN ALLOTMENT 7 IN F129961 HATCHED PURPLE ARE TO BE MERGED WITH ALLOTMENT 94 IN F171215

AREAS SHOWN IN RED ARE THE HATCHED PORTIONS

NEW ALLOTMENT CONFIGURATION DUE TO 1.50m OFFSET TO WATER TANK, 1.00m TO CARPORT GUTTER AND ALLOW FOR NEAR EQUAL BALANCE OF LAND EXCHANGE

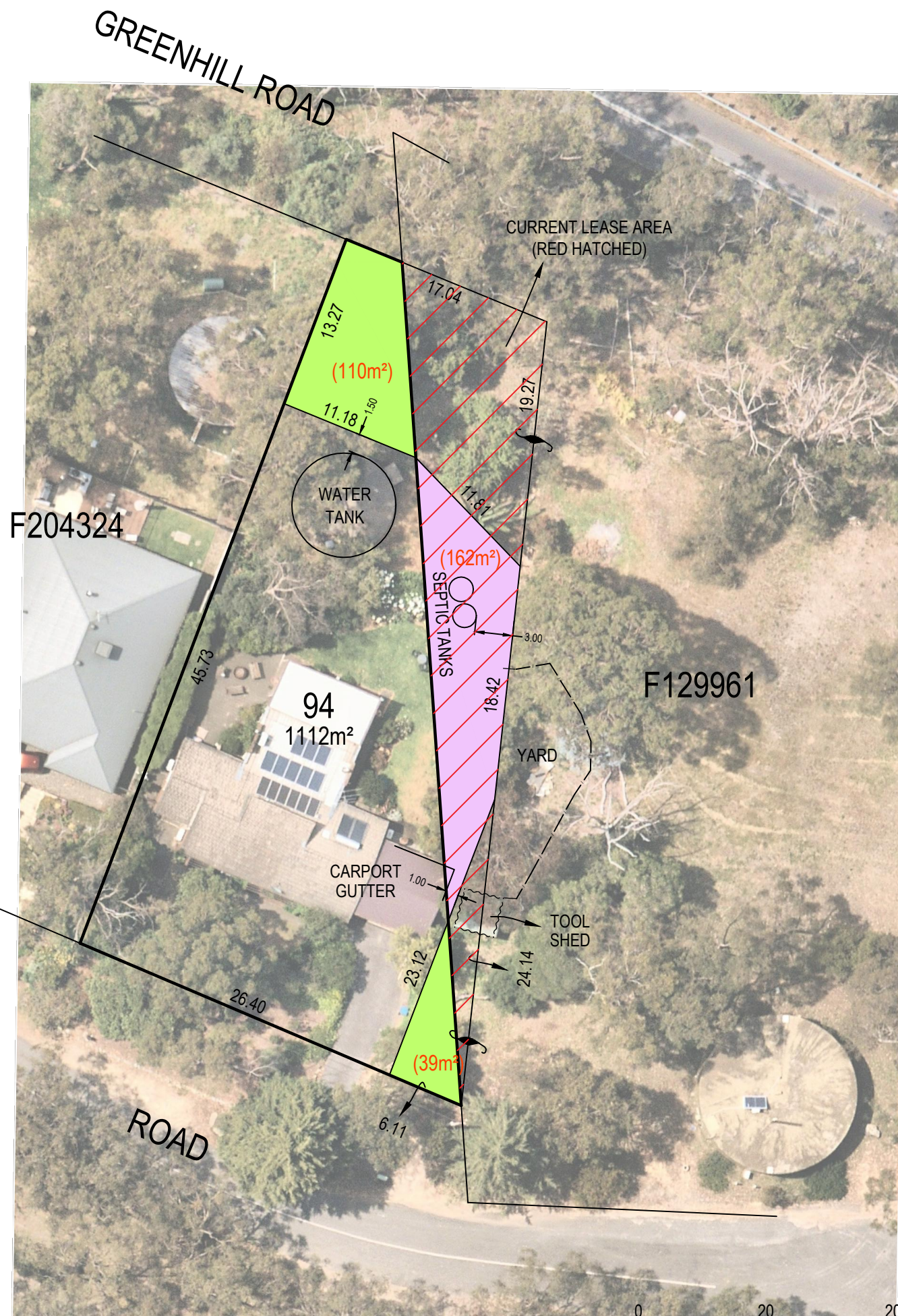
NOTE:
THIS PLAN WAS PREPARED AS A PROPOSED SUBDIVISION AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE. THE DIMENSIONS SHOWN HEREON ARE SUBJECT TO SURVEY AND THE REQUIREMENTS OF COUNCIL AND OTHER RELEVANT AUTHORITIES.

NO RELIANCE SHOULD BE PLACED ON THE INFORMATION ON THIS PLAN FOR ANY FINANCIAL DEALINGS INVOLVING THIS LAND. THIS NOTE IS AN INTEGRAL PART OF THE PLAN.

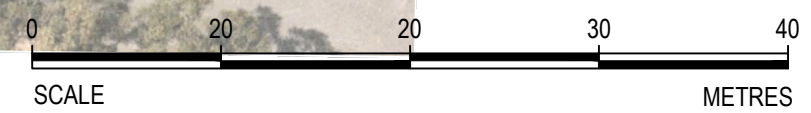
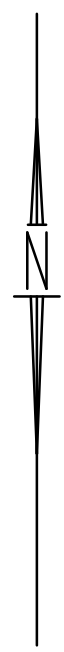
SCALE 1:400 (A3) REVISION: 0

DATA SUBJECT TO SURVEY

DATE: 14/10/2022 SEM REF: PL11908



EXCHANGE OF LAND:	
(GREEN) GIVING	110m ²
	39m ²
	<u>149m²</u>
(PURPLE) GAINING	162m ²
	<u>162m²</u>
TOTAL	= +13m²



PyperLeaker
surveying services
p 08 8373 3880
a 78 Goodwood Road
Wayville SA 5034
e info@pyperleaker.com.au

Appendix 3

Heritage Agreement



Government of South Australia

Department for Environment
and Water

**Native Vegetation Branch
CLIMATE CHANGE GROUP**

81-95 Waymouth Street
ADELAIDE SA 5000

GPO Box 1047
Adelaide SA 5001

Ph: +61 8 8207 7719
Fax: +61 8 8303 9780

Karina.mercer@sa.gov.au

nvc@sa.gov.au

**HA 1593
DEW 2018/1006**

6 March 2019

Attention: Steven Brooks
Biodiversity Officer
Adelaide Hills Council
PO Box 44
WOODSIDE SA 5244

Dear Steven

Re: Finalised Heritage Agreement (AH 13065337) – Yanagin Reserve

I'm pleased to advise the Heritage Agreement for Adelaide Hills Council 'Yanagin Reserve' has been finalised and assigned the number "1593". An original signed and sealed copy of the Agreement is enclosed for your records.

Also enclosed are 2 Heritage Agreement signs that may be erected at the site. Should you require any additional signs, please let me know.

This office will notify the State Valuation Office of your newly registered Heritage Agreement.

Thank you for your valuable contribution to the conservation of biodiversity in South Australia by protecting your bushland with a Native Vegetation Heritage Agreement. Your commitment to conservation in South Australia in creating this permanent private nature refuge has made a significant contribution to conserving our State's biodiversity, and plays a vitally important role in helping to protect our precious natural environment.

Kind regards

Karina Mercer
Heritage Agreement Officer
Native Vegetation Branch

Document Information	
Client	Adelaide Hills Council
Issue Date	16/12/16
Version	1.0
Author	Tanya Milne
Title	Ecologist
Verified by	Tim Milne
Title	Director

Document History	
Version	Issue Date
1.0	16/12/16

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Certain assumptions have been made in the preparation of this report. We have assumed that all information and documents provided to us by the Client or as a result of a specific request or enquiry were complete, accurate and up-to-date. Where we have obtained information from a government register or database, we have assumed that the information is accurate. Where an assumption has been made, we have not made any independent investigations with respect to the matters the subject of that assumption. We are not aware of any reason why any of the assumptions are incorrect.

T & M Ecologists Pty Ltd

5/26 Hack St

Mount Barker, South Australia 5251

Telephone: (08) 8185 3225

Tim.milne@tmecologists.com.au

ASSESSMENT OF PROPOSED HERITAGE AGREEMENT AREA

To:	Native Vegetation Council	Subject:	Heritage Agreement	Reviewed by:
From:	Executive Officer, NVC	Application No./Reserve Name:	Yanagin Reserve	Manager BAS
		Reg't Date:		

Section 1 Application details & Assessment Summary

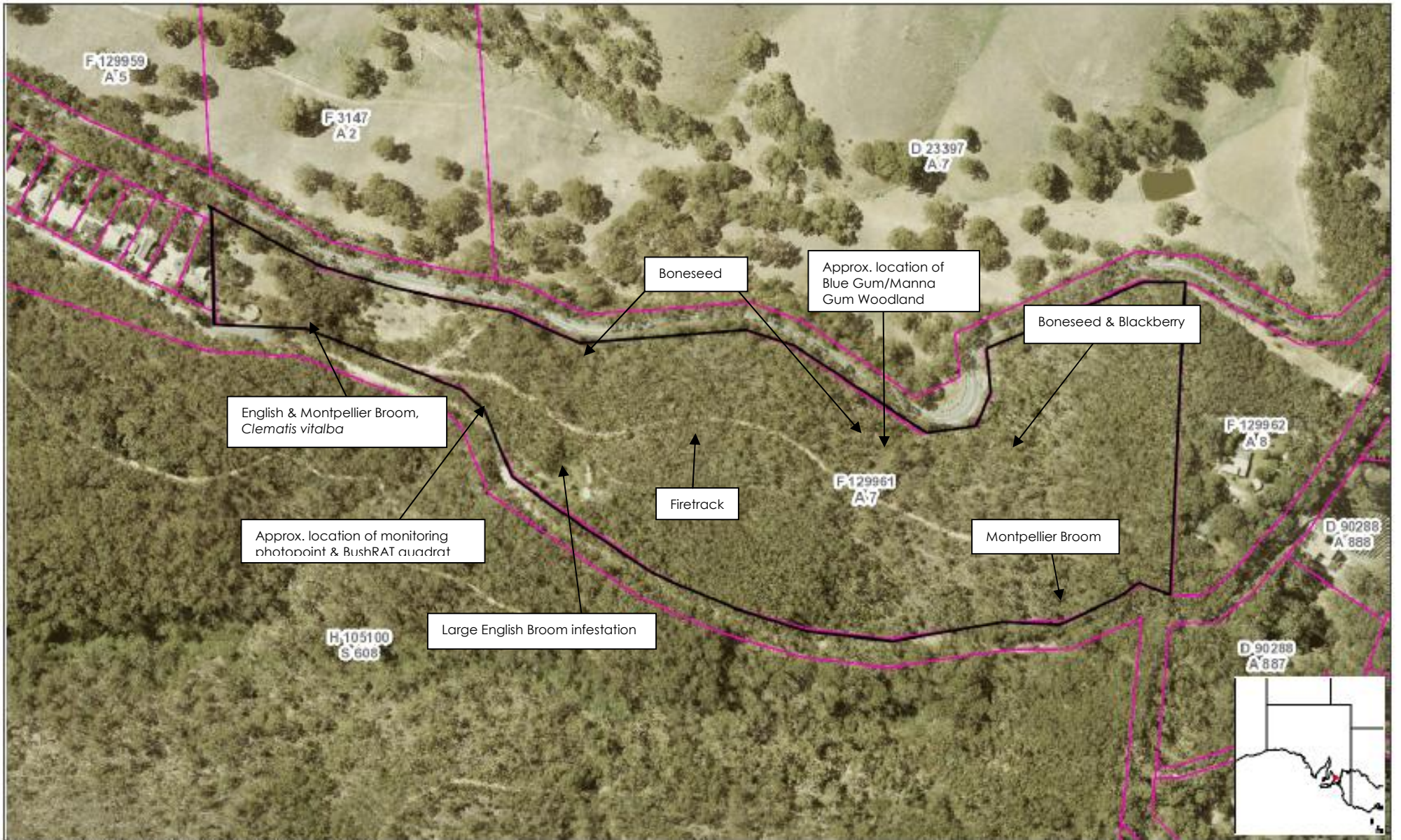
Applicant:	Adelaide Hills Council	Address:	PO Box 44 Woodside 5244		
Agent:	T & M Ecologists	Address:	5/26 Hack St Mt Barker 5251		
Property Details:	Local Gov. Area:	Hundred:	Section(s):	Title Details:	Area Applied For (ha):
	Adelaide Hills Council	Adelaide	A7 F129961	CT 5636/762	9.96
Previous inspections in relation to this application: Ben & Melissa McCallum (EAC Ecological Evaluation) 2010, 2015.					
Reporting Officer: Tanya Milne (subcontractor to T & M Ecologists)					
Fencing Reviewed: None required		Major Vegetation Association: <i>E. obliqua</i> (Messmate Stringybark) Woodland			

Assessment	Benchmark
Has several invasive weed species present at low covers (i.e. not currently considered a major management problem), but without regular weed control and monitoring may require extensive management effort in the future.	Disturbance: <i>Relatively undisturbed or has no major management problems or an acceptable plan to deal with existing problem OR</i>
Forms part of a very large remnant in the Hills Face Zone.	Size / Remnancy: <i>A good size for the region or if small, should be a significant remnant in an area that has been extensively cleared or should have a good perimeter to size ratio for fencing OR</i>
Has high plant species diversity with in excess of one hundred species, and is providing important habitat for several threatened fauna species.	Conservation Value: <i>At least one high conservation value feature –eg good corridor/ high conservation value plants, animals or plant association/ wetland/ grassland/ high species diversity/ good HA Biodiversity score (above 15) AND</i>
Nil.	Fencing costs: <i>less than \$15,000</i>
Yes	Fits criteria for delegated authority from NVC ?

T & M Ecologists requests that the NATIVE VEGETATION MANAGEMENT UNIT advises:

THAT the Native Vegetation Council recommends to the Minister for Environment & Conservation that a Heritage Agreement be entered into with Adelaide Hills Council over 9.96 hectares of native vegetation contained in A7 F129961.

Proposed Heritage Agreement Boundary and approximate locations of major weed infestations and S.A. Blue Gum patch



Map data is compiled from a variety of sources and hence its accuracy is variable.

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0 180 Metres

Compiled: 7-Dec-2016
 Generated at: www.naturemaps.sa.gov.au
 Datum: Geocentric Datum of Australia, 1994
 Projection: Web Mercator (Auxiliary Sphere)



Government of South Australia
 Department of Environment,
 Water and Natural Resources

Section 2 Biodiversity Description & BushRAT Score

2.1 SITE DESCRIPTION AND SCORES

Size (ha)	9.96	BushRAT quadrat reference	291049E 6129176N Zone 54 Datum WGS84
General Site Description	A heavily-wooded ridgeline that incorporates steep south, north and north-west facing slopes. This reserve was assessed and scored using the Bushland Rapid Assessment Technique ¹ in 2010, then rescored in 2012 so that scores were comparable with the most updated version of the method. A second inspection (including scoring) was undertaken in 2015.		
Vegetation Association	<p>The reserve was assessed in 2010/2012 as one vegetation association ('site') only: <i>Eucalyptus obliqua</i> (Messmate Stringybark) Open Forest/Woodland over Tall Shrubs and Tussocks. The 2015 inspection detected a second vegetation association: <i>E. leucoxyton</i> ssp. <i>leucoxyton</i> (S.A. Blue Gum) +/- <i>E. viminalis</i> ssp. <i>viminalis</i> (Ribbon Gum) Woodland, but its small size did not warrant a redrawing of site boundaries. Additional data was, however, recorded for the Blue Gum area as a stand-alone, and will be submitted to NVMU as an addition to the BushRAT datasheets.</p> <p>The Messmate Stringybark Woodland has an understorey characterised by <i>Daviesia leptophylla</i> (Narrow-leaf Bitter-pea), <i>Pultenaea daphnoides</i> (Large-leaf Bush Pea) and the tall tussock <i>Lepidosperma semiteres</i> (Wire Rapier-sedge). Also present in large numbers are <i>Exocarpos cupressiformis</i> (Native Cherry), <i>Acacia pycnantha</i> (Golden Wattle), <i>Hibbertia crinita</i> (Guinea-flower) and <i>Hibbertia exutiacies</i> (Prickly Guinea-flower) and the introduced weed species <i>Chrysanthemoides monilifera</i> ssp. <i>monilifera</i> (Boneseed) and <i>Senecio pterophorus</i> var. <i>pterophorus</i> (African Daisy). Groundcover is a mix of annuals, leaf litter, small logs, microphytic crust and some protruding bedrock.</p> <p>The S.A. Blue Gum/Ribbon Gum Woodland occurs over sedges, forbs and grasses, including several weed species.</p>		
²BCM 'Benchmark' Community	The vegetation association has been scored against the following NCSSA 'benchmark' community: <u>SMLR 1.1 Eucalypt Forest & Woodlands with Dense sclerophyll Shrub Understorey (Trees > 10m tall)</u>		
Management Category (maintain, improve, reconstruct)	Maintain		
Soil, aspect, landform description (from Laut, P. et al., 1977); Remnancy	<p>The western half of the reserve falls within the Mt Terrible Environmental Association, which retains 41% of its original native vegetation and is described as: 'ridges and hills on metasediments... mixed cover of open parkland, pastures and orchards in an urban fringe setting'.</p> <p>The eastern half is part of the Clarendon Environmental Association, which retains 34% of its original native vegetation and is described as: '<i>Hilly uplands with dissected lateritic tableland remnants. There is a cover of mixed open parkland, forest and woodland, with small areas of orchards. Most of the association is used for grazing but much grazing land, as well as forest and woodland areas, is part of a recreation resource for metropolitan Adelaide</i>'.</p> <p>While these figures do not suggest extensive clearance in the region, it should be borne in mind that continual incremental clearance is occurring throughout the Adelaide Hills for housing, road upgrade, and attempts at fuel load reduction and fire protection.</p>		

¹ Native Vegetation Management Unit, DEWNR/ Nature Conservation Society of S.A. Inc.).

² Refer to link above

	Such clearance is fragmenting important habitats and spreading weeds and pathogens. Reserves such as Yanagin are therefore critical areas for conservation both now and into the future, and should be granted adequate support and funding for immediate on ground management.		
Vegetation Condition score (VC)	<p>Vegetation Condition score is moderate. The score dropped from 67 to 58 between 2012 and 2015. This appears largely due to an increase in cover of <i>highly threatening</i> weed species (rather than weed cover overall) and a reduction in recruitment. However, it is possible that the difference in score can be partly attributed to the fact that the BushRAT assessment methodology was upgraded from its draft format between these inspections, and different areas will have been surveyed.</p> <p>Native plant species diversity and life form diversity remain high for this reserve, as does tree health, even though the 2010 survey notes a small patch of dieback at the eastern end of the reserve and the 2015 survey another patch in the Blue Gum community near the road.</p> <p>The vegetation condition scores indicate that weed infestation is the main management issue in the reserve.</p>		
Conservation Significance Score (CS)	<p>Conservation Significance score is moderate at 12. In 2010 the score of 10 was given, but this increased to 12 following the discovery of <i>Rytidosperma tenuis</i> in the area given to be the survey quadrat.</p> <p>If any future monitoring/scoring is undertaken, additional points should be given for the fact that the survey quadrat is providing suitable habitat for the Southern Brown Bandicoot, Yellow-footed Antechinus and Pygmy Copperhead in addition to the bird species originally listed i.e. the fauna score should be 13, and the conservation significance score 18, which is considered to be high.</p> <p>Refer also to Sections 2.4 and 2.6.</p>		
Landscape Context Score (LCS)	Landscape Context Score is 10, which is moderate. The reserve attracts considerable points for the fact that it forms part of a much larger remnant. Note that the most up-to-date version of the BushRAT assessment method (entitled 'Bushland Assessment Method') scores Landscape Context differently, and should be used next time the reserve is monitored (keeping in mind that the landscape context scores over time cannot then be directly compared).		
Unit Biodiversity Score (sum of VC, CS and LCS)	83 (2015)	Total Biodiversity Score (= Unit Biodiversity Score x size (ha))	1008 (2015)

2.2 PHOTOGRAPHS



Photo 1. Fire track - *Eucalyptus obliqua* (Messmate Stringy-bark) and *Eucalyptus baxteri* (Brown Stringy-bark) and dense shrubland.



Photo 2. *Tetratheca pilosa* ssp. *pilosa* (Pink-eyed Susan).



Photo 3. *Olearia grandiflora* (Mount Lofty Daisy-bush) an Uncommon plant is throughout the reserve in small patches.



Photo 4. *Eucalyptus leucoxylon* ssp. *leucoxylon* (S.A. Blue Gum) area on north-facing slope.



Photo 5. *Hypericum gramineum* (Small St John's Wort)



Photo 6. Large *Cheilanthes* patch in rock cutting

2.3 BUSHRAT SUMMARY SCORESHEET

Please also refer to Section 2.1 for comment on the fauna score in the sheet below.

NVBMU Biodiversity Rapid Assessment Summary Scoresheet			
derived data shaded red			
SITE: 12 Yanagin 1		RECORDER: B McCallum	DATE: 12/6/2
DESCRIPTION: Eucalyptus obliqua Woodland over tall shrubs and tussocks		BCM CODE: SMLR 1	
VEGETATION CONDITION SCORE (max. in		LANDSCAPE CONTEXT SCORE	score
Native Plant Species Diversity (15)	15	2 pts if site is the only substantial connection between 2 or more remnants ¹	
Weed Score (15)	3	>20 ha, 1 pt if site is degraded (scattered trees in part, fragmented etc)	0
Native Plant Life Forms (10)	10	Site Shape Score	
Regeneration (8)	7	3 pts if Cleared perimeter:Area (km/km ²)<6,	
Native/exotic Understorey Biomass (10)	10	2 pts if P:A 6 to <12, 1pt if P:A 12 to <18	1
Bare Ground (3)	3	Size of remnant¹ patch (incl. native veg on adjacent properties) score	
Tree Health (5)	5	Patch size less than 2 ha 0 pts	
Hollow-bearing trees (5)	4	Patch size 2-5 ha 1 pt	
Fallen timber/debris (5)	2	Patch size 5-10 ha 2 pts	
Grazing Evidence (4)	4	Patch size 10-20 ha 3 pts	
TOTAL (ADD UP ALL POINTS)	63	Patch size 20-100 ha 4 pts	
If community is naturally treeless x TOTAL by 1.23		Patch size 100-500 ha 5 pts	
If community is not benchmarked for regen x 1.11		Patch size >500 ha 6 pts	6
ADJUSTED TOTAL SCORE	63	Distance to remnant area of more than 50 hectares score	
CONSERVATION SIGNIFICANCE SCORE:	score	>3km 0 pts	
2 pts for each State-R, 4 pts for each State-V,		1-3km 1 pt	
6 pts for each State-E or Nationally-V, 8 pts for each Nationally-E ecosystem/ecological	0	<1km 2 pts	
2 pts for each State-R, 4 pts for each State-V,		contiguous 3 pts	3
6 pts for each State-E or Nationally-V, 8 pts for each Nationally-E plant species present ² ,	4	LANDSCAPE CONTEXT SCORE	10
1 pt for each State-R, 2 pts for each State-V,		Sum adjusted Vegetation Condition, Conservation significance and Landscape Context Scores for the	UNIT BIODIVERSITY SCORE
3 pts for each State-E or Nationally-V, 4 pts for each Nationally-E fauna species for which suitable habitat is present. Double points for a sighting. ³	7		
% native vegetation remaining in IBRA Assoc. 0-2% = 5 pts; >2-5% = 4 pts; >5-10% = 3 pts; >10-20% = 2 pts; >20-50% = 1 pt; >50% = 0 pts	1		
1 pt if Site contains a riparian zone, 2 pts if contains swamp/wetland (+/- riparian zone)	0		
CONSERVATION SIGNIFICANCE SCORE	12	Total Biodiversity Score (UBS x size)	1008
Cleared perimeter(m)	Size(ha)	P:A Ratio	
1500	11.86	12.65	
Total no. native species	Adjust for Spring⁴	Environmental Association	
77		Mt Terrible/Clarendon	
Weed species (Top 5 Cover x Invasiveness, annuals in bold)	Cover (max. 6)	Weed Threat Rating (max. 5)	C x I
<i>Rubus</i> sp.	1	5	5
<i>Genista monspessulana</i>	2	4	8
<i>Cytisus scoparius</i>	1	4	4
<i>Watsonia meriana</i> ver. <i>bulbillifera</i>	1	4	4
<i>Chrysanthemoides monnifera</i>	2	4	8
		Total Cover x Threat	29

2.4 NATIVE PLANT SPECIES LIST

Data sourced from BushRAT inspection (date/s): 23/ 7 / 2010

Additional species recorded during the 2015 revisit are included in blue.

AUS=Australia EPBC Act 1999: CR = Critically Endangered, EN = Endangered, VU = Vulnerable
SA=South Australia NPW Act 1972: E = Endangered, V = Vulnerable, R = Rare

Subregional Status categories for DEWNR regions (as per Regional Species Conservation Assessments, DEWNR):
RE = Regionally Extinct; CR = Critically Endangered; EN = Endangered; VU = Vulnerable; RA = Rare

Species	Common Name	Conservation Status			Vegetation Association	
		AUS	SA	MLR subregion	A1	Outside of Quadrat ONLY
<i>Acacia melanoxylon</i>	Blackwood				X	
<i>Acacia myrtifolia</i>	Narrow-leaf Myrtle Wattle				X	
<i>Acacia pycnantha</i>	Golden Wattle				X	
<i>Acaena echinata</i>	Sheep's Burr				X	
<i>Acrotriche fasciculiflora</i>	Mount Lofty Ground-berry				X	
<i>Acrotriche serrulata</i>	Cushion Ground-berry				X	
<i>Agrostis</i> sp.	Blown-grass/Bent Grass				X	
<i>Allocastrum muelleriana</i> ssp. <i>muelleriana</i>	Common Oak-bush				X	
<i>Amphipogon strictus</i> var. <i>setifer</i>	Spreading Grey-beard Grass				X	
<i>Amyema miquellii</i>	Box Mistletoe				X	
<i>Arthropodium strictum</i>	Common Vanilla-lily				X	
<i>Astroloma humifusum</i>	Cranberry Heath				X	
<i>Austrodanthonia geniculata</i>	Kneed Wallaby-grass				X	
<i>Austrodanthonia</i> sp.	Wallaby-grass				X	
<i>Austrostipa</i> sp.	#1 mollis grp				X	
<i>Banksia marginata</i>	Silver Banksia				X	
<i>Bossiaea prostrata</i>	Creeping Bossiaea				X	
<i>Brunonia australis</i>	Blue Pincushion				X	
<i>Bulbine bulbosa</i>	Bulbine-lily				X	
<i>Burchardia umbellata</i>	Milkmaids				X	
<i>Bursaria spinosa</i> ssp. <i>spinosa</i>	Sweet Bursaria				X	
<i>Caesia calliantha</i>	Blue Grass-lily				X	
<i>Caladenia</i> sp.	Spider-orchid				X	
<i>Calytrix tetragona</i>	Common Fringe-myrtle				X	
<i>Carex</i> sp.	Knob Sedge				X	
<i>Cassytha pubescens</i>	Downy Dodder-laurel				X	
<i>Chamaescilla corymbosa</i> var. <i>corymbosa</i>	Blue Squill				X	
<i>Cheilanthes austrotenuifolia</i>	Annual Rock-fern				X	
<i>Chrysocephalum apiculatum</i>	Common Everlasting				X	
<i>Clematis microphylla</i> var. <i>microphylla</i>	Old Man's Beard				X	
<i>Convolvulaceae</i> sp.	Bindweed Family				X	
<i>Craspedia variabilis</i>	Billy-buttons				X	
<i>Cynoglossum suaveolens</i>	Sweet Hound's-tongue					X
<i>Daucus glochidiatus</i>	Native Carrot				X	
<i>Daviesia leptophylla</i>	Narrow-leaf Bitter-pea				X	
<i>Daviesia ulicifolia</i> ssp. <i>incarnata</i>	Gorse Bitter-pea				X	
<i>Deyeuxia</i> sp. (small)	Bent-grass				X	
<i>Deyeuxia quadriseta</i>	Reed Bent-grass				X	
<i>Dianella revoluta</i> var. <i>revoluta</i>	Black-anther Flax-lily				X	
<i>Dichelachne</i> sp.	Plume-grass				X	
<i>Dichondra repens</i>	Kidney Weed				X	
<i>Dillwynia hispida</i>	Red Parrot-pea				X	
<i>Dipodium</i> sp.	Hyacinth orchid				X	
<i>Diuris</i> sp.	A Donkey Orchid				X	
<i>Elymus scaber</i> var. <i>scaber</i>	Native Wheat-grass				X	
<i>Epacris impressa</i>	Common Heath				X	
<i>Eucalyptus baxteri</i>	Brown Stringybark				X	
<i>Eucalyptus dalrympleana</i>	Mountain Gum		R	RA	X	
<i>Eucalyptus leucoxyloides</i> ssp. <i>leucoxyloides</i>	South Australian Blue Gum					X
<i>Eucalyptus obliqua</i>	Messmate Stringybark				X	
<i>Eucalyptus viminalis</i> ssp. <i>viminalis</i>	Manna Gum		R	VU		X
<i>Euchiton</i> sp.	Cudweed				X	
<i>Exocarpos cupressiformis</i>	Native Cherry				X	
<i>Gahnia sieberiana</i>	Red-fruit Cutting-grass				X	
<i>Galium / Asperula</i> sp.	Bedstraw				X	

<i>Geranium</i> sp.	Geranium				X	
<i>Gonocarpus elatus</i>	Hill Raspwort				X	
<i>Gonocarpus tetragynus</i>	Small-leaf Raspwort				X	
<i>Goodenia blackiana</i>	Native Primrose				X	
<i>Grevillea lavandulacea</i>	Spider-flower				X	
<i>Hakea carinata</i>	Erect Hakea				X	
<i>Hakea rostrata</i>	Beaked Hakea				X	
<i>Hardenbergia violacea</i>	Native Lilac				X	
<i>Hibbertia exutiacies</i>	Prickly Guinea-flower				X	
<i>Hibbertia crinita</i>	Guinea-flower				X	
<i>Hypericum gramineum</i>	Small St John's Wort				X	
<i>Ixodia achillaeoides</i> ssp. <i>alata</i>	Hills Daisy				X	
<i>Kennedia prostrata</i>	Scarlet Runner				X	
<i>Lachnagrostis aemula</i>	Blowngrass				X	
# <i>Lagenophora</i> sp.	Bottle-daisy				X	
<i>Lepidosperma semiteres</i>	Wire Rapier-sedge				X	
<i>Leptorhynchos squamatus</i>	Scaly Buttons					X
<i>Leptospermum myrsinoides</i>	Heath Tea-tree					X
<i>Lomandra densiflora</i>	Soft Tussock Mat-rush				X	
<i>Lomandra fibrata</i>	Mount Lofty Mat-rush				X	
<i>Lomandra micrantha</i>	Small-flower Mat-rush				X	
<i>Lomandra multiflora</i> ssp. <i>dura</i>	Hard Mat-rush				X	
<i>Lomandra</i> sp.	Sword Mat-rush				X	
<i>Microlaena stipoides</i> var. <i>stipoides</i>	Weeping Rice-grass				X	
<i>Microseris lanceolata</i>	Yam Daisy				X	
<i>Olearia grandiflora</i>	Mount Lofty Daisy-bush				X	
<i>Olearia ramulosa</i>	Twiggy Daisy-bush				X	
<i>Opercularia turpis</i>	Twiggy Stinkweed					X
<i>Oxalis perennans</i>	Native Sorrel				X	
<i>Persoonia juniperina</i>	Prickly Geebung				X	
<i>Pimelea octophylla</i>	Woolly Riceflower				X	
# <i>Pimelea</i> sp.	Riceflower				X	
<i>Pimelea stricta</i>	Erect Riceflower				X	
<i>Plantago gaudichaudii</i>	Narrow-leaf Plantain				X	
<i>Plantago varia</i>	Variable Plantago					X
<i>Platylobium obtusangulum</i>	Holly Flat-pea				X	
<i>Poa clelandii</i>	Matted Tussock-grass				X	
# <i>Poa</i> sp.	Meadow-grass/Tussock-grass				X	
<i>Pteridium esculentum</i>	Bracken Fern				X	
<i>Pterostylis pedunculata</i>	Maroonhood					X
<i>Pterostylis robusta</i>	Large Shell-orchid					X
<i>Pultenaea daphnoides</i>	Large-leaf Bush Pea				X	
<i>Ranunculus lappaceus</i>	Native Buttercup				X	
<i>Scaevola albida</i>	Pale Fanflower				X	
# <i>Schoenus</i> sp.	Bog-rush				X	
<i>Senecio hypoleucus</i>	Pale Groundsel				X	
<i>Senecio picridioides</i>	Purple-leaf Groundsel				X	
<i>Senecio quadridentatus</i>	Cotton Groundsel				X	
<i>Senecio</i> sp.	A Groundsel				X	
<i>Stellaria</i> sp.	Starwort				X	
# <i>Stackhousia</i> sp.	Candles				X	
<i>Stylidium graminifolium</i>	Grass Trigger-plant				X	
<i>Tetratheca pilosa</i> ssp. <i>pilosa</i>	Pink-eyed Susan				X	
<i>Themeda triandra</i>	Kangaroo Grass				X	
<i>Thysanotus patersonii</i>	Twining Fringe-lily				X	
<i>Viola</i> sp.	Native Violet				X	
<i>Wahlenbergia stricta</i> ssp. <i>stricta</i>	Tall Bluebell				X	
<i>Xanthorrhoea semiplana</i> ssp. <i>semiplana</i>	Yacca				X	

- # Genus of these two Wallaby Grasses is now *Rytidosperma*. '*Austrodanthonia* sp.' is likely to be *Rytidosperma tenuius*, recorded in 2015 and rated Rare for the state and MLR subregion.
- *Lagenophora* sp. is likely to be *L. huegellii* or *L. stipitata*, both recorded in 2015. *L. stipitata* is Vulnerable for the MLR subregion.
- *Stackhousia* sp. is likely to be *S. aspericocca*, recorded in 2015.
- *Pimelea* sp. is likely to be *P. linifolia*, recorded in 2015.
- *Poa* sp. is likely to be *P. tenera*, recorded in 2015.
- *Schoenus* sp. is likely to be *S. apogon*, recorded in 2015.
- *Euchiton* sp. is likely to be *Euchiton involucratum*, recorded in 2015.
- *Carex* sp. is likely to be *Carex breviculmis*, recorded in 2015.
- *Dichelachne* sp. is likely to be *Dichelachne crinita*, recorded in 2015.

2.5 WEED SPECIES LIST

Data sourced from BushRAT inspection (date/s): 23 / 7 /2016					
Additional species recorded in 2015 revisit are included in blue.					
Species	Common Name	Weed Threat Categ.	Declared?	Vegetation Association	
				A1	Outside of quadrat ONLY
<i>Agrostis sp. (gigantis)</i>	Blown-grass/Bent Grass	2			
<i>Aira sp.</i>	Hair-grass	1			
<i>Allium triquetrum</i>	Three-cornered Garlic	3	175(2), 177(1), 177(2), 182(2), 185		
<i>Amsinckia sp.</i>	Fiddle-neck	2	175(2), 177(1), 177(2), 182(2), 185		
<i>Anagallis arvensis</i>	Pimpernel	1			
<i>Anthoxanthum odoratum</i>	Sweet Vernal Grass	3			
<i>Briza maxima</i>	Large Quaking-grass	2			
<i>Centaureum erythraea</i>	Common Centaury	1			
<i>Chrysanthemoides monilifera ssp. monilifera</i>	Boneseed	4	175(1), 175(2), 177(1), 177(2), 182(2), 185		
<i>Clematis vitalba</i>	Evergreen Clematis	1			
<i>Cytisus scoparius</i>	English Broom	4	175(2), 177(1), 177(2), 182(2), 185		
<i>Dactylis glomerata</i>	Cocksfoot	3			
<i>Fumaria capreolata</i>	White Fumitory				X
<i>Genista monspessulana</i>	Montpellier Broom	4	175(2), 177(1), 177(2), 182(2), 185		
<i>Geranium molle</i>	Dove's-foot Crane-bill	1			X
<i>Gomphocarpus sp.</i>	Cotton-bush	2			
<i>Gramineae sp.</i>	Grass Family	1			
<i>Grevillea rosmarinifolia</i>	Rosemary Grevillea	2			
<i>Hedera helix</i>	English Ivy	4			X
<i>Hypochaeris sp.</i>	Cat's Ear	2			
<i>Ixia sp.</i>	Ixia	3			
<i>Taraxicum officinale</i>	Dandelion	1			
<i>Oxalis pes-caprae</i>	Soursob	4			
<i>Panicum sp.</i>	Panic/Millet	1			
<i>Paspalum dilatatum</i>	Paspalum	3			
<i>Phalaris aquatica</i>	Phalaris	3			
<i>Piptatherum miliaceum</i>	Rice Millet	2			
<i>Plantago lanceolata</i>	Ribwort	2			
<i>Romulea sp.</i>	Onion-grass	2			
<i>Rubus sp.</i>	Blackberry	5	175(1), 175(2), 177(1), 177(2), 182(2), 185		
<i>Senecio pterophorus var. pterophorus</i>	African Daisy	3			
<i>Solanum nigrum</i>	Black Nightshade	2			
<i>Sonchus oleraceus</i>	Common Sow-thistle	2			
<i>Ulex europaeus</i>	Gorse	4	175(2), 177(1), 177(2), 182(2), 185		
<i>Watsonia sp.</i>	Watsonia	4	175(2), 177(1), 177(2), 182(2), 185		

³ 1-5, where 1 = least invasive. Refer to Croft, S.J., J.A. Pedler & T.I. Milne (2005 – 2008) Bushland Condition Monitoring Manual. Nature Conservation Society of SA Inc.

⁴ http://www.pir.sa.gov.au/biosecuritysa/nrm_biosecurity/weeds/declared_plants_in_south_australia_august_2008; 175(1) Prohibiting entry to area; 175(2) Prohibiting movement on public roads; 177(1) Prohibiting sale of the plant; 177 (2) Prohibiting sale of contaminated goods; 182(2) Landowners to control the plant on their properties; 185 Recovery of control costs on adjoining road reserves

2.6 FAUNA SPECIES OF CONSERVATION SIGNIFICANCE AND/OR PARTICULAR INTEREST

Source of data:				
<ul style="list-style-type: none"> Suitable habitat for, as per Graham Carpenter DEWNR (pers. comm) Recent database records, as per BDBSA (Biological Databases of South Australia, DEWNR, Adelaide) Own knowledge 				
National Conservation Status		State Conservation Status		Subregional Conservation Status
AUS=Australia EPBC Act 1999: CR = Critically Endangered EN = Endangered VU = Vulnerable		A=South Australia NPW Act 1972: E = Endangered V = Vulnerable R = Rare		RE = Regionally Extinct CR = Critically Endangered EN = Endangered VU = Vulnerable RA = Rare
Species Name	Common Name	Conservation Status		
		AUS	SA	MLR subregion
<i>Antechinus flavipes</i>	<i>Yellow-footed Antechinus</i>		V	RA
<i>Austrelaps labialis</i>	<i>Pygmy Copperhead</i>			RA
<i>Calamanthus pyrrhopygius parkeri</i>	<i>Chestnut-rumped Heathwren (MLR subspecies)</i>		E	EN
<i>Calyptorhynchus funereus</i>	<i>Yellow-tailed Black Cockatoo</i>		V	VU
<i>Chalcites lucidus</i>	<i>Shining Bronze-cuckoo</i>			RA
<i>Cormobates leucophaeus</i>	<i>White-throated Treecreeper</i>			NT
<i>Isoodon obesulus</i>	<i>Southern Brown Bandicoot</i>	EN	V	EN
<i>Myiagra inquieta</i>	<i>Restless Flycatcher</i>		R	CR
<i>Pardalotus punctatus</i>	<i>Spotted Pardalote</i>			NT
<i>Petroica multicolor</i>	<i>Scarlet Robin</i>		R	VU

Section 3 Fencing and Management

3.1 FENCING

This property is bounded by house blocks, remnant vegetation and a main road. The house blocks do not have stock. No fencing is thus required.

3.2 EXCLUSIONS, ACCESS TRACKS

A firetrack passes E-W through the centre of the property and is clearly visible on the plan in Section 1 of this report, and photograph in Section 2. This track needs to be maintained.

3.3 MANAGEMENT

Not finished. Need to know from Tonia whether any fuel reduction clearance gets carried out in this reserve (or may be required in the future) and whether there has been any weed management. It is recommended that weed control is undertaken, and supported financially by NVMU as soon as funding is available.

3.4 RECOMMENDATION

This reserve scores a high Unit Biodiversity Score and is part of a large remnant in an area critical for conservation due to continual threat from weeds, pathogens and development/fragmentation.

T & M Ecologists therefore requests that the Native Vegetation Management Unit advises:

THAT the Native Vegetation Council recommends to the Minister for Environment & Conservation that a Heritage Agreement be entered into with Adelaide Hills Council over 9.96 hectares of native vegetation contained in A7 F129961.

Tanya Milne
For T & M Ecologists

12/12/2016

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 January 2023
AGENDA BUSINESS ITEM**

Item: 12.6

Responsible Officer: Steven Watson
Governance and Risk Coordinator
Office of the Chief Executive

Subject: Status Report – Council Resolutions Update

For: Decision

SUMMARY

The Action List is updated each month by the responsible officer and outlines actions taken on resolutions passed at Council meetings. In some cases actions can take months or years to be completed due to the complexity and/or the level of influence Council has in the matter.

In March 2015, Council resolved that outstanding resolutions passed before 31 March 2013 would be the subject of a report outlining the reasons why the resolutions have not been completed, detailing what actions have been taken and an estimated date of completion.

While the above resolution referred to a date, the duration was two (2) years and the intent of the Council's resolution has been carried forward as a prudent accountability mechanism.

RECOMMENDATION

Council resolves:

1. That the report be received and noted.
2. The following completed items be removed from the Action List:

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI
23/08/2022	Ordinary Council	227/22	Acting and Substantive Chief Executive Officer Recruitment – Acting CEO Selection Panel - Confidential item	Nil
25/10/2022	Ordinary Council	276/22	Electricity Tender Post 2022	Nil
25/10/2022	Ordinary Council	278/22	Service Review Brief - Development Services	Nil

29/11/2022	Ordinary Council	294/22	MON Speed Limit on North-East Road Inglewood	Nil
29/11/2022	Ordinary Council	298/22	Annual Report Adoption	Nil
29/11/2022	Ordinary Council	316/22	12.12.1 Appointment of Council Member & Deputy Council Member to the Council Assessment Panel	Material - Cr Leith Mudge Material - Cr Nathan Daniell
20/12/2022	Ordinary Council	292/22	2022-23 Budget Review 1	Nil

1. BACKGROUND

At its meeting of 24 March 2015 Council resolved:

That the CEO provides a report to the 28 April 2015 Council meeting in relation to outstanding resolutions passed before 31 March 2013 outlining the reasons why the resolutions have not been completed, detailing what actions have been taken and an estimated date of completion.

The contents of this report formed a workshop discussion with Council Members on 3 May 2017.

While the above resolution referred to a date, the duration was two (2) years and the intent of the Council's resolution has been carried forward as a prudent accountability mechanism.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 5 A Progressive Organisation

Objective O4 We actively represent our community

Priority O4.2 Attract and develop a diverse and capable elected body that represents, promotes and reflects the composition of the community

Priority O4.3 Advocate to, and exert influence with, our stakeholders on behalf of our community to promote the needs and ambitions of the region

Objective O5 We are accountable, informed, and make decisions in the best interests of the whole community

Priority O5.1 Enhance governance structures and systems to prudently adapt to changing circumstances and meet our legislative obligations

➤ Legal Implications

Not applicable

➤ **Risk Management Implications**

Regular reporting on outstanding action items will assist in mitigating the risk of:

Actions arising from Council resolutions may not be completed in a timely manner

Inherent Risk	Residual Risk	Target Risk
Extreme (5C)	Low (3E)	Low (3E)

➤ **Financial and Resource Implications**

Not applicable

➤ **Customer Service and Community/Cultural Implications**

Not applicable

➤ **Sustainability Implications**

Not applicable

➤ **Engagement/Consultation conducted in the development of the report**

Not applicable

➤ **Additional Analysis**

The Action list has been updated to provide Council with information regarding outstanding actions, including specific details for items exceeding 2 years. Completed resolutions are identified in the recommendation for removal from the Action List.

3. OPTIONS

Council has the following options:

- I. Note the status of the outstanding items and the proposed actions (Recommended).
- II. Resolve that other actions are required.

4. APPENDIX

- (1) Action List

Appendix 1

Action List

Action List - 24 January 2023

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI	Action Required (Council Resolution)	Responsible Director	Responsible Officer	Status	Date of Update	Due Date	Status (for Council reporting)
24/01/2017	Ordinary Council	7/17	Cromer Cemetery Revocation of Community Land	None declared	a report be prepared and submitted to the Minister for Local Government seeking approval for the revocation of the community land classification of a portion of the land contained in Certificate of Title Volume 5880 Folio 219 identified in red on the plan attached as Appendix 1.	Terry Crackett	Karen Cummings	In Progress	9/01/2023	30/06/2023	DEWNR have requested that the revocation be put on hold whilst they investigate the requirements to alter the trust affecting the land and undertake an assessment of the native vegetation on the land, this is likely to take some months. DEW advised on 4/12/18 that there are some impediments to the progression of the proposed boundary realignment due to the mining operations on the adjacent land, which are being negotiated with the Dept for Mining. Advice is that these negotiations could take considerable time (2yrs). In the interim, consideration will be given to the granting of a right of way to ensure that the cemetery has legal access. DEW staff member dealing with this matter has left DEW so there may be an extended delay whilst it is reallocated and assessed. DEW awaiting finalisation of negotiations with Dept for Mining March 21 - Council staff have requested an update from DEW as to the status of this matter October 21 - Council staff continue to engage with DEW to seek a progression of the matter November 21 - no further update from DEW Jan 22 - contact has been made with DEW who are investigating the situation again prior to further communication with Council March 22 - a new contact has been established with DEW who is working proactively with Council to plan a path forward to meet both DEW and Council objectives August 2022 - DEW have advised that the land can be subdivided as Crown Land and rededicated back to Council which will mean Community Land revocation is unnecessary. On site meeting held with DEW, Survey Plan prepared and with DEW for comment (sent 30/08/2022) prior to lodgement. Seeking confirmation from DEW on their willingness to resume the land prior to lodging land division. October 2022 - DEW have the Plan of division and are liaising with staff regarding the best way forward. Nov 22 - liaising with Plan SA who have now received the land division for assessment Dec 22 - Council's comments on the crown land division now with Plan SA for a final decision Jan 23 - Crown Lands advised early Jan that they are finalising paperwork submission to Minister The Heritage Applications were phased over the years in order to be accommodated within available resourcing.
28/08/2018	Ordinary Council	200/18	Proposal to enter 11 AHC Reserves into Heritage Agreements 2018	None declared	1. That the report be received and noted. 2. That the Biodiversity Officer be authorised to enter: Doris Coulls Reserve, 152 Old Mt Barker Road, AldgateHeathfield Waste Facility, 32 Scott Creed Road, HeathfieldKiley Reserve, 15 Kiley Road, AldgateShanks Reserve, 1 Shanks Road, AldgateStock Reserve, Stock Road, MylorLeslie Creek Reserve, Leslie Creek Road, MylorMi Mi Reserve, 125 Aldgate Valley Road, MylorAldgate Valley 2 Reserve, 114 Aldgate Valley Road, MylorKylie Road Nature Reserve, Kyle Road, MylorCarey Gully Water Reserve, Deviation Road, Carey GullyHeathfield Stone Reserve, 215 Longwood Road, HeathfieldMylor Parklands, Mylor all being of significant biodiversity value, into Heritage Agreements. 3. That the Heritage Agreements retain the existing dog access arrangements in place for each of those reserves.	Peter Bice	Reneae Eden	In Progress	9/01/2023	30/06/2022	Heritage Agreements have been registered over: Kiley Reserve Shanks Reserve Kylie Road Nature Reserve, Leslie Creek Reserve Aldgate Valley 2 Reserve Doris Coulls Reserve Mylor Parklands Heathfield Waste Facility Heathfield Conservation Reserve Conditionally approved: 1. Reserve 26 - "Stock Rd 1". Needs to be allocated CT to progress. Paperwork signed by CE and Mayor and lodged. 2. Carey Gully. Rededication from recreation to conservation purposes required. Paperwork to amend a dedication submitted to Crown Lands. NOTES: Heathfield Stone Reserve was successfully rededicated for conservation purposes with Lands Title Office, and is now referred to as Heathfield Conservation Reserve. Heathfield Conservation Reserve and Heritage Mi Mi Reserve Applications have been accepted and signed by CEO, to be countersigned by DEW. Carey Gully was initially rejected but appealed by Biodiversity Officer. Heritage Officer changed their recommendation for acceptance and sent to delegate for approval. Correspondence received that rededication from recreation to conservation purposes is required. Paperwork to amend a dedication has been submitted to Crown Lands.
11/09/2018	Special Council	229/18	Road Exchange McBeath Drive, Skye Horsnell Gully	None declared	In accordance with sections 12 and 15 of the Roads (Opening and Closing) Act 1991, as regards the land within the Adelaide Hills Council area, enter into an Agreement for Exchange with Boral Resources (SA) Ltd and issue a Road Process Order to open as road portions of Section 906 Hundred of Adelaide numbered "1", "2" and "3" on Preliminary Plan No. 17/0066 (Appendix 1) and in exchange to close portions of McBeath Drive marked "A", "B", "C" and "D" on Preliminary Plan No. 17/0066, subject to the following: Boral Resources (SA) Ltd agreeing to pay all costs associated with the road exchange process including but not limited to all survey, valuation and reasonable legal costs; Boral Resources (SA) Ltd agreeing to pay all costs associated with a Council boundary adjustment between Adelaide Hills Council and the City of Burnside to rectify the resulting Council boundary anomaly from the road exchange process The closed road is excluded as Community Land pursuant to the Local Government Act 1999. Council approves the sale of the differential between the total area of closed road and the total area of opened road of approximately 1,242m ² to Boral Resources (SA) Ltd for the amount of \$6,210 as determined by an independent valuation. Subject to the successful completion of the road exchange process, Council undertakes a process in conjunction with the City of Burnside to realign the local government boundary along the new location of McBeath Drive to the south side of pieces 42, 52 and 62 of the proposed residential allotments in accordance with the provisions of the Local Government (Boundary Adjustment) Amendment Act 2017 (to commence on 1 January 2019) and/or Part 2 of Chapter 3 of the Local Government Act 1999. The Mayor and Chief Executive Officer be authorised to sign all documents necessary, including affixation of the common seal, to give effect to this resolution.	Terry Crackett	Karen Cummings	In Progress	9/01/2023	31/12/2022	Road exchange documentation has been executed and provided to Boral for lodgement with the Surveyor-General. Submission has been prepared and lodged with the Boundaries Commission jointly on behalf of the City of Burnside and Adelaide Hills Council. The Boundaries Commission has agreed to investigate the proposal and that process is underway. Further feedback has been provided to the Boundaries Commission to progress. Boral are negotiating a Land Management Agreement with the State Government which has delayed the completion of the land division and road exchange Awaiting advice that land division has been completed so that the boundary realignment can occur November 21 - Boral have received final DA and lodgement of land division plan with Land Services SA is expected shortly, once the land division is finalised, the boundary realignment April 22 - awaiting lodgement of land division plans by Boral August 2022 - Have had no update from Boral or lawyers, Karen to follow up. October 2022 - No update as yet Nov 22 - no update Dec 22 - no further update to report Jan 23 - no further update to report
11/09/2018	Special Council	232/18	Revocation of Community Land – Bridgewater Retirement V	None declared	To commence a process to revoke the Community Land classification of the land located on the corner of Mt Barker Road and Second Avenue Bridgewater known as 511 Mt Barker Road Bridgewater contained in Certificate of Title Volume 5488 Folio 788 (Land) on which a portion of the Bridgewater Retirement Village is located by: Preparing a report as required under section 194(2)(a) of the Local Government Act 1999 and making it publicly available. Undertaking consultation in accordance with its Public Consultation Policy as required under section 194(2)(b) of the Local Government Act 1999. To commence a process to vary the charitable trust affecting the Land by investigating land parcels owned by the Adelaide Hills Council, including Carripook Park, Candlebark Reserve and Vincent Playground Reserve, that may be suitable for the development of a landscaped garden for the benefit of the community and for the construction of a memorial to the Ash Wednesday Bushfires of 1983 as contemplated by the charitable trust over the Land and invite community suggestions and feedback in relation to any appropriate land parcels. To approve a budget allocation in the amount of \$10,000 for legal expenses for the preparation of an Application to the Supreme Court to vary the charitable trust. That a further report be presented to Council for consideration after community consultation and further investigations have been completed	Terry Crackett	Karen Cummings	In Progress	9/01/2023	30/06/2023	Initial consultation to identify possible locations for the establishment of a garden and memorial concluded on 28 January 2019 with only one submission received being a suggestion from the Retirement Village residents to investigate Carripook Park as their preferred option. Council, at the meeting of 27 August 2019, approved Carripook Park as the location to vary the trust to. The Attorney-General has provided in-principle support to the proposal so a design for the landscaped garden and bushfire memorial at Carripook Park will be prepared for submission to the Supreme Court. November 21 - consultation has been undertaken and draft affidavit has been prepared for lodgement with the Supreme Court Jan 22 - awaiting approval from the Attorney General prior to lodgement with the Supreme Court April 22 - documents nearing finalisation for lodgement with Supreme Court June 22 - all Supreme Court documents have been executed and progressed with the Attorney-General Aug 22 - all documents to remove the Trust have now been approved by the supreme court. Trust now removed from Retirement Village site. Meeting with residents on 22 Sept to finalise any updated feedback on community land revocation. Oct 22 - Meeting held with residents on 22 September to communicate current status. Documents sent to Minister for Community Land revocation on week ending 14/10/2022. Nov 22 - Advice received from Ministers office that community land revocation would be reviewed mid November 2022. Dec 22 - waiting on final decision regarding community land revocation from Ministers office Jan 22 - waiting on final decision regarding community land revocation from Ministers office
23/07/2019	Ordinary Council	188/19	LED Street Lighting Upgrade	None declared	That the report be received and noted. To approve an increase of \$365k in Council's 2019/20 capital budget to commence the transition of 900 P – category public streetlights to LED with the funding source to be recommended to Council at its next budget review. That Council engage SAPN to commence the changeover of P-Category lights to LED public lighting on Council roads and that authority is given to the CEO to finalise a contract with SAPN and sign that agreement. That Council enter into a PLC tariff agreement for public lighting with SAPN until 30 June 2020 and subsequently move to the tariff set by the Australian Energy Regulator from July 2020. That Council continues to liaise with SAPN and DPTI on the changeover of Council public lighting on roads under the care and control of the State Government. That a further report be provided to Council on the outcome of the continued discussions with SAPN and DPTI.	Peter Bice	David Collins	In Progress	11/01/2023	30/06/2023	Council lights changed to LED at Aldgate, Uraidla and Sumertown Main Street complete. Birdwood Main Street Council lighting under investigation for changeover to LED. The Public Lighting Working Group (including representatives from Local Government, DIT and SAPN) has established a sub-group to work with DIT on the transition of V Category lights on state maintained roads. Timing of any agreements between LG and DIT unknown. Council officers continue to be updated on sub-group progress and have nominated to join main street lighting working group.

Action List - 24 January 2023

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI	Action Required (Council Resolution)	Responsible Director	Responsible Officer	Status	Date of Update	Due Date	Status (for Council reporting)
28/01/2020	Ordinary Council	11/20	Revocation of Community Land - Bridgewater Retirement Village	None declared	That the report be received and notedSubject to the Supreme Court issuing an order granting approval for a trust variation scheme, a report be prepared and submitted to the Minister for Planning seeking approval to revoke the community land classification of Allotment 220 in Filed Plan No. 8131 known as 511 Mount Barker Road Bridgewater. The Mayor and CEO be authorised to sign all necessary documentation to give effect to this resolution.	Terry Crackett	Karen Cummings	In Progress	9/01/2023	30/06/2023	Application to the Minister for Planning will be made once the trust variation scheme has been approved by the Supreme Court. The Attorney-General has provided in-principle support for the proposal. A detailed landscape design has been prepared, community consultation on the design is underway and submission for the Supreme Court is being prepared. November 21 - consultation has been undertaken, draft affidavit has been prepared for lodgement with the Supreme Court Jan 22 - awaiting approval from the Attorney General to lodge with the Supreme Court April 22 - documents nearing finalisation for lodgement with Supreme Court June 22 - all Supreme Court documents have been executed and progressed with the Attorney-General August 2022 - Supreme court document have beenapproved, Trust now removed from Retirement Village site and have been transferred to Caripook Park. Meeting with residents on 22 September to discuss status and will then finalise report to Minister to revoke community land classification. Oct 22 - Meeting held with residents re current status on 22/10/2022. Community Land revocation application finalised and sent to minister week ending 14/10/2022 Nov 22 - advice received from Minister that community land revocation would be assessed around mid November 2022 Dec 22 - awaiting final decision from Minister regarding community land revocation Jan 23 - awaiting final decision from Minister regarding community land revocation
15/12/2020	Ordinary Council	300/20	Road Exchange Pomona Road Stirling	None declared	1. That the report be received and noted. In accordance with sections 12 and 15 of the Roads Opening and Closing Act 1991, enter into an Agreement for Exchange with the owner of the land of 21 Pomona Road Stirling and issue a Road Process Order to open as public road the area identified as "Road to be opened 1" on the Preliminary Plan No 20/0038 and in exchange to close a portion of Pomona Road as identified on the Preliminary Plan No 20/0038 as "Public Road A", subject to the owner of the land at 21 Pomona Road Stirling agreeing to pay all costs associated with the road exchange process including but not limited to all survey, valuation and reasonable legal costs. 3. The closed road be excluded as Community Land pursuant to the Local Government Act 1999. The Mayor and Chief Executive Officer be authorised to sign all documents necessary, including affixation of the common seal, to give effect to this resolution	Terry Crackett	Kylie Caruso	In Progress	10/01/2023	31/12/2022	Final Plans and Road Process Order documents have been executed by all parties. Awaiting on processing with the Surveyor- General and the Lands Titles Office
27/01/2021	Ordinary Council	22/21	CWMS Review	None declared	that the report, related attachments and the discussion and considerations of the subject matter be retained in confidence until 30 July 2021.	Peter Bice	David Collins	In Progress	11/01/2023	24/12/2021	
23/03/2021	Ordinary Council	52/21	Crown Land Revocation	None declared	1. That the report be received and noted 2. That the consultation report (Appendix 1) be received and noted 3. To apply to the Minister for Planning to revoke the Community Land classification of the following parcels of land:- i. CR 5752/186, Lot 32 Fullgrave Road, Crafers ii. CR 5753/725, Section 1609 Illert Road, Mylor iii. CR 5753/729, Section 1657 Scott Creek Road, Scott Creek iv. CR 5753/741, Sections 53 and 54 Sandy Waterhole Road, Woodside v. CR 5753/742, Section 547 Schuberts Road, Lobethal vi. CR 5753/744, Section 553 Pedare Park Road, Woodside vii. CR 5753/745, Section 556 Tiers Road, Woodside viii. CR 5753/746, Section 565 Old Carey Gully Road, Stirling ix. CR 5753/754, Section 511 North East Road, Inglewood x. CR 5753/758, Section 262 Reserve Road, Forreston xi. CR 5763/631, Section 1591 Silver Road, Bridgewater xii. CR 5763/634, Section 71 Magarey Road, Mount Torrens xiii. CR 5763/635, Section 72 Magarey Road, Mount Torrens xiv. CR 5763/636, Section 84 Forreston Road, Forreston xv. CR 6142/329, Lot 501 Greenhill Road, Balhannah xvi. CR 5926/487, Lot 20 Bell Springs Road Charleston (for rededication to the Department of Environment & Water) xvii. CR 5753/718, Section 1544 Reserve Terrace Aldgate (for rededication to Meals on Wheels) xviii. CR 5753/753, Section 495 off Kersbrook Road Kersbrook (for rededication to Forestry SA) 4. That a further report be presented to Council once a response from the Minister for Planning is received.	Terry Crackett	Karen Cummings	In Progress	9/01/2023	30/09/2022	Being progressed in accordance with resolution. November 21 - awaiting feedback from the Minister for Planning on final application for revocation Jan 22 - final application has been lodged with the Minister for Planning June 22 - awaiting response from new Minister September 2022 - still awaiting response from Minister Oct 22 - Still awaiting response from Minister Nov 22 - Still awaiting response from Minister Dec 22 - received response from Minister that matter has been referred to DEW for land to be resumed from the Crown to alleviate the need for Community Land revocation. Report to be made to Council in January 2023 providing an update on the Ministers correspondence and next steps Jan 23 - report to Jan Council meeting regarding next steps.
24/05/2021	Audit Committee	AC33/21	Cyber Security Report - Period of Confidentiality	None declared	That the report, related attachments and the minutes of the Audit Committee and the discussion and considerations of the subject matter be retained in confidence until the control deficiencies are mitigated but no longer than 30 June 2023.	Terry Crackett	James Sinden	In Progress	11/01/2023	30/06/2023	The Local Government Security Framework (LGSF) initiative that was grant funded by the LGA and developed by LGITSA (Local Government Information Technology South Australia) and Cyber security experts has been formally released and is available to Councils for implementation. The LGSF is a risk-based framework that assists in preserving the confidentiality, integrity and availability of information assets managed by councils. The framework leverages risk management process and control measures to reduce the likelihood or impact of security risks to councils. The LGSF consists of an implementation toolkit specifically for the LG Sector, developed to cater for different risk profiles. The framework includes baseline control expectations incorporating the ACSC (Australia Cyber Security Centre) Essential 8 and other security controls for information, personal, and facilities. The objectives of the LGSF are to: •Ensure security risks are managed in a standardised and acceptable manner across all councils; •Maintain the reputation of local government and the broader South Australian government; •Demonstrate alignment to industry recognised best practices in security risk management; •Contribute to the culture of security risk management within councils; •Protect the confidentiality, integrity, and availability of information assets in alignment with necessary legal and regulatory requirements; and •Provide assurance to the community and other interested parties that information provided to councils are sufficiently protected. Implementation of the framework at Council has been progressing well over the past several months using internal and external consulting resources to review, amend and undertaking work aligned to the toolkit resources. Once the framework has been finalised the program will progress to an operational state and maintained in line with the agreed security controls and budget allocation.
27/07/2021	Ordinary Council	158/21	Revocation of Community Land Classification - Closed Roads R2142AA & R1573AB	Perceived - Cr Linda Green	1. That the report be received and noted 2. To commence a revocation of community land process for the land described as "AA" in Road Plan No. 2142 ("Closed Road"), off Lenger Road, Mount Torrens including consultation in accordance with Council's Public Consultation Policy and the <i>Local Government Act 1999</i> with the intention of selling the Closed Road to the adjoining owners. 3. To commence a revocation of community land process for the land described as "A" and "B" in Road Plan No. 1573 ("Closed Road") adjacent to 105 Nicholls Road, Norton Summit including consultation in accordance with Council's Public Consultation Policy and the <i>Local Government Act 1999</i> with the intention of selling the Closed Road to the adjoining owners. 4. That a further report be presented to Council at the completion of the consultation.	Terry Crackett	Kylie Caruso	In Progress	11/01/2023	30/06/2022	Commenced in accordance with the resolution Public Consultation has completed. NO formal responses received - follow up report is prepared and to be presented at June 2022 Council meeting Follow up report presented to Council 26 July 2022. Council have written to the Minister for approval of Community Land Revocation status. Anticipated response due mid September 2022. Oct 22 - No response received from Minister Nov 22 - Response from Minister still to come Dec 22 - Response from Minister still to come Jan 23 - Response from Minister received 10/1/2023 - in favour of Revocation. Next steps are to prepare next report to Council to progress with the sale of the Closed Road Land (March 2023 Meeting).
4/08/2021	Ordinary Council	169/21	MON Natural Burials	None declared	That the CEO provides a report to Council by 30 June 2022, outlining a policy and/or procedures by which Council can effectively manage natural burials in council cemeteries, such a report to include suitable locations and indicative costs.	Terry Crackett	Karen Cummings	In Progress	9/01/2023	13/01/2023	Preliminary planning underway for return to Council with report by 30 June 2022. Aug 2022 - Report deferred to October 2022 Council meeting to enable the Cemetery Advisory Group to consider the updated draft Policy at its meeting in October. Oct 22 - Report prepared for Council meeting in October 2022 with new Cemeteries Operating Policy to be endorsed (deferred to future meeting) Report in relation to this item went to Council on 28/06/2022 Nov 22 - new Cemeteries Operating Policy now going to December 22 Council meeting Dec 22 - Policy to be submitted to Dec Council meeting. Jan 23 - New Cemeteries operating policy adopted by Council in Dec 22.

Action List - 24 January 2023

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI	Action Required (Council Resolution)	Responsible Director	Responsible Officer	Status	Date of Update	Due Date	Status (for Council reporting)
24/08/2021	Ordinary Council	170/21	Road Exchange Aldi Development Pomona Road Stirling	None declared	That the report be received and noted in accordance with sections 12 and 15 of the Roads (Opening and Closing) Act 1991, enter into an Agreement for Exchange with the owner of the land of 3-5 Pomona Road Stirling and issue a Road Process Order to open as public road the area identified as "Road to be opened 1" on the Preliminary Plan No 21/0011 and in exchange to close a portion of Pomona Road as identified on the Preliminary Plan No 21/0011 as "Public Road A", subject to the owner of the land at 3-5 Pomona Road Stirling and Council agreeing to share all costs associated with the road exchange process including but not limited to all survey, valuation and reasonable legal costs. The closed road be excluded as Community Land pursuant to the Local Government Act 1999. The Mayor and Chief Executive Officer be authorised to sign all documents necessary, including affixation of the common seal, to give effect to this resolution.	Terry Crackett	Kylie Caruso	In Progress	10/01/2023	31/08/2022	Commenced in accordance with resolution Road Process Documents have been signed by Council. Currently awaiting process by the Surveyor-Generals and Lands Titles Office. Road plan has been examined, however this is awaiting the deposit of a prior amalgamation and easement plan with the Lands Titles Office. Oct 22 - No further update to report Nov 22 - No further updates Dec 22 - No further updates Jan 23 - No further updates
24/08/2021	Ordinary Council	178/21	Operational Workplace Review	None declared	1. That the report be received and noted 2. That Council take up commercial lease space in Stirling at 85 Mount Barker Road Stirling, and the associated costs for the leasehold premises detailed in Appendix 1 be adjusted in the 2021-22 financial year at Budget Review 1 3. Further detailed scoping be undertaken on the proposed renewal and energy efficiency upgrades to the Stirling Office, Heathfield Depot, Gumeracha Depot and Woodside Offices (current Development and Building Team offices) and presented to Council for consideration where appropriate within the 2021-22 Budget Review 1 and the next review of the Long Term Financial Plan 4. Subject to endorsement of the detailed scoping identified in 3 above, the Development and Building Team be relocated from Woodside to Stirling 5. To include budget provision in the draft Annual Business Plan for the 2022-23 financial year to undertake a feasibility study on the medium to long term needs for community and operational sites and where greater efficiencies may be obtained through consolidation of sites.	Terry Crackett	Karen Cummings	In Progress	9/01/2023	30/06/2024	Commenced in accordance with resolution Fitout of Garrod Office and progression of preliminary work for Stirling transportable underway. Scoping of other components to be is nearing completion and will be presented back to Council for review. Sept 22 - refit of transportable building at Stirling underway to allow for Ranges and EHO's to move in. Fitout at Garrod now complete with some staff having moved in. Meeting at Heathfield in early Sept to continue discussions on extension/renovations at that site. Oct 22 - Transportable building renovations well progressed. Meeting at Heathfield postponed pending further discussion with CEO on process for moving forward given scope of new building proposed for Heathfield has now changed. Nov 22 - Transportable renovations going to plan with completion estimated prior to Christmas. Discussion held with Ceo/exec team re scope/process moving forward Dec 22 - Transportable on track to be completed prior to Christmas. Scoping for planning and building team to be relocated to Stirling underway Jan 23 - discussions underway regarding options for woodside staff to be relocated to Stirling together with costings for changes to West Wing (Council chamber). Report to be submitted to Council prior to any changes being made.
26/10/2021	Ordinary Council	220/21	Charleston Cemetery Compulsory Acquisition	None declared	1. That the report be received and noted. 2. To revoke the resolution of Council of 22 May 2001, B129. 3. To commence a process to compulsorily acquire, under the Land Acquisition Act 1969, the Charleston Cemetery being the land contained in Certificate of Title Volume 5066 Folio 740 located at 36 Newman Road Charleston from The Charleston Cemetery Trust Inc. To continue to manage the Charleston Cemetery on behalf of The Charleston Cemetery Trust Inc in the interim from the date of this resolution until the completion of the land acquisition process. To authorise the Mayor and Chief Executive Officer to undertake all necessary actions, including execution of documents, including under the common seal of Council, to give effect to this resolution.	Terry Crackett	Karen Cummings	In Progress	9/01/2023	31/12/2022	Commenced in accordance with the resolution. November 21 - letter seeking consent to undertake the compulsory acquisition has been sent to the Minister Jan 22 - Minister has advised they are considering their position and will advise further in due course March 22 - Minister advised that has been deferred until after the election April 22 - new Minister has confirmed receipt and will review in due course Aug 22 - received advice from Minister for Local Government (via Normans) on 9/08/2022 that they were still waiting to hear back from Crown Solicitors Office on this matter. Oct 22 - No update received from Minister Nov 22 - No update received from Minister Dec 22 - No update received from Minister Jan 23 - no update received from Minister.
26/10/2021	Ordinary Council	235/21	Ashton Landfill - Confidential Item	None declared	As per Confidential minute	Peter Bice	John McArthur	In Progress	10/01/2023	31/03/2023	Matter continues to be progressed. Further updates will be provided when a material change occurs.
26/10/2021	Ordinary Council	238/21	Electricity Procurement Legal Matter - Confidential Item	None declared	As per confidential minute	Peter Bice	David Collins	In Progress	11/01/2023	10/01/2022	
14/12/2021	Ordinary Council	274/21	Woodside Recreation Ground Reuse further information	Perceived - Cr Stratford	1. The report be received and noted. 2. That a report be prepared for Council's information on the costs associated with bore water saving initiatives that could be implemented in respect to Council-owned recreational assets that are currently irrigated by bore water.	Peter Bice	Nicole Budd	In Progress	9/01/2023	24/02/2023	An audit of the site was undertaken on Wednesday 4th January 2023, along with other key areas. Report from the audit is due by end of February 2023.
22/03/2022	Ordinary Council	52/22	Response to MON Bore Use	Nil	1. That the report be received and noted 2. To negotiate an agreement with the Summertown Village Water Company for access to the Council bore located on Anya Crescent Reserve at Summertown for a defined period, being not more than 3 years, on terms and conditions to be agreed whereby by the end of the agreement term, the Summertown Village Water Company has established an independent water supply for its shareholders and current use of the Council bore ceases 3. To negotiate an in principle agreement with the Summertown Community Centre Inc. for a land exchange at Tregarthen Reserve Summertown that would see the public infrastructure located on land owned by the Council and the sport and recreation infrastructure on land owned by the Summertown Community Centre Inc. with the Council being responsible for the provision of water to Tregarthen Reserve 4. To negotiate an agreement with the owner of 30 Stonehenge Avenue Stirling, for access to and use of the bore located on Council land at 28 Stonehenge Avenue Stirling, for a defined reasonable period of time, say 18 – 24 months, on terms and conditions to be agreed whereby by the end of the agreement, the landowner has established an independent water supply for its land and use of the Council bore ceases 5. To undertake further investigations in relation to the Mylor bore and tanks and to which properties it supplies water 6. The CEO further reports to Council on an annual basis of progress being made on points 2-5.	Terry Crackett	Karen Cummings	In Progress	9/01/2023	30/06/2025	Commenced in accordance with resolution. Sept 22 - commenced as per resolution Oct 22 - commenced as per resolution Nov 22 - commenced as per resolution Dec 22 - commenced as per resolution with an update report to be submitted to Council in early 2023 Jan 23 - update to be reported to Council in March 2023
22/03/2022	Ordinary Council	53/22	Removal of Remoteness Sculpture, Stirling	Nil	1. That the report be received and noted. 2. That the sculpture known as <i>The Remoteness</i> , be removed from the area in front of the Coventry Library, Stirling. 3. That best endeavours should be made to retain suitable elements of the sculpture for placement in the surrounding landscape in a manner appropriate to the setting, such as for informal seating. 4. That the Council works with the Stirling Business Association and stakeholders from the former Adelaide Hills International Sculpture Symposium Inc to identify and implement appropriate means of recognising the sculpture and ensuring its legacy is not lost to the precinct in which it is presently situated and the overall Hills Sculpture Trail.	Rebecca Shepherd	Rebecca Shepherd	In Progress	12/12/2022	30/12/2022	In mid-June, the former artistic director for Adelaide Hills International Sculpture Symposium Inc approached Council staff advising of a product he believes may provide a potential 'fix' for the sculpture. He was unavailable to progress the matter through June/July, however staff have recently met with him to progress the matter. Staff have sought advice on the suggested fix from ArtLab and at the time of update, are awaiting an outcome of their work. It will be important to evaluate whether or not the risk profile associated with the matter would change with the proposed fix. As there is a Council resolution to remove the sculpture, the matter may need to come back to Council for consideration if the fix is deemed viable. Response from Artlab has indicated that, given the load bearing of the design and the weakened nature of the stone it is unlikely that any treatment options will resolve the issues, however they suggested that we further consult with an engineer regarding proposed fix. An engineer has been approached and provided with all information to date and we await his response. The engineer has met with the artist who proposed the potential fix and we are in discussions with him regarding options. 12/12 David Waters has spoken to the engineer who is sending some additional information regarding risk management.
26/04/2022	Ordinary Council	86/22	MON Property Lobethal Road Lenswood	Nil	1. Council notes the long history of compliance action taken by the Council under both the Development Act 1993, and the Local Nuisance and Litter Control Act 2016, in relation to: continuing unauthorised use of the land as a junkyard/scrap storage facility/builder's storage facility; the continuing unsightly condition of the land when viewed from the public realm; and ongoing nuisance caused by wandering livestock and animals which issues continue to bring about adverse impacts within the locality. The Council instructs the Chief Executive Officer to take such further action/s as he may be advised to take under (including but not limited to) the Local Nuisance and Litter Control Act 2016, and/or the Planning, Development and Infrastructure Act 2016, (which action/s may involve the commencement legal proceedings and/or the exercise of step-in rights) to address the above issues on an ongoing basis. Wherever possible, such action should seek to recover the Council's costs associated with the relevant action/s.	Natalie Armstrong	Natalie Armstrong	In Progress	19/12/2022	25/04/2024	Continued monitoring is being undertaken by Council staff and action if appropriate.

Action List - 24 January 2023

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI	Action Required (Council Resolution)	Responsible Director	Responsible Officer	Status	Date of Update	Due Date	Status (for Council reporting)
26/04/2022	Ordinary Council	87/22	Property Lobethal Road Lenswood - Duration of Confidentiality	Nil	Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not releasedReportTwo year termRelated AttachmentsTwo year termMinutesNilOther (presentation, documents, or similar)Nil	Natalie Armstrong	Natalie Armstrong	In Progress	19/12/2022	25/04/2024	
26/04/2022	Ordinary Council	93/22	Options for Randell's Workmen's Cottages Gumeracha	Nil	1. That the report be received and noted. 2. To rescind parts 3 to 6 of resolution numbered 77/19 of 26 March 2019 thereby removing the requirement to pursue a land division application and Expression of Interest process for the reuse of the Randell's Workmen's Cottages for tourist accommodation or some other use. 3. That the Chief Executive Officer undertakes further scoping and costing for option 4, as outlined in the 26 April 2022 report, for undertaking minor works on the cottages to prevent further deterioration. 4. That the results of the scoping and costing exercise be considered as part of the 2023/24 budget preparation process.	Terry Crackett	Karen Cummings	In Progress	9/01/2023	31/03/2023	Commenced in accordance with resolution. Sept 22 - Team Leader property projects is currently seeking costings for the works as per the resolution. Oct - Waiting on costings Nov 22 - collating costings with report to be submitted to Council with options at the February 2023 meeting. Dec 22 - report being prepared for February 2023 Council meeting Jan 23 - report being prepared for February 2023 Council meeting
12/05/2022	CEO Performance Rev PRP7/22	CEO Proposed Performance Targets 2022-23	Nil	That the report be received and noted To recommend to Council the adoption of the proposed 2022-2023 CEO Performance Targets as per Appendix 1 with: The inclusion of a Fabrik Building Redevelopment Performance Target to replace the Local Governance Election Support and Council-elect Induction Performance Target; and Minor amendments to the other proposed Performance Targets to clarify outcomes and timeframes	David Waters	Lachlan Miller	Completed	22/06/2022	24/06/2022	Updated targets were communicated to Council at the 14 June 2022 workshop	
12/05/2022	CEO Performance Rev PRP10/22	Advice on Consultant - Duration of Confidentiality	Nil	Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not releasedReportUntil the consultant is appointed by Council and the consultancy contract entered into.Related AttachmentsUntil the consultant is appointed by Council and the consultancy contract entered into.MinutesUntil the consultant is appointed by Council and the consultancy contract entered into.OtherNil	David Waters	Lachlan Miller	Completed	8/08/2022	24/06/2022	Consultant engaged and information released.	
24/05/2022	Ordinary Council	122/22	Purchase of Land 8 St John Road Norton Summit	Perceived - Cr Leith Mudge	I move that the matter of the purchase of land at 8 St John Road Norton Summit be brought to a workshop to ensure all members are fully aware of the situation which includes issues that have to be resolved, e.g. Council's encroachment onto Church land of the septic system and part of the CFS shed.	Terry Crackett	Karen Cummings	In Progress	9/01/2023	30/09/2022	Workshop scheduled for 9 August 2022. Workshop held on 16 August 2022. Investigations ongoing during September/October 2022 Nov 22 - internal investigations ongoing with report planned for Council meeting in early 2023. Dec 22 - on site meeting held to discuss possible options for new septic tank including land requirement Jan 23 - property team is seeking quotes for upgrade of septic system,
28/06/2022	Ordinary Council	157/22	Revocation of Community Land Classification - Closed Roads Mt Torrens & Norton Summit	Perceived - Cr Linda Green	That the report be received and noted A report be prepared and submitted to the Minister for Planning seeking approval for the revocation of the community land classification of the land identified as: a. Closed Road AA in Road Plan No. 2142 contained in Certificate of Title Volume 6261 Folio 496 located at Mount Torrens (Appendix 1) b. Closed Road AB in Road Plan No. 1573 contained in Certificate of Title Volume 6261 Folio 497 located at Norton Summit (Appendix 1)	Terry Crackett	Kylie Caruso	In Progress	11/01/2023	14/07/2022	Commenced in accordance with resolution. Council staff have written to the Minister for Local Government (Hon. Geoff Brock) seeking the Revocation of Community Land Classification. Oct 22 - Waiting on response from Minister Nov 22 - Awaiting response from Minister Dec 22 - Awaiting response from Minister Jan 23 - Response from Minister received 10/1/2023 - in favour of Revocation. Next steps are to prepare next report to Council to progress with the sale of the Closed Road Land (March 2023 Meeting).
28/06/2022	Ordinary Council	158/22	MON Response Natural Burials	Nil	1. That the report be received and noted 2. To endorse the proposal to establish a natural burial ground within the Kersbrook Cemetery site 3. That, prior to the opening of the Kersbrook natural burial ground for burials, the Cemetery Operating Policy be updated to include provisions for natural burials and presented to Council for adoption.	Terry Crackett	Karen Cummings	In Progress	9/01/2023	23/09/2022	Sept 22 - Updated cemeteries operating policy drafted and will go to October 2022 Council meeting after sharing with the Cemeteries Advisory Group at its meeting in early October. Research underway for processes for microchipping etc. for natural burials. Oct - updated Policy to go to October 2022 Council meeting. Nov 22 - updated Policy now to go to December 2022 Council meeting Dec 22 - updated Policy to go to Dec 2022 Council meeting Jan 23 - new cemeteries operating policy was adopted at Dec 22 Council meeting
28/06/2022	Ordinary Council	166/22	Warren Road Birdwood Blackspot - Confidential Item	Nil	See Confidential Minute	Peter Bice	Ashley Curtis	In Progress	9/01/2023	30/06/2023	In Progress
28/06/2022	Ordinary Council	167/22	Warren Road Birdwood Blackspot - Duration of Confidentiality	Nil	Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 18.1 in confidence under sections 90(2) and 90(3)(d) of the Local Government Act 1999, resolves that an order be made under the provisions of sections 91(7) and (9) of the Local Government Act 1999 to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not releasedReportUntil all resolutions are executed, but not longer than 28 June 2023Related AttachmentsUntil all resolutions are executed, but not longer than 28 June 2023MinutesUntil all resolutions are executed, but not longer than 28 June 2023	Peter Bice	Ashley Curtis	In Progress	9/01/2023	30/09/2022	In Progress
28/06/2022	Ordinary Council	172/22	Ashton Landfill - Confidential	Nil	See Confidential Minute	Peter Bice	John McArthur	In Progress	10/01/2023	13/10/2022	Matter continues to be progressed. Further updates will be provided when a material change occurs.
28/06/2022	Ordinary Council	173/22	Ashton Landfill - Duration of Confidentiality	Nil	Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 18.3 in confidence under sections 90(2) and 90(3)(i) of the Local Government Act 1999, resolves that an order be made under the provisions of sections 91(7) and (9) of the Local Government Act 1999 to retain the Items in confidence as detailed in the Duration of Confidentiality Table below: Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not releasedReport28 June 2024Related Attachments28 June 2024Minutes28 June 2024OtherNil	Peter Bice	John McArthur	In Progress	10/01/2023	13/10/2022	Matter continues to be progressed.
28/06/2022	Ordinary Council	175/22	Fabrik Tender & Contract - Confidential Item	Nil	See Confidential Item	Terry Crackett	Karen Cummings	In Progress	9/01/2023	18/08/2022	Oct 2022 - Building 21 Contract has now been finalised. Contracts for remainder of buildings in process of being finalised. Nov 22 - remaining contracts in process of being finalised. Dec 22 - External works contract in process of being finalised which will be the last of the four contracts to be executed. Jan 23 - External works contract to be signed early 2023
21/07/2022	CEO Performance Rev PRP12/22	Final Status Update – 2021/22 CEO Performance Targets	Nil	2. To recommend to Council that the CEO has achieved the following status in relation to the CEO Performance Targets 2021-2022: Target 1: New Council website and e-services – Completed Target 2: Service Review – In Progress Target 3: Fabrik Activation – Completed Target 4: EOI: Development of 'Free' Camping Sites – Completed Target 5: Cat Confinement Community Education – Completed Target 6: Library Services Strategic Plan – Completed	David Waters	Lachlan Miller	Completed	22/07/2022	22/07/2022	Added to the 26 July 2022 Council agenda	

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Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI	Action Required (Council Resolution)	Responsible Director	Responsible Officer	Status	Date of Update	Due Date	Status (for Council reporting)
26/07/2022	Ordinary Council	182/22	Policy Review - Festivals and Events	Nil	That the report be received and noted. To undertake public consultation on the Draft July 2022 <i>Festivals and Events Policy</i> and the CEO prepares a report for Council.	Rebecca Shepherd	Jennifer Blake	In Progress	10/01/2023	26/08/2022	We have commenced phase 1 of consultation on the Festival & Events Policy with a general invitation to our community and event attendees to provide feedback on events they attend. Phase 2 will commence after the Tour Down Under in 2023 and include more direct engagement around the Policy. https://engage.ahc.sa.gov.au/festivals-and-events-in-the-adelaide-hills
4/08/2022	CEO Performance Rev PRP16/22	CEO Performance & Remuneration Report – Confidential	Nil	Nil	Refer to Confidential Minute	David Waters	Megan Sutherland	Completed	18/10/2022	18/08/2022	The Panel's recommendations on the CEO Performance Review and CEO Remuneration Review were put to Council at its meeting on 23/8/22 for decision.
4/08/2022	CEO Performance Rev PRP17/22	CEO Performance & Remuneration report - duration of conf	Nil	Nil	retain the Items in confidence as detailed in the Duration of Confidentiality Table below: Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not released Report Until the matter has been decided by Council and the CEO has been advised in writing of the decision. Related Attachments Until the matter has been decided by Council and the CEO has been advised in writing of the decision. Minutes Until the matter has been decided by Council and the CEO has been advised in writing of the decision. Other (CEO Performance Review) Until the matter has been decided by Council and the CEO has been advised in writing of the decision. Pursuant to section 91(9)(c) of the <i>Local Government Act 1999</i> , the Panel delegates the power to revoke the confidentiality order either partially or in full to the Executive Manager Governance and Performance.	David Waters	Lachlan Miller	Completed	9/12/2022	15/09/2022	The matter has been released for confidence and is on the Council website.
23/08/2022	Ordinary Council	206/22	MON Undergrounding of Power Lines Lobethal, Mt Torrens & Woodside	Nil	That the CEO investigates the potential for undergrounding of power lines in: Main Street and portion of Lobethal Road, Lobethal; Onkaparinga Valley Road (Main Street) Woodside; and Townsend Street, Mount Torrens and, after consultation with the Power Lines Environment Committee, provides a report to Council by 28 February 2023.	Peter Bice	Ashley Curtis	In Progress	9/01/2023	28/02/2023	Preliminary investigations have commenced, ahead of more detailed investigations to occur closer to the report deadline.
23/08/2022	Ordinary Council	209/22	Proposed Road Closure – Unmade Public Road adjacent to 9 Fidlers Hill Road Inglewood	Nil	That the report be received and noted; The land marked "A" in Preliminary Plan No. 22/0025 (known as the Road Land) be declared surplus to Council's requirements; That the Chief Executive, or his delegate, are authorised to negotiate with the owners of 9 Fidlers Hill Road, Inglewood for the sale and transfer of the piece marked "A" in Preliminary Plan No. 22/0025 for the sum of \$27,250 plus GST, together with all fees and charges associated with the road closure process; Subject to agreement from the owner of 9 Fidlers Hill Road, Inglewood to purchase the Road Land for the sum of \$27,250.00 plus GST, to make a Road Process Order pursuant to the <i>Roads (Opening & Closing) Act 1991</i> to close and merge the pieces of land identified as "A" in the Preliminary Plan No. 22/0025 attached to this report with Section 171 Hundred of Para Wirra comprised in Certificate of Title Volume 5426 Folio 204; That upon the deposit of the Road Closure, the land will be excluded from the classification of Community Land and not be included in Council's Community Land Register; Council staff to provide advice to the new landowner on how to best manage the biodiversity values of the site. If Agreement is not reached with the owner of 9 Fidlers Hill Road to transfer the land, then the land will continue to be held by Council; That the Chief Executive Officer is authorised to finalise and sign all necessary documentation to close and sell the above portion of closed road pursuant to this resolution.	Terry Crackett	Kylie Caruso	In Progress	10/01/2023	13/10/2022	Sept 22 - Roads Officer liaising with property owner re transfer and road closure finalisation. Oct 22 - Roads officer continuing to liaise with all parties to finalise the matter November 22 - Plans and documents have been lodged with the Surveyor-General. Applicants have made payment for the land purchase. Awaiting deposit of plans and gazettal of Road Closure December 22 - Awaiting deposit of plans and gazettal of Road Closure Government Gazette Notice issued 15 December 2022. Road now formally closed
23/08/2022	Ordinary Council	227/22	Acting and Substantive Chief Executive Officer Recruitment - Nil	Nil	1. To appoint Cr Leith Mudge and Cr Ian Bailey as Ordinary Members of the Acting CEO Selection Panel. 2. That in relation to the Substantive CEO Recruitment, that this matter is referred to the incoming Council for decision in December 2022.	David Waters	Lachlan Miller	Completed	9/01/2023	29/11/2022	Acting CEO Selection Panel convened and all actions completed. A report on the Substantive CEO recruitment was in the December 2022 agenda and Council has resolved their path forward.
23/08/2022	Ordinary Council	230/22	East Waste Recycling Contract – Duration of Confidentiality	Nil	to retain the Items in confidence as detailed in the Duration of Confidentiality Table below: item Duration of Confidentiality NB: Item to be reviewed every 12 months if not released Report 23 August 2024 Related Attachments 23 August 2024 Minutes 23 August 2024 Other 23 August 2024	Peter Bice	John McArthur	In Progress	10/01/2023	15/09/2022	Confidential material remains sensitive and could reasonably be expected to prejudice the commercial position of the person who supplied the information.
23/08/2022	Ordinary Council	234/22	Revised East Waste 2022-23 Annual Plan & Budget – Duration of Confidentiality	Nil	to retain the Items in confidence as detailed in the Duration of Confidentiality Table below: item Duration of Confidentiality NB: Item to be reviewed every 12 months if not released Report Nil Related Attachments Appendix 1 Appendix 2 23 August 2024 Nil Minutes Nil Other Nil	Peter Bice	John McArthur	In Progress	10/01/2023	15/09/2022	Confidential material remains sensitive and could reasonably be expected to prejudice the commercial position of the business who supplied the information.
23/08/2022	Ordinary Council	236/22	Ministerial Exemption – Confidential Item	Nil	Refer to Confidential Minute	Peter Bice	John McArthur	In Progress	10/01/2023	15/09/2022	

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Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI	Action Required (Council Resolution)	Responsible Director	Responsible Officer	Status	Date of Update	Due Date	Status (for Council reporting)
23/08/2022	Ordinary Council	237/22	Ministerial Exemption - Duration of Confidentiality	Nil	to retain the items in confidence as detailed in the Duration of Confidentiality Table below:Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not releasedReport23 August 2024Related Attachments23 August 2024Minutes23 August 2024Other23 August 2024 Pursuant to section 91(9)(c) of the <i>Local Government Act 1999</i> , the Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.	Peter Bice	John McArthur	In Progress	10/01/2023	15/09/2022	
25/08/2022	Boundary Change Cor BCC1/22		Boundaries Commission Inquiry Submission	Nil	1. That the report be received and noted 2. To approve the draft Inquiry Brief Submission, as contained in Appendix 4, for lodgement with the Commission in accordance with clause 4.3.1 of the Committee's Terms of Reference and to delegate to the Chief Executive Officer to make any formatting, nomenclature, or other minor changes to the draft Submission prior to its lodgement. 3. To note that the final Inquiry Brief Submission will be incorporated into correspondence from the Adelaide Hills Council Mayor to the Boundaries Commission Chair for the purposes of lodgement.	David Waters	Lachlan Miller	Completed	29/08/2022	15/09/2022	Submission revised and lodged with the Commission by due date. The Commission has acknowledged receipt and advised that it will be considered at the Commission's 29 September 2022 meeting.
25/08/2022	Boundary Change Cor BCC2/22		MWN Update to Affected Residents re Boundary Change Prt Nil	Nil	That the Boundary Change Committee requests that the Mayor gives consideration to providing an update to our affected residents on Campbelltown City Council's (CCC) boundary change proposal. This update could include but not be limited to: • Our unwavering commitment to ensure their desire to remain part of the Adelaide Hills Council is strongly represented throughout every stage of the inquiry process. • The Boundary Commission's recent decision determining that an inquiry into the Proposal may proceed. • That this inquiry will be subject to CCC agreeing to fund the inquiry, which will not be considered until after the conclusion of the 2022 periodic local government elections. • The formation of our Boundary Change Committee which will provide additional oversight and advice on CCC's proposal.	David Waters	Lachlan Miller	Completed	9/12/2022	30/09/2022	The letter was signed by the Acting CEO due to the caretaker provisions and was finalised on 17 October 2022.
27/09/2022	Ordinary Council	252/22	Options to reduce traffic congestion Bridgewater Primary School	Nil	1 Council explores the options to reduce traffic congestion and improve child safety in the vicinity of Bridgewater Primary School and provides a report to Council on the outcomes of: i. Contacting the owners of 23 Morella Grove Bridgewater (CT 5473/109) to discuss the possibility of purchasing a section of their property along the southern end of Lezayre Avenue or Morella Grove as shown in Appendix 1. ii. Writing to the Department of Education and Bridgewater Primary School to determine the possibility of transferring a section of Department of Education land to become an extension of Morella Grove as shown in Appendix 2.	Peter Bice	Ashley Curtis	In Progress	9/01/2023	28/02/2023	Verbal and written contact has been made with the owner of 23 Morella Grove, who has advised that they are not willing to sell any portion of their land to Council. Written contact has been made with the Department for Education, and a follow up meeting has occurred, highlighting issues with the practicality of the proposal.
27/09/2022	Ordinary Council	253/22	Options to reduce traffic congestion Bridgewater Primary School - traffic study	Nil	Formal Motion from 27/9/22 - That item 11.1.1. Options to reduce traffic congestion Bridgewater Primary School – Traffic Study, be deferred until the January 2023 meeting of Council.	Peter Bice	Ashley Curtis	In Progress	9/01/2023	10/01/2023	No further action required until January meeting.
27/09/2022	Ordinary Council	254/22	MON Coach Parking	Nil	That the CEO prepares a report into the viability of a Coach Parking space in Stirling and adjacent environs by 31 January 2023.	Peter Bice	Ashley Curtis	In Progress	7/01/2023	28/02/2023	Council staff have met with a representative of the SBA to garner their views. Council staff have engaged a suitably qualified traffic engineer to provide specialist advice about options to accommodate coaches in Stirling, however due to Christmas shutdown, their advice will not be ready by the January meeting. Accordingly, and in discussion with the mover, the report will be provided to Council in February.
17/10/2022	Audit Committee	AC41/22	2021-22 General Purpose Financial Statements	Nil	1. That the report be received and noted 2. That in accordance with Section 126(4)(a) of the <i>Local Government (Financial Management) Regulations 1999</i> , the Audit Committee advises Council that it has reviewed: the General Purpose Financial Statements of the Council for the financial year ended 30 June 2022 as contained in Appendix 1, and the External Auditor Galpins' Audit Clearance Report as contained in Appendix 2, and is satisfied that the 2021-22 financial statements present fairly the state of affairs of the Council. 3. To recommend that the Adelaide Hills Council 2021-22 General Purpose Financial Statements, contained in Appendix 1, may be certified by the Acting Chief Executive Officer and the Mayor. 4. To note the confirmation of Galpins Auditor Independence Statement provided at Appendix 3. 5. To recommend that the Certification of Auditor Independence statement contained in Appendix 4 may be certified by the Acting Chief Executive Officer and the Presiding Member of the Audit Committee in accordance with the requirements of Regulation 22(3) of the Local Government (Financial Management) Regulations 2011. 6. The Audit Committee acknowledges and thanks Galpins, in particular Tim Muhlhauser and Juliano Freitas for providing audit services for the past five years.	Terry Crackett	Mike Carey	Completed	18/10/2022	19/10/2022	Annual Financial Statements presented and adopted by Council at 25 October 2022 Council Meeting and subsequently signed by all relevant parties on 1 November 2022
17/10/2022	Audit Committee	AC42/22	2021-22 End of Year Financial Report	Nil	That the report be received and noted To recommend to Council that the Audited 2021-22 Financial Results compared to Budget contained within this report have been appropriately considered.	Terry Crackett	Mike Carey	Completed	18/10/2022	19/10/2022	2021-22 End of Year Financial Report presented to Council at the Council Meeting on 25 October 2022
25/10/2022	Ordinary Council	273/22	MON Parking & Road Safety Wattle Tree Road Bridgewater	Nil	I move that a report be presented back to Council by January 2023 covering the following: The current safety of Wattle Tree Road for motorists, and what could be done to improve safety in the long term. Possible solutions for on-street parking in Wattle Tree Road.	Peter Bice	Ashley Curtis	In Progress	7/01/2023	28/02/2023	Council have ordered Crest warning signs for installation at this location. Council have engaged a consulting traffic engineer for further advice about what could be achieved at this location, however due to Christmas shutdown, their advice will not be ready by the January meeting. Accordingly, and in discussion with the mover, the report will be provided to Council in February.
25/10/2022	Ordinary Council	276/22	Electricity Tender Post 2022	Nil	1. That the report be received and noted. 2. That the Acting Chief Executive Officer is, until 31 January 2023, delegated (without financial limitation) the power to enter into contracts on behalf of the Council with tenderers selected by Local Government Association Procurement for the supply of electricity for: sites above 160 MWh per annum; and sites below 160 MWh per annum; and 12 hour and 24 hour unmetered lighting. 3. That the above delegation be conditional on the Acting Chief Executive Officer consulting with the Mayor in considering power plan options and that, in principle, the Council desires 100% accredited renewable electricity, but with a maximum limit of 50% premium in additional cost compared with standard electricity.	Terry Crackett	Mike Carey	Completed	11/01/2023	27/01/2023	Council has entered into 6 monthly contracts for Large, Small and Unmetered sites with relevant electricity suppliers in accordance with Council's resolution.
25/10/2022	Ordinary Council	278/22	Service Review Brief - Development Services	Nil	1. That the report be received and noted. 2. To adopt the draft <i>Service Review Brief – Development Services</i> as contained in Appendix 1. 3. That the Chief Executive Officer be authorised to make minor changes to the draft <i>Service Review Brief – Development Services</i> arising from the Council's consideration of the matter. 4. That the Chief Executive Officer be authorised to make amendments to the scope of the <i>Service Review Brief – Development Services</i> in response to the proposals received in the "request for quote" (RFQ) if required to meet budget.	David Waters	Lachlan Miller	Completed	9/01/2023	9/12/2022	The RFQ process has concluded and the engagement of a consultant is imminent.

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Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI	Action Required (Council Resolution)	Responsible Director	Responsible Officer	Status	Date of Update	Due Date	Status (for Council reporting)						
29/11/2022	Ordinary Council	294/22	MON Speed Limit on North-East Road Inglewood	Nil	That the Acting CEO requests the Chief Executive, Department of Infrastructure and Transport, to investigate the reduction of the 80kph speed limit on the Adelaide side of North East Road, Inglewood to past the intersection of Range Road South and North East Road Houghton to the existing 60kph limit sign.	Peter Bice	Peter Bice	Completed	16/01/2023	14/12/2022	Letter has been sent as per resolution.						
29/11/2022	Ordinary Council	295/22	Time and Place of Meetings	Nil	<ol style="list-style-type: none"> The report be received and noted. Commencing 2022 until 28 February 2024, Ordinary Council Meetings will be held at 63 Mt Barker Road, Stirling and are scheduled to commence at 6.30pm on the second and fourth Tuesday of the month, except for: December 2022 (Tuesday 20 December 2022) January 2023 (Tuesday 24 January 2023) December 2023 (Tuesday 19 December 2023) January 2024 (Tuesday 23 January 2024) The Chief Executive Officer be authorised to adjust the Ordinary Council Meeting schedule, including time and place of the meeting, where matters necessitate a change such as a meeting date occurring on a public holiday, catastrophic fire danger day or other valid reason. Commencing 2022 until 28 February 2024, times and venues for Special Council Meetings, requested in accordance with the legislative provisions, are to be determined by the Chief Executive Officer. Commencing 2022 until 28 February 2024, Information or Briefing Sessions are scheduled as follows: <ol style="list-style-type: none"> Workshops scheduled ordinarily at 6.30pm on the first Monday of each month, held at 36 Nairne Road, Woodside, except for January. Professional Development Sessions scheduled ordinarily at 6.30pm on the third Tuesday of each month, held at 63 Mt Barker Road, Stirling, except for December and January. The Chief Executive Officer be authorised to schedule additional Information or Briefing sessions where workload dictates, or adjust the Information or Briefing Sessions schedule, including time and place of the sessions, where matters necessitate a change such as an Information or Briefing session date occurring on a public holiday, catastrophic fire danger day or other valid reason. The Chief Executive Officer be authorised to adjust any Dates which is 	David Waters	Lachlan Miller	In Progress	9/01/2023	14/12/2022	All meetings as per the schedule have been booked. This item will remain open until the evaluation has been completed.						
29/11/2022	Ordinary Council	298/22	Annual Report Adoption	Nil	That the report be received and noted. The 2021-22 Annual Report, as contained in Appendix 1, be adopted. That the Acting Chief Executive Officer be authorised to make minor content, formatting or design changes necessary for publication purposes.	David Waters	Lachlan Miller	Completed	9/01/2023	7/12/2022	Report was finalised and lodged in accordance with legislative requirements.						
29/11/2022	Ordinary Council	316/22	12.12.18 Appointment of Council Member & Deputy Council Member	Material - Cr Leith Mudge Material - Cr Nathan Daniell	Council resolves to appoint Cr Leith Mudge as the Council Member and Cr Nathan Daniell as Deputy Council Member of the Council Assessment Panel for a term of two years to commence 30 November 2022 and conclude on 29 November 2024.	Natalie Armstrong	Deryn Atkinson	Completed	30/11/2022	7/12/2022							
12/12/2022	Audit Committee	AC47/22	External Audit Tender - Confidential	Nil	As per confidential minute	David Waters	Lachlan Miller	Not Started	14/12/2022	30/12/2022							
12/12/2022	Audit Committee	ACS1/22	Audit Committee Meeting Dates 2023	Nil	<p>That the report be received and noted. To approve the Audit Committee meeting schedule, timings and locations for 2023 as follows:</p> <p>Commencement 6.00pm Meeting Dates and Locations 20 February 2023, 63 Mt Barker Road, Stirling 17 April 2023, 63 Mt Barker Road, Stirling 15 May 2023, 63 Mt Barker Road, Stirling 21 August 2023, 63 Mt Barker Road, Stirling 16 October 2023, 63 Mt Barker Road, Stirling 20 November 2023, 63 Mt Barker Road, Stirling</p> <p>3. The CEO be authorised to adjust the Ordinary Committee Meeting schedule, including time and place of the meeting, where matters necessitate a change such as a meeting date occurring on a public holiday, catastrophic fire danger day or other valid reason.</p>	David Waters	Lachlan Miller	Not Started	14/12/2022	30/12/2022							
12/12/2022	Audit Committee	AC49/22	External Audit Tender - Duration of Confidentiality	Nil	<p>Report 31 December 2024 Related Attachments 31 December 2024 Minutes Until Council has appointed an External Auditor for the 30 June 2023 financial year. Other (presentation, documents, or similar) Nil</p>	David Waters	Lachlan Miller	Not Started	14/12/2022	30/12/2022							
12/12/2022	Audit Committee	ACS3/22	Budget Review 1	General - Cr Malcolm Herrmann	<p>That the report be received and noted.</p> <p>To recommend to Council the proposed budget adjustments presented in Budget Review 1 which result in: An increase in the Operating Surplus from \$676k to \$830k for the 2022-23 financial year. Changes to Capital Works, reducing capital income by \$926k and increasing capital expenditure by \$580k for the 2022-23 financial year resulting in a revised capital expenditure budget for 2022-23 of \$27.369m. An increase in Council's current Net Borrowing Result from \$6.934m to \$8.342m for the 2022-23 financial year as a result of the proposed operating and capital adjustments.</p> <p>3. To note that the proposed financial ratios based on the budget adjustments presented in Budget Review 1 would result in:</p> <table border="0"> <tr> <td>Operating Surplus Ratio</td> <td>1.6%</td> </tr> <tr> <td>Net Financial Liabilities Ratio</td> <td>52%</td> </tr> <tr> <td>Asset Renewal Funding Ratio</td> <td>106%</td> </tr> </table>	Operating Surplus Ratio	1.6%	Net Financial Liabilities Ratio	52%	Asset Renewal Funding Ratio	106%	Terry Crackett	Mike Carey	Completed	14/12/2022	30/12/2022	Budget Review 2 presented to Council on 20 December 2022 and adopted.
Operating Surplus Ratio	1.6%																
Net Financial Liabilities Ratio	52%																
Asset Renewal Funding Ratio	106%																
20/12/2022	Ordinary Council	291/22	Mt Barker Adelaide Hills Transport Study	Nil	<ol style="list-style-type: none"> That the report be received and noted. That Council acknowledges and provides its support for conduct of a transport study for the Adelaide Hills community. That the letter contained in Appendix 4 be endorsed as the Council's submission into the current stage of the Mount Barker/ Adelaide Hills Transport Study. That the Mayor and Chief Executive Officer be authorised to make any minor or non-substantive changes in finalising the letter, including the inclusion of any matters arising from the debate on this item. That the Mayor and Chief Executive Officer be authorised to represent the Council's position in direct engagement with relevant government representatives. 	Peter Bice	David Collins	In Progress	11/01/2023	12/01/2023							
20/12/2022	Ordinary Council	292/22	2022-23 Budget Review 1	Nil	<p>That the report be received and noted.</p> <p>2. To adopt the proposed budget adjustments presented in Budget Review 1 which result in: An increase in the Operating Surplus from \$676k to \$830k for the 2022-23 financial year. Changes to Capital Works, reducing capital income by \$926k and increasing capital expenditure by \$580k for the 2022-23 financial year resulting in a revised capital expenditure budget for 2022-23 of \$27.369m. An increase in Council's current Net Borrowing Result from \$6.934m to \$8.342m for the 2022-23 financial year as a result of the proposed operating and capital adjustments.</p>	Terry Crackett	Mike Carey	Completed	21/12/2022	20/12/2022	Budget Review amendments have been processed as adopted by Council on 20 December 2022.						

Action List - 24 January 2023

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI	Action Required (Council Resolution)	Responsible Director	Responsible Officer	Status	Date of Update	Due Date	Status (for Council reporting)
20/12/2022	Ordinary Council	293/22	Substantive CEO Recruitment	Nil	<ol style="list-style-type: none"> That the report be received and noted. To manage the Substantive CEO recruitment process with a Recruitment Consultant, to be procured by the Administration. To undertake a CEO remuneration benchmarking exercise utilising the Recruitment Consultant. To adopt a Bespoke Selection Panel model for the Substantive CEO Selection Panel. To satisfy the provisions of Section 98(4a) of the <i>Local Government Act 1999</i> by determining a Qualified Independent Person prior to considering recommendations for appointment to the Substantive CEO position. That the Substantive CEO Selection Panel: Will have the following functions: in collaboration with the Recruitment Consultant: to review and finalise the CEO Position Description (consistent with the provisions of s99 of the Act); determine the market approach (mix of media) and candidate assessment tools; and division of recruitment actions and responsibilities to shortlist and assess candidates in order to determine a preferred candidate(s); and make a recommendation to Council for appointment of a preferred candidate and the terms and conditions of appointment. Will consist of five (5) members as follows: Mayor; Deputy Mayor; Presiding Member of the CEO Performance Review Panel; and two (2) Ordinary Members. The Presiding and Deputy Presiding Member of the Substantive CEO Selection Panel will be the Mayor and Deputy Mayor respectively. That the method of selecting the Substantive CEO Selection Panel Ordinary Members will be by an indicative vote to determine the preferred persons for the two (2) positions utilising the <i>Appointments to Positions Process</i> contained in Clause 4.7 of Council's <i>Code of Practice for Council Meeting Procedures</i>. To adjourn the Council meeting for the purpose of making nominations for and electing members of the Council resolves to appoint Cr Mark Osterstock and Cr Kirsty Parkin as Ordinary Members of the Substantive CEO Selection Panel. 	David Waters	Lachlan Miller	In Progress	9/01/2023	10/02/2023	Selection Panel has been determined but have not yet met. Recruitment Consultant (McArthur) has been engaged.
20/12/2022	Ordinary Council	294/22	Substantive CEO Recruitment - Members of Recruitment Panel	Nil	<ol style="list-style-type: none"> That the report be received and noted. With an effective date of 3 January 2023, to revoke the 24 August 2021 <i>Cemetery Operating Policy</i> and to adopt the 20 December 2022 <i>Cemetery Operating Policy</i> as per Appendix 1. That the Chief Executive Officer be authorised to make any formatting, nomenclature or other minor changes to the 20 December 2022 <i>Cemetery Operating Policy</i> as per Appendix 1 prior to the date of effect. 	David Waters	Lachlan Miller	In Progress	9/01/2023	13/01/2023	Selection Panel established but has not yet met.
20/12/2022	Ordinary Council	295/22	Cemetery Operating Policy	Nil	<ol style="list-style-type: none"> That the report be received and noted. With an effective date of 3 January 2023, to revoke the 24 August 2021 <i>Cemetery Operating Policy</i> and to adopt the 20 December 2022 <i>Cemetery Operating Policy</i> as per Appendix 1. That the Chief Executive Officer be authorised to make any formatting, nomenclature or other minor changes to the 20 December 2022 <i>Cemetery Operating Policy</i> as per Appendix 1 prior to the date of effect. 	Terry Crackett	Karen Cummings	In Progress	9/01/2023	6/01/2023	Jan 23 - final changes being made to Cemeteries operating policy
20/12/2022	Ordinary Council	296/22	GAROC Membership	Material - Mayor Jan-Claire Wisdom	To endorse the nomination of Mayor Jan-Claire Wisdom for the Greater Adelaide Regional Organisation of Councils and authorise the Chief Executive Officer to lodge the completed nomination form to the Local Government Association. That the Chief Executive Officer, on behalf of Council, writes to all Elected Members who represent the Eastern Region of Councils for GAROC seeking their support on behalf of the community of the Adelaide Hills for Mayor Jan-Claire Wisdom to fill the vacancy.	David Waters	Lachlan Miller	In Progress	9/01/2023	19/01/2023	Mayor Wisdom has been provided the nomination forms to complete. Lobbying of other councils will occur when the voting papers are delivered to councils
20/12/2022	Ordinary Council	303/22	Surplus Government Land Notification	Nil	See Confidential Minute	Terry Crackett	Karen Cummings	Not Started	9/01/2023	17/02/2023	
20/12/2022	Ordinary Council	304/22	Surplus Government Land Notification	Nil	to retain the Items in confidence as detailed in the Duration of Confidentiality Table below: Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not released Report Until the land has been placed on the open market by the State Government or until the State Government authorises release of the information, whichever event occurs first. Related Attachments Until the land has been placed on the open market by the State Government or until the State Government authorises release of the information, whichever event occurs first. Minutes Until the land has been placed on the open market by the State Government or until the State Government authorises release of the information, whichever event occurs first. Other (presentation, documents, or similar) Nil	Terry Crackett	Karen Cummings	Not Started	9/01/2023	17/02/2023	
20/12/2022	Ordinary Council	306/22	Citizen of the Year Awards 2023	Nil	See Confidential Minute	Rebecca Shepherd	Jennifer Blake	In Progress	10/01/2023	26/01/2023	The item remains in confidence.
20/12/2022	Ordinary Council	307/22	Citizen of the Year Awards 2023	Nil	retain the Items in confidence as detailed in the Duration of Confidentiality Table below: Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not released Report 26 January 2023 Related Attachments 26 January 2023 Minutes 26 January 2023 Other Nil	Rebecca Shepherd	Jennifer Blake	In Progress	10/01/2023	26/01/2023	The item remains in confidence as per the table.
20/12/2022	Ordinary Council	309/22	Appointment of External Auditor	Nil	See Confidential Minute	David Waters	Lachlan Miller	In Progress	9/01/2023	9/01/2023	Contract with preferred provider is in the process of being executed by both parties.
20/12/2022	Ordinary Council	310/22	Appointment of External Auditor - Duration of Confidentiality	Nil	retain the Items in confidence as detailed in the Duration of Confidentiality Table below: Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not released Report 31 December 2024 Related Attachments 31 December 2024 Minutes Until Council has appointed an External Auditor for the 30 June 2023 financial year. Other (presentation, documents, or similar) Nil	David Waters	Lachlan Miller	In Progress	9/01/2023	13/01/2023	Contract for the preferred provider is in the process of being executed by both parties.

Item 17 Minutes of Committees

**ADELAIDE HILLS COUNCIL
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING
WEDNESDAY 14 DECEMBER 2022
63 MOUNT BARKER ROAD, STIRLING
AND
ZOOM VIRTUAL MEETING ROOM**

[Please Note: These minutes are unconfirmed until 11 January 2023]

In Attendance

Presiding Member

Geoff Parsons

Members

Ross Bateup

Paul Mickan

Myles Somers

Leith Mudge

In Attendance

Natalie Armstrong	Director Development & Regulatory Services
Deryn Atkinson	Assessment Manager
James Booker	Team Leader Statutory Planning
Doug Samardzija	Senior Statutory Planner
Marie Molinaro	Statutory Planner
Sebastien Paraskevopoulos	Statutory Planner
Darren Smith	Statutory Planner
Alisa Styles	Duty Planner (Observer)
Tim Mason	Statutory Planning Cadet (Observer)
Karen Savage	Minute Secretary

1. Commencement

The meeting commenced at 6.30pm and the Presiding Member welcomed Cr Leith Mudge and congratulated him on his appointment to the Council Assessment Panel.

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”.

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3. Apologies/Leave of Absence

3.1 Apologies
Nil

3.2 Leave of Absence
Nil

4. Previous Minutes

4.1 Meeting held 9 November 2022

The minutes were adopted by consensus of all members (45)

That the minutes of the meeting held on 9 November 2022 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, in relation to Item 8.2, he is connected with the owner of the applicant's Planning Consultancy, Elinor Walker, via social media. He has not connected with Elinor in recent times and has not discussed this application, nor any other application, with her. Accordingly, he does not believe he has a conflict of interest in this matter and will remain in the meeting for that item.

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 – Planning, Development and Infrastructure Act

8.1 Development Application 21030135 by Beyond Ink for change of use from farm building to private depot for the parking and storage of vehicles and associated equipment at 10B Drummond Road, Woodside

8.1.1 Representations

Name of Representor	Address of Representor	Nominated Speaker
Greg Vincent on behalf of Edwina Harrison & M J Penny	353 Nairne Road Woodside	Charlie Dubois MasterPlan
DeeAnne Hunt	9 Grasby Road, Balhannah	Did Not Attend

The applicant's representative, Sonia Gallarello (Beyond Ink) addressed the Panel via Zoom, and Luke Beltrame (Landowner) addressed the Panel in person.

8.1.2 Decision of Panel

The following was adopted by consensus of all members (46)

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 21030135 by Beyond Ink for change of use from farm building to private depot for the parking and storage of vehicles and associated equipment at 10B Drummond Road, Woodside is granted Planning Consent subject to the following conditions:**

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[Please Note: These minutes are unconfirmed until 11 January 2023]

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.
- 2) A maximum of three (3) trucks and trailers and four (4) heavy vehicles associated with the approved use shall be kept on site at any one time.
- 3) All equipment, machinery and employee vehicle parking associated with the depot shall only be stored and parked in the building and the nominated hardstand area on the site plan prepared by Beyond Ink, drawing number PA02 revision C. All materials stored within the hardstand area shall be stored in a tidy manner to the reasonable satisfaction of Council
- 4) No substantial mechanical or vehicle maintenance, vehicle servicing or washing of machinery and equipment associated with the approved use shall occur on site.
- 5) No bulk storage of chemicals, oils or lubricants associated with the approved use is to occur on-site, other than the existing 20,000L fuel storage.
- 6) Operating days and hours of the depot shall be Monday to Friday 6:30am to 5:30pm. Movement of trucks and heavy vehicles associated with the approved use shall be limited to these hours of operation. Trucks and heavy vehicles must not be started earlier than 6:30am.
- 7) Access to the property shall be constructed in accordance with the following requirements and maintained at all times to the reasonable satisfaction of Council:
 - Bitumen seal shall be laid for a distance of 10 metres from the Drummond Rd carriageway edge to inside the property boundary. Construction shall include 100mm of compacted rubble base and 40mm AC10 bitumen.
 - Maximum access width of 6 metres.
 - Driveway to be constructed in accordance with Council Standard Detail drawing for Piped Entrance for rural verge crossover (refer attachment).

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- No root disturbance or other damage to trees on council verge shall be undertaken during the construction of the driveway.
- 8) All vehicle movements associated with the depot use are to only occur through the new access point shown on the approved site plan prepared by Beyond Ink, drawing number PA02 revision C. Vehicles using the new access point are to be limited to left turn exit only and right turn entry only.
- 9) A sign shall be installed on the property within 3 months of commencement of work directing the vehicle movements through the new access point.
- 10) All external lighting associated with the depot use shall be restricted to that necessity for security purposes only and shall be directed away from residential development and, shielded if necessary to prevent light spill causing nuisance to the occupiers of nearby residential properties.
- 11) All stormwater infrastructure including gross pollutant trap shall be installed within 3 months of Development Approval being granted. 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 should be managed on site with no stormwater to trespass onto adjoining properties.

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.

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- 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 Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.**
- 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).**

8.2 **Development Application 22028489 by ESD Planning and Design for partial change of land use to include three (3) Tourist Accommodation units, decks (maximum height 1 metre) and associated shelter structures at 47 Woolshed Road, Mount Torrens**

8.2.1 **Representations**

Name of Representor	Address of Representor	Nominated Speaker
Dee Reece	86 Woolshed Road Mount Torrens	Did Not Attend
Margot Scott	119 Woolshed Road Mount Torrens	Did Not Attend
David & Kendall Broughton	101 Woolshed Road Mount Torrens	Kendall Broughton via Zoom

The applicant's representative, Elinor Walker (ESD Planning and Design), addressed the Panel.

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[Please Note: These minutes are unconfirmed until 11 January 2023]

8.2.2 Decision of Panel

The following was adopted by consensus of all members (47)

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 22028489 by ESD Planning and Design for partial change of land use to include three (3) Tourist Accommodation units, decks (maximum height 1 metre) and associated shelter structures at 47 Woolshed Road, Mount Torrens is granted Planning 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.
- 2) All external light shall be directed away from residential development and shielded if necessary to prevent light spill causing nuisance to the occupiers of adjacent residential properties.
- 3) The person(s) having the benefit of this consent shall refrain from permitting the use of the tourist accommodation buildings for provision of long-term accommodation or as separate dwellings. The tourist accommodation units shall be used and operated on a short-term rental arrangement with a maximum of a one (1) month 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.

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- 4) All roof runoff 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.

- 5) 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. For further information visit: www.environment.sa.gov.au/Conservation/Native_Vegetation/Managing_native_vegetation

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

- 6) The tourist accommodation herein approved will accommodate a maximum of six (6) guests at any one time.
- 7) The tourist accommodation and shelter structures shall be constructed using external materials of a dark green or dark beige colour.
- 8) Prior to Building Consent being granted, a detailed landscaping plan prepared by a suitably qualified professional, shall be prepared to the satisfaction of Council's Assessment Manager. Any such vegetation shall be replaced if and when it dies or becomes seriously diseased in the next planting season.

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Conditions imposed by the Environment Protection Authority under Section 122 of the Act

- 1) The on-site wastewater system must be installed in accordance with that proposed in the Wastewater Engineer's Report titled "Aerobic with Surface Sprays for Proposed Accommodation Area Report 1979 47 Woolshed Rd Mt Torrens", prepared by Archer Environmental, dated 12 July 2022, and must include:
 - a) the installation of a FujiClean ACE1200 system;
 - b) the construction of a 240m² irrigation area, to be located more than 50m from the nearest watercourse, dam or bore, more than 1.2m from the seasonal groundwater table, on a slope less than 20% and not in the 10% AEP flood zone;
 - c) vegetating the irrigation area with plants from the SA Health On-Site Wastewater Systems Code (2013) which is terraced or raised to reduce the slope and the potential for run-off; and
 - d) bunding to direct surface runoff away from the irrigation area and creating a bund downhill to prevent any runoff, from over-irrigation, moving off site.

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 Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.

**ADELAIDE HILLS COUNCIL
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- 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).

8.3 Development Application 22012578 by Brianni Constructions for reconfiguration of car parking to be completed over 4 stages including new ramp & stair access to the place of worship building, construction of masonry statue (maximum height 8.4m), 1 x freestanding advertisement (maximum height 5.9m) (retrospective), outbuildings x 3, 1 x 45,000L water storage tank and removal of 1 x significant tree – *Eucalyptus robusta* (Swamp Mahogany) at 8 James Street, Crafers

8.3.1 Representations

Name of Representer	Address of Representer	Nominated Speaker
John Dempsey	6 James Street, Crafers	Michael Caruso
Tim Smith	6 Shurdington Road, Crafers	Tim Smith

The applicant's representative, Marcus Rolfe (URPS), addressed the Panel.

8.3.2 Decision of Panel

The following was adopted by consensus of all members (48)

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

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- 2) Development Application Number 22012578 by Brianni Constructions for reconfiguration of car parking to be completed over 4 stages including new ramp & stair access to the place of worship building, construction of masonry statue (maximum height 8.4m), 1 x freestanding advertisement (maximum height 5.9m) (retrospective), outbuildings x 3, 1 x 45,000L water storage tank and removal of 1 x significant tree – *Eucalyptus robusta* (Swamp Mahogany) at 8 James Street, Crafers is granted Planning 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.
- 2) 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. Lighting around the masonry statue shall be turned off between 10pm and 8am the following day.
- 3) The sign shall at all times be kept in good repair and condition. Torn or damaged flags shall be replaced as soon as practicable. The sign shall not be illuminated.
- 4) All car parking spaces, driveways and manoeuvring areas shall be constructed and line-marked in accordance with the approved site plans. 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 sealed bitumen within six (6) months of Development Approval and thereafter be maintained in good condition at all times to the reasonable satisfaction of Council. No special events shall be held during the construction period for completion of all four stages of the car park.
- 5) Stormwater management shall be undertaken in accordance with the approved stormwater management plan drawing JAM3833-2 C01 Rev 2 30/9/22 prepared by Dean Iuliano and Company.

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All roof stormwater infrastructure shall be installed to the satisfaction of Council within one month of the roof cladding being installed, and pavement stormwater shall be connected to gross pollutant trap prior to the completion of the stage 2 works to the reasonable satisfaction of Council.

- 6) Two replacement trees as shown on the Landscaping Plan Sheet 7B of 7B Revision B prepared by Brianni Constructions and dated 05/09/22 must be planted within 12 months of completion of the development. Replacement trees cannot be within a species specified under regulation 3F(4)(b) of the *Planning, Development and Infrastructure (General) Regulations 2017*, and cannot be planted within 10 metres of an existing dwelling or inground swimming pool.
- 7) Payment of an amount calculated in accordance with the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019* be made into the Adelaide Hills Council Urban Tree Fund in lieu of planting 1 replacement tree. Payment must be made prior to the removal of the significant tree on the land.

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 Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.
- 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

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substantially or fully completed within those 3 years, in which case the approval will not lapse).

- 5) The existing sacred tree planting encroaches into the Council drainage easement. Note that Council can request the removal of this structure to carry out works and all costs associated with the removal/replacement of the structure shall be borne by the owners. Should damage occur to the Council asset during construction, then the property owner shall be liable for the repair/replacement of the asset.

- 8.4 **Development Application 21027228 by Michael Velonakis for partial change of use of existing dwelling to include tourist accommodation and construction of building for tourist accommodation and studio workshop at 31 Crescent Drive, Norton Summit**

8.4.1 **Representations**

Name of Representor	Address of Representor	Nominated Speaker
Michael Richardson on behalf of the Giles family	412 Old Norton Summit Road, Norton Summit	Michael Richardson MasterPlan
Fabian Booth	15 Crescent Drive Norton Summit	Fabian Booth

The applicant's representative, Lou Fantasia (via zoom), addressed the Panel.

8.4.2 **Decision of Panel**

Moved Myles Somers **Carried**
S/- Ross Bateup **(49)**

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

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- 2) Development Application Number 21027228 by Michael Velonakis for partial change of use of existing dwelling to include tourist accommodation and construction of building for tourist accommodation and studio workshop at 31 Crescent Drive, Norton Summit is granted Planning 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.
- 2) The external finishes to the building herein approved shall be as follows:
WALLS: Timber weatherboard cladding in Solver 'Doeskin' and 'heritage' galvanised iron walls
ROOF: Colorbond 'Ironstone' or similar
- 3) The person(s) having the benefit of this consent shall refrain from permitting the use of the buildings (or any part thereof) for the provision of long-term accommodation or as a separate dwelling. The tourist accommodation elements shall be used and operated on a short-term rental arrangement with a maximum of a one (1) 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.
- 4) At any one time, the overall number of guests for tourist accommodation shall be limited to a maximum of eight (8) people.
- 5) All car parking spaces, driveways and manoeuvring areas shall be designed, constructed, drained and line-marked in accordance with Australian Standard AS 2890.1:2004. Line marking and directional arrows shall be clearly visible and maintained in good condition at all times. Driveways, vehicle manoeuvring and parking areas shall be constructed of compacted gravel prior to commencement of the approved use and maintained in good condition at all times to the reasonable satisfaction of the Council.

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- 6) The workshop studio within the proposed 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.
- 7) 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.
- 8) All roof runoff 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

All roof run-off generated by the development hereby approved shall be directed within one month of the roof cladding being installed to the existing stormwater management system on-site to the satisfaction of Council. 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.

CONDITIONS IMPOSED BY THE SOUTH AUSTRALIA CONTRY FIRE SERVICE AS PER SECTION 122 OF THE PDI ACT

- 9) **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 relevant building standards for associated structures in Bushfire Prone Areas.

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10) 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 use, operation and evacuation for firefighting and emergency personnel and evacuation of residents, occupants and visitors where required. These requirements apply when the furthest point of the building is more than 60m from the nearest public road.

SA CFS has no objection to utilising the driveway and the public road for a 'T' shaped turnaround with the following conditions:

- 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.
- Private access shall have minimum internal radii of 9.5 metres on all bends.
- 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 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 (1-in-5.5) the surface should be sealed.
- The all-weather road is to be constructed such that it is protected from water erosion of the traffic surface. The road surface shall be profiled to manage storm water run-off to appropriate drains, at one or both sides of the traffic surface. The accumulated volumes of water shall be directed via:
 - a) open drains; or
 - b) culverts and pipes under the traffic surface, and / or away from same, without causing further soil erosion, silting of adjacent areas or water courses or instability of any embankment or cutting.

11) WATER SUPPLY & ACCESS (to dedicated water supply)

Ministerial Building Standard MBS008 "Designated bushfire prone areas - additional requirements" 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 dedicated bushfire fighting water supply shall also incorporate the installation of a pumping system, pipe work and fire-fighting hose(s) in accordance with MBS008.

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'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.

SA CFS has no objection to the location of the existing dedicated water supply as detailed on drawing named PROPOSED SITE PLAN dated at last revision 02/04/2022, providing the outlet is positioned remotely to comply with the following conditions:

- **The water supply outlet shall be easily accessible and clearly identifiable from the access way.**
- **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 above ground 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:**
 - a) **The dedicated water supply outlet for draughting purposes shall not exceed 5 metres maximum vertical lift (calculated on the height of the**

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hardstand surface to the lowest point of the storage) and no greater than 6 metres horizontal distance.

- b) The suction outlet pipework from the water supply 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.
- The minimum water supply required may be combined with domestic use, providing the outlet for domestic use is located above the dedicated fire water supply (in order for it to remain as a dedicated supply).

12) MAINTAIN AN ASSET PROTECTION ZONE (APZ) - 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.

The extent of an existing or proposed asset protection zone has not been detailed on supplied drawings.

- Vegetation management 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%’. SA CFS notes that coverage of vegetation within 20m, to the north west of the proposed habitable (studio) building as well as along the “front” boundary (adjacent Lobethal Road) is currently greater than 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.

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- 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 from the trees' lowest branches.
- 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 2 metres 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.

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 Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.
- 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).

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- 5) Management of the property during construction shall be undertaken in such a manner as to prevent denudation, erosion, or pollution of the environment.
- 6) The applicant is reminded of their 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.
- 7) A separate development application is required for any signs or advertisements (including flags and bunting) associated with the development herein approved.

ADVISORY NOTES IMPOSED BY THE SOUTH AUSTRALIA CONTRY FIRE SERVICE AS PER SECTION 122 OF THE PDI ACT

8) 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 was conducted in accordance with the NCC and Australian Standard™3959 (AS3959) "Construction of Buildings in Bushfire Prone Areas".

Category of Bushfire Attack Level:

EXISTING DWELLING - PART CONVERSION TO TOURIST ACCOMMODATION: BAL 19

This BAL rating is conditional upon the establishment and maintenance of a 20 metre Asset Protection Zone, (or to the property boundaries, whichever comes first) in accordance with the Asset Protection Zone – Vegetation Management condition of consent placed on the planning consent with the same application reference.

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SELF-CONTAINED STUDIO CONVERSION TO TOURIST ACCOMMODATION: BAL 29
This BAL rating is conditional upon the establishment and maintenance of a 20 metre Asset Protection Zone, (or to the property boundaries, whichever comes first) in accordance with the Asset Protection Zone – Vegetation Management condition of consent placed on the planning consent with the same application reference.

This report is considered relevant at the date of assessment with respect to the elevations detailed on proposed Site Plan, dated 02/04/2022 and shall not be considered as SA CFS endorsement of any subsequent development.

9) TOURIST ACCOMMODATION - BUSHFIRE SURVIVAL PLAN

CFS further recommends:

- The applicants to prepare and display a BUSHFIRE SURVIVAL PLAN (BSP) designed specifically for the purpose of any guests that may be in residence during a bushfire event, especially during the Fire Danger Season. The BSP:
 - i. should provide clear directions to persons that may be unfamiliar with the area/locality and unfamiliar with what protective actions they may need to take to protect their lives during a bushfire event, including when to take such protective actions; and
 - ii. should address the possibility that the owners may not be present at the time of the bushfire event; and
 - iii. should not expect guests to be involved in fire-fighting operations.

The SA CFS 'Bushfire Safety Guide For Business' document (refer to CFS website) should be utilised as a basis for information and the drafting of the (GUEST) BSP.

The applicant should consider reducing operating hours and restrictions on days of heightened bushfire danger and/or bushfire events and consider including any alterations to bookings and services offered due to actual or predicted conditions during the Fire Danger Season in any booking/refund policy.

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9. **Development Assessment Applications –Development Act**
Nil
10. **Development Assessment Applications – Review of Decisions of Assessment Manager**
Nil
11. **ERD Court Appeals**
Nil
12. **Policy Issues for Advice to Council**
- 12.1 The Council Assessment Panel discussed the Policy in the Planning and Design Code regarding tourist accommodation in primary production areas and agreed that further comment be provided for consideration of policy clarity/amendment.
13. **Other Business**
- 13.1 The Presiding Member thanked Council’s administration for the preparation of the reports and agendas, and the Panel for their support during the last year, and wished everyone a merry and safe Christmas.
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 11 January 2023.
17. **Close meeting**
The meeting closed at 9.53pm.

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 January 2023
CONFIDENTIAL AGENDA BUSINESS ITEM**

Item: 18.1

Responsible Officer: Steven Watson
Governance & Risk Coordinator
Office of the Chief Executive

Subject: Appointment of Audit & Risk Committee Independent Members to the Adelaide Hills Region Waste Management Authority (AHRWMA)

For: Decision

1. Appointment of Audit & Risk Committee Independent Members to the Adelaide Hills Region Waste Management Authority (AHRWMA) – Exclusion of the Public

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except:

- Acting Chief Executive Officer, David Waters
- Acting Director Community Capacity, Rebecca Shepherd
- Director Corporate Services, Terry Crackett
- Director Development & Regulatory Services, Natalie Armstrong
- Director Infrastructure & Operations, Peter Bice
- Governance & Risk Coordinator, Steven Watson
- Minute Secretary, Pam Williams

be excluded from attendance at the meeting for Agenda Item 18.1: Appointment of Audit & Risk Committee Independent Members to the Adelaide Hills Region Waste Management Authority (AHRWMA) in confidence.

The Council is satisfied that it is necessary that the public, with the exception of Council staff in attendance as specified above, be excluded to enable Council to consider the report at the meeting on the following grounds:

Section 90(3)(a) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of people who expressed interest in membership of the AHRWMA Audit and Risk Committee in that details included in their resumes be discussed.

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

3. Appointment of Audit & Risk Committee Independent Members to the Adelaide Hills Region Waste Management Authority (AHRWMA) – Duration of Confidentiality

Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 18.1 in confidence under sections 90(2) and 90(3)(a) of the *Local Government Act 1999*, resolves that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:

Item	Duration of Confidentiality NB: Item to be reviewed every 12 months if not released
Report	30 June 2023
Related Attachments	NIL
Minutes	30 June 2023
Other (presentation, documents, or similar)	NIL

Pursuant to section 91(9)(c) of the *Local Government Act 1999*, the Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.