

CAP MEETING – 8 NOVEMBER 2023**ITEM 8.1**

DEVELOPMENT NO.:	22041947
APPLICANT:	Mark Kwiatkowski Anthony Wagenknecht
ADDRESS:	14 NIOKA DRIVE IRONBANK SA 5153 CT 5490/659
NATURE OF DEVELOPMENT:	Change of use to include brewery (light industry) within part of store building (producing 44,000L per annum) & construction of mezzanine within the store building for sale & tasting of beer with associated car parking
ZONING INFORMATION:	Zones: <ul style="list-style-type: none"> • Productive Rural Landscape Overlays: <ul style="list-style-type: none"> • Environment and Food Production Area • Hazards (Bushfire - High Risk) • Hazards (Flooding - Evidence Required) • Limited Land Division • Native Vegetation • Prescribed Wells Area • State Significant Native Vegetation • Water Resources
LODGEMENT DATE:	15 December 2022
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	2021.16
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes Notification period from 21 July 2023 to 10 August 2023
RECOMMENDING OFFICER:	Marie Molinaro Statutory Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Council Environmental Health Council Engineering

CONTENTS:**ATTACHMENT 1: Application Documents****ATTACHMENT 5: Response to Representations****ATTACHMENT 2: Subject Land Map****ATTACHMENT 6: Relevant P&D Code Policies****ATTACHMENT 3: Zoning Map****ATTACHMENT 4: Representations**

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DETAILED DESCRIPTION OF PROPOSAL:

- Convert part of an approved store building to a brewery with tasting and sales area. The store building was approved via development authorisation 19/433.
- The building has a ground floor area of 288 square metres.
- A 96 square metre western end bay of the building will contain the brewery equipment, with one (1) external chiller.
- The brewery portion of the building will be fitted with a bund to contain spillage.
- The remainder of the ground floor will be used for the storage of vehicles/equipment as approved via development authorisation 19/433, but with the inclusion of a unisex, universal access toilet.
- A 96 square metre mezzanine level has already been installed within the eastern portion of the building, so this building work part of the proposal is retrospective.
- The mezzanine level will be used for the tasting and sale of beer produced in the brewery.
- There are no external changes to the store building.
- The building is 4m from the rear boundary and 4m from the eastern side boundary.
- The building is approximately 50m west of the nearest dwelling on adjoining land – 16 Nioka Drive, Ironbank.
- The brewery will produce 44,000L of beer per year and will be operated by the owner of the land.
- Beer will be bottled on-site and stored in cans and kegs. Bottling is to occur once per week.
- The tasting and sales area will be open every second Saturday between 11am and 5pm for up to a maximum of 20 customers at any one time.
- The licensed area has been nominated as the entire store building and does not include any outdoor areas.
- A 10 space gravel car-park is to be constructed forward of the store building adjacent the dwelling on the land and near the eastern side boundary.
- Access to the land and the internal driveway will remain the same.
- Deliveries will be via the owner operator's 2.5t truck, between the hours of 7:30am-4:00pm, Monday-Friday.
- Waste by-product (spent grain) from the brewing process will also be inside the building and then disposed of off-site.
- Hard waste will also be stored inside the building and collected via standard Council waste collection.
- Wastewater from the sales & tasting area will be directed to an aerobic wastewater system with surface irrigation area and brewery washdown grey water will be directed to a septic tank with sub-surface irrigation area.
- An existing property identification sign at the front of the land will be re-badged to reflect the brewery details.

The plans and application information are included as **Attachment 1 – Application Documents**.

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BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
1 October 1982	40:82	Siteworks only
7 November 1983	728/83	Brick veneer dwelling
12 November 1987	330/611/87	Carport
1 August 2006	473/836/2006	Domestic outbuilding (pontoon measuring 9m x 9m x 2.7m wall height)
7 June 2012	473/1321/2010	Dwelling alterations & additions including upper storey
30 October 2020	19/433	Change of use to include a private depot & associated store building for the parking & storage of vehicles/equipment associated with earthmoving business (2x 4t trucks, 1x 12t tipper & 1x 5t excavator), retaining wall (maximum height 1.4m), water storage tanks (2x 22,000L) & associated earthworks (non-complying)

Application approval 473/1321/2010 was not enacted.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 14 NIOKA DR IRONBANK SA 5153

Title ref.: CT 5490/659 **Plan Parcel:** D10993 AL14 **Council:** ADELAIDE HILLS COUNCIL

The subject land is a rural residential allotment with an area of 1.7 hectares. The land contains a detached dwelling located towards the rear of the land and the private depot outdoor storage area and store building approved by development authorisation 19/433 which is located towards the eastern side boundary and behind the dwelling. The dwelling, private depot outdoor storage area and store building are not visible from Nioka Drive due to the large setback, upwards slope of the land and dense vegetation.

Land forward of the built form is a well-maintained grassed area, large dam with a watercourse flowing through it and some native vegetation.

The land is connected to mains water and electricity but is serviced by an on-site wastewater system. There are no easements or other restrictions listed on the Certificate of Title.

The locality is rural residential in nature in what is considered to be a densely divided part of the Productive Rural Landscape Zone. Allotments in the locality are generally around 1 hectare in size.

To the north of the land is the Conservation Zone, covering the Mark Oliphant Conservation Park and walking trails.

Nioka Drive is a two-way, sealed Council roadway. It is a no-through road and the subject land is one of the last properties near the end of the cul-de-sac head. The subject land is approximately 400m east of the intersection with Ironbank Road.

The subject land is identified on **Attachment 2 – Subject Land/Representation Map**. The zoning is shown on the map in **Attachment 3 – Zoning Map**.

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CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**

Change of use: Code Assessed - Performance Assessed

Brewery: Code Assessed - Performance Assessed

- **OVERALL APPLICATION CATEGORY:**

Code Assessed - Performance Assessed

- **REASON**

The proposal is not listed as Accepted, Deemed to Satisfy or Restricted in the Planning & Design Code, so it defaults to being a Performance Assessed type of development.

PUBLIC NOTIFICATION

- **REASON**

Brewery is a form of light industry and as per Table 5 procedural matters of the Productive Rural Landscape Zone, light industry is only excluded from public notification provided both DTS/DPF4.1 and DTS/DPF4.3 are met. The proposal does not meet all the criteria in both DTS/DPF4.1 and DTS/DPF4.3 so public notification was required.

- **LIST OF REPRESENTATIONS**

Thirty-one (31) representations were received during the public notification period. Eleven (11) supporting and twenty (20) opposing representations were received. Fourteen (14) representors wish to be heard in support of their written representation.

The representor details are below:

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Representor Name	Representor's Address	Wishes to be Heard	Nominated Speaker (if relevant)
Keran McKenzie	PO Box 322, Stirling	Yes	Keran McKenzie
Ros Barrett	8 Allumba Drive, Ironbank	Yes	Ros Barrett
Robyn Nelson	PO Box 429, Stirling	Yes	Robyn Nelson
David Lapans	PO Box 83, West Beach	Yes	TBA
Peter Auhl	5 Allumba Drive, Ironbank	Yes	Peter Auhl
Sarka Auhl	5 Allumba Drive, Ironbank	Yes	Peter Auhl
Daniel Rowe	11 Allumba Drive, Ironbank	Yes	Daniel Rowe
Katrina Barber	9 Allumba Drive, Ironbank	Yes	TBA
Paula Kulas	8 Nioka Drive, Ironbank	Yes	Paula Kulas
Mark Winston	4 Pimpala Road, Ironbank	Yes	Mark Winston
David & Vicki Wilczek	18 Nioka Drive, Ironbank	Yes	TBA
Martine Welfare	15 Allumba Drive, Ironbank	Yes	Martine Welfare
Andrew Blanchard	235 Ironbank Road, Ironbank	Yes	Andrew Blanchard
Steven Murray	9 Allumba Drive, Ironbank	Yes	TBA
Tim Budenberg	259 Sturt Valley Road, Upper Sturt	No	
Jack Costi	13 Allumba Drive, Ironbank	No	
Miranda Hickman	6 Allumba Drive, Ironbank	No	
Peter Hopkins	3 Allumba Drive, Ironbank	No	
Jason Brooks	203 Ironbank Road, Ironbank	No	
Eric Caon	16 Allumba Drive, Ironbank	No	
Charlie Dixon	PO Box 1133	No	
Melanie Smith	17 Nioka Drive, Ironbank	No	
Tom Smith	17 Nioka Drive, Ironbank	No	
Robin & Fiona Brunt	6A Allumba Drive, Ironbank	No	
Brett Tuckey	PO Box 120, Hahndorf	No	
Randall Richards	13 Nioka Drive, Ironbank	No	
Michael Leopardi	PO Box 80, Crafers	No	
Ken Klante	28 Cecilia Street, North Brighton	No	
Craig Topperwien	75 Upper Sturt Road, Upper Sturt	No	
Raelee Basford	354 Pole Road, Ironbank	No	
Tarik Sammour	6 Nioka Drive, Ironbank	No	

• **SUMMARY**

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

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Supporting representations

- “Excellent initiative! Love the idea that local businesses want to set up in the area. Great for the community.”
- The proposal is relatively small scale and will renew the area. “It will be a good opportunity to show case a small local business trying to make their way in a competitive industry.”
- The opening hours and capacity are reasonable (small-scale).
- “This will be a great thing for the community and a nice spot to have a cold beer all year round.”
- “I believe a small brewery like the one proposed is a great idea. The proposal has very little, if any impact on anyone on surrounding properties as it is based on small tasting groups and the parking is within the property and not on the road. If responsible service of alcohol guidelines are followed there should be no problems.”

Opposing representations

- Concern regarding music noise coming from the mezzanine tasting area and possible outdoor events.
- Concern that the proposal will generate additional vehicle movements along Nioka Drive which could lead to pedestrian safety issues and issues for children who play on the no-through road.
- Concern that the proposal will generate additional vehicle movements which will negatively impact native wildlife.
- Environmental concerns regarding emissions from the brewing process and from an increase in energy and water consumption.
- Environmental concerns regard on-site wastewater management and impacts on water quality.
- Amenity concerns regarding odour from the brewing process.
- Concern for approval of the proposal and possible future expansion to brewing capacity and hours of operation.
- Concern that the proposal will change the residential character of the area and set a precedent for more light industrial activity.
- Concern that the proposal will de-value residential property values.
- Seeking clarification regarding the brewing capacity of the facility.
- Concern that on-site car-parking is not sufficient, which will lead to vehicles parking on Nioka Drive.
- Concern that the proposal will generate unreasonable additional traffic movements along Nioka Drive.
- Concern that visitors unfamiliar with the area will have trouble negotiating the intersection with Ironbank Road.
- Concern that the supporting noise assessment (acoustic) report requires additional clarification.
- The application lacks bushfire safety planning information.
- The proposal may represent an increased bushfire risk though the storage of chemical associated with the brewing process.
- Concern regarding possible anti-social visitor behaviour – drunk behaviour, driving and littering nuisance.
- Seeking additional information re water supply and usage associated with the brewing process.
- Seeking additional information regarding the storage of waste.
- Visual amenity concerns regarding the potential storage of items outside the store building.
- That properties directly notified was too limited in scope.

A copy of the representations is included as **Attachment 4 – Representations** and the applicant’s response is provided in **Attachment 5 – Response to Representations**.

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AGENCY REFERRALS

No agency referrals were required.

INTERNAL REFERRALS

- Council Environmental Health
Approved a wastewater application – ref. 23/W063/473.
- Council Engineering
Advised on traffic matters, the response is summarised in the Traffic, Access and Parking Section later in this report.

PLANNING ASSESSMENT

Desired outcomes

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

Performance outcomes

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

Designated performance features

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in **Attachment 6 – Relevant P&D Code Policies**.

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Productive Rural Landscape Zone

Desired Outcome	
DO 1	A diverse range of land uses at an appropriate scale and intensity that capitalise on the region's proximity to the metropolitan area and the tourist and lifestyle opportunities this presents while also conserving the natural and rural character, identity, biodiversity and sensitive environmental areas and scenic qualities of the landscape.
DO 2	A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the sale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes its regional identity.
DO 3	Create local conditions that support new and continuing investment while seeking to promote co-existence with adjoining activities and mitigate land use conflicts.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Land Use & Intensity PO 1.1 & DTS/DPF 1.1	
Rural Industry PO 4.1 & DTS/DPF 4.1, PO 4.2, PO 4.3 & DTS/DPF 4.3	

The locality is predominantly rural residential in character; however Desired Outcome 1 does seek in part a diverse range of land uses. Desired Outcome 2 amongst other matters seeks the development of businesses that promote the sale and consumption of agricultural based products, which is also sought by Performance Outcome 1.1. The associated sales and tasting of beer are considered to be akin to a tourism destination development as also sought by Desired Outcome 2 and Performance Outcome 1.1.

With regard to Desired Outcome 3, land use conflicts are discussed later in the report in the General Development Polices, Beverage Production in Rural Areas section.

The Rural Industry Performance Outcomes are discussed in full as they relate directly to the proposal.

PO4.1

Small-scale industry (including beverage production and washing, processing, bottling and packaging activities), storage, warehousing, produce grading and packing, transport distribution or similar activities provide opportunities for diversification and value adding to locally sourced primary production activities.

The proposal is for a form of beverage production as desired by Performance Outcome 4.1. It is considered to be small-scale in terms of the 96 square metre floor area of the existing building dedicated to brewing activity, the output of product (beer) per annum and that it will be an owner operator business with no additional staff. The output is considered to be small-scale in regard to the threshold for a referral to the Environmental Protection Authority (EPA). The brewery will produce 44,000L of beer per annum and a referral to the EPA per Part 9 of the Planning & Design Code is only required if more than 5000 litres will be produced per day.

Regarding representor concern regarding clarity of the production output, this has been addressed by the applicant in the response to representations.

The proposal although not a form of value adding to locally sourced primary production activities, will provide for diversification of the existing private depot use, making part use of a large existing store building on the land. The spent grain from the brewing process will be disposed of off-site to local farmers as cattle feed.

Parts a) &b) of corresponding Designated Performance Feature 4.1 are not met in that the use is not ancillary to a primary production activity occurring on the land or adjoining land and is not located on land with an area of at least 2 hectares.

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Failure to meet part a) is not considered to mean the Performance Outcome is not met, as the proposal is considered to represent a diversification opportunity of the existing private depot use. It is not clear how the size of the land per part b) relates to the achievement of the Performance Outcome. Nonetheless, the land has an area of 1.7 hectares, which is not considered to be a substantial departure from the 2 hectare size guide for rural industry activities.

PO 4.2

Expansion of established small-scale or new large-scale industry (including beverage production and washing, processing, bottling and packaging activities), storage, warehousing, produce grading and packing, transport distribution or similar activities:

- a) are commensurate with the allotment on which it is situated to mitigate adverse impacts on the amenity of land in other ownership and the character of the locality.*
- b) realise efficiencies in primary production related storage, sorting, packaging, manufacturing and the like.*
- c) primarily involve primary production commodities sourced from the same allotment and/or surrounding areas.*

Performance Outcome 4.2 is not considered to be applicable to the proposal as it is not for an expansion to existing industry and it is not considered to be a new 'large-scale' industry.

PO4.3

Industry, storage, warehousing, transport distribution or similar activities are sited, designed and of a scale that maintains rural function and character in a manner that respects landscape amenity.

The industry activity (beverage production) is to occur within an existing store building. The store building is located at the rear of the land and is not visible from Nioka Drive. The associated car-parking area is adjacent the dwelling on the land, but again it is not visible from Nioka Drive. It is screened from the eastern side boundary by existing hedge landscaping. The car-parking area is to be finished in compacted gravel, which is considered to be appropriate in a rural setting and respects landscape amenity.

Representor concern was raised regarding visual amenity concerns from the possible outdoor storage of waste and items used in the brewing process. The applicant has agreed to store all waste associated with the brewing process inside the building. There is existing outdoor storage of items associated with the existing private depot use of the land, and it is considered likely there could be some reduction in outside storage, with the owner operator wanting to present an appealing appearance to visitors of the associated sales and tasting area.

Parts a) & b) of corresponding DPF 4.3 are not met as the brewery building is not at least 50m from all boundaries and it is not at least 100m from a sensitive receiver in other ownership.

Failure to meet a) has no bearing on landscape amenity as the industry activity (beverage production) is located within an existing building. The building is approximately 50m from the nearest dwelling on adjoining land - 16 Nioka Drive, however it is not readily visible from this dwelling as it is primarily oriented north towards Nioka Drive. The reduced setback in this case is considered to be more of an interface issue, which is discussed in the General Development Polices, Interface Between Land Uses section of this report.

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Overlays

Hazards (Bushfire – High Risk) Overlay

Desired Outcome	
DO1	Development, including land division is sited and designed to minimise the threat and impact of bushfires on life and property with regard to the following risks: <ul style="list-style-type: none">- Potential for uncontrolled bushfire events taking into account the increased frequency and intensity of bushfires as a result of climate change- High levels and exposure to ember attack- Impact from burning debris- Radiant heat likelihood and direct exposure to flames from a fire front.
DO2	Activities that increase the number of people living and working in the area or where evacuation would be difficult is sited away from areas of unacceptable bushfire risk.
DO3	To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Land Use PO1.1	
Siting PO2.1	
Built Form PO3.1	
Vehicle Access – Road, Driveways and Fire Tracks PO6.3	

The proposal is for a brewery with associated sales and tasting, which are desired uses in the Productive Rural Landscape Zone. This Zone is in either in the Hazards (Bushfire High-Risk) Overlay Area or Hazards (Bushfire Medium-Risk) Overlay.

The brewery will be operated by the owner of the land and the capacity of the sales and tasting area limited to 20 persons at any one time for a maximum of 24 days per year. This is small scale in terms of other desired uses in the Zone such as restaurant and function centre, which would also most likely rely on outside staff an operate on a more frequent basis.

The land is serviced by a sealed two-way road, with connection to Ironbank Road.

Recommended advisory note six (6) encourages the development a bushfire risk management plan.

Mainly habitable building use/types and educational facilities in the Hazards (Bushfire – High Risk) Overlay trigger a referral to the SA Country Fire Service. No statutory formal referral was required for this proposal.

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Hazards (Flooding – Evidence Required) Overlay

Desired Outcome	
DO1	Development adopts a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment from potential flood risk through the appropriate siting and design of development.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Flood Resilience PO1.1 & DTS/DPF1.1	
Environmental Protection PO2.1 & DTS/DPF2.1	

This Overlay is not considered to be directly relevant to the proposal. There is no new built form proposed as part of the application.

Native Vegetation Overlay

Desired Outcome	
DO1	Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystem services, carbon storage and amenity values.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Environmental Protection PO1.1 & DTS/DPF1.1	

A site inspection showed some felled tree trunks in the nominated visitor parking area. However, the applicant advises this has been bought in from other locations. No native vegetation is required to be removed as part of the application.

Prescribed Wells Area Overlay

Desired Outcome	
DO1	Sustainable water use in prescribed wells areas.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1 & DTS/DPF1.1	

There is a bore on the land, but it will not be used as a water supply for the brewery. Mains water and two (2) water storage tanks will be used to support the brewing process.

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State Significant Native Vegetation Areas Overlay

Desired Outcome	
DO1	Protect, retain and restore significant areas of native vegetation.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Environmental Protection PO1.1 & DTS/DPF1.1	

See comments above as per the Native Vegetation Area Overlay. No native vegetation is required to be removed from the land as part of the application.

Water Resources Overlay

Desired Outcome	
DO1	Protection of the quality of surface waters considering adverse water quality impacts with projected reductions in rainfall and warmer air temperatures as a result of climate change.
DO2	Maintain the conveyance function and natural flow paths of watercourses to assist in the management of flood waters and stormwater runoff.

The brewery building and associated car-parking area are above the dam on the land, which has a watercourse flowing into it. There is a separation distance of approximately 50m from the northern edge of the car-park area to the dam.

General Development Policies

Beverage Production in Rural Areas

Desired Outcome	
DO1	Mitigation of potential amenity and environmental impacts of value-adding beverage production facilities such as wineries, distilleries, cideries and breweries.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Odour and Noise PO1.1, PO1.2, PO1.3, PO1.4 & DTS/DPF1.4, PO1.5 & DTS/DPF1.5	
Water Quality PO2.1 & DTS/DPF2.1, PO2.2, PO2.3, PO2.4	
Wastewater Irrigation PO3.1, PO3.2 & DTS/DPF3.2, PO3.3	

The Beverage Production in Rural Areas Performance Outcomes are discussed in full as they relate directly to the proposal.

Odour and Noise

PO1.1

Beverage production activities are designed and sited to minimise odour impacts on rural amenity.

See discussion under subheading PO1.4 below.

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PO1.2

Beverage production activities are designed and site to minimise noise impacts on sensitive receivers.

Noise impact is discussed in the General Development Policies - Interface Between Land Uses section later in this report.

PO1.3

Fermentation, distillation, manufacturing, storage, packaging and bottling activities occur within enclosed buildings to improve the visual appearance within a locality and manage noise associated with these activities.

The beverage production (brewery) activity is to occur within an existing enclosed building on the land. Waste is to be stored inside the building.

Noise impact is discussed in the General Development Policies – Interface Between Land Uses section later in this report.

PO1.4

Breweries are designed to minimise odours emitted during boiling and fermentation stages of production.

A fan extractor is to be installed to manage odour from the brewing process. See further discussion below in the General Development Policies – Interface Between Land uses section of the report.

PO1.5

Beverage production solid wastes are stored in a manner that minimises odour impacts on sensitive receivers in other ownership.

Solid waste is to be stored inside the brewery and store building. It will be in the owner operator's interest to ensure waste is collected frequently to maintain a pleasant environment for visitors to the sales & tasting area in the same building, and to also maintain their own amenity.

Water Quality

PO2.1

Beverage production wastewater management systems (including wastewater irrigation) are setback from watercourses to minimise adverse impacts on water resources.

The sub-surface wastewater disposal area is 40m from the nearest waterbody, which is 10m short of the desirable setback distance per corresponding Designated Performance Feature 2.1. However, the reduced setback has been accepted by the wastewater engineer and Council Environmental Health. Table 7 on page 5 of the wastewater engineer's report provides a summary of why a reduced setback distance is appropriate.

PO2.2

The storage or disposal of chemicals or hazardous substances is undertaken in a manner to prevent pollution of water resources.

All material used in the brewing process is to be stored in the brewery and store building.

PO2.3

Stormwater runoff from areas that may cause contamination due to beverage production activities (including vehicle movements and machinery operations) is drained to an on-site stormwater treatment system to manage potential environmental impacts.

The brewery area part of the building is to be bunded and wash-down water directed to the wastewater system.

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PO2.4

Stormwater runoff from areas unlikely to cause contamination by beverage production and associated activities (such as roof catchments and clean hard-paved surfaces).

There is no additional roof catchment area, stormwater run-off from the building is directed to two (2) water storage tanks on the western side of the building.

It is not considered necessary to condition the installation of a gross-pollutant trap to the car-park area given its small size and infrequent use.

Wastewater irrigation

PO3.1

Beverage production wastewater irrigation systems are designed and located to not contaminate soil and surface and ground water resources or damage crops.

The wastewater management system has been designed by a wastewater engineer and approved by Council Environmental Health. There are no crops in the locality.

PO3.2

Beverage production wastewater irrigation systems are designed and located to minimise impact on amenity and avoid spray drift onto adjoining land.

The wastewater disposal area is more than 50m from a dwelling in different ownership as desired by corresponding Designated Performance Feature 3.2. This is considered to satisfy the Performance Outcome.

PO3.3

Beverage production wastewater is not irrigated onto areas that pose an undue risk to the environment or amenity such as:

- a) Waterlogged areas*
- b) Land within 50m of a creek, swamp or domestic or stock water bore*
- c) Land subject to flooding*
- d) Steeply sloping land*
- e) Rocky or highly permeable soil overlaying an unconfined aquifer.*

The information summary provided on pages 2-3 of the wastewater engineer's report demonstrates that the proposal complies with all of the above criteria except for part b). The sub-surface irrigation area is approximately 40m from the nearest waterbody. This has been accepted by a wastewater engineer and Council Environmental Health.

Clearance from Overhead Powerlines

Desired Outcome	
DO1	Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Environmental Protection PO1.1 & DTS/DPF1.1	

As part of their submission the applicant has declared that the development will not be contrary to the regulations prescribed for the purposes of section 86 of the Electricity Act 1996. This is consistent with DTS/DPF1.1.

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Design

Desired Outcome	
DO1	<p>Development is:</p> <ul style="list-style-type: none"> a) contextual – by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate areas b) dural – fit for purpose, adaptable and long lasting. c) inclusive – by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm for occupants and visitors. d) sustainable – by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
External Appearance PO1.5	
On-Site Waste Treatment Systems PO6.1 & DTS/DPF6.1	
Carparking Appearance PO7.2	

With regard to Desired Outcome 1 part a) the proposal is taking place within an existing building on the land and there is no new advertising. The proposed car-parking area is not visible from Nioka Drive or adjoining properties, which achieves Performance Outcome 7.2. With regard to the part of this Desired Outcome that seeks for development to positively contribute to the character of the immediate area, this is considered to be in the context of built form, not land use which is discussed separately in the report. However, the brewery within an existing store building has the appearance of a large outbuilding common in the locality.

With regard to part b) of Desired Outcome 1 if the use is not successful the building could be used wholly again for storage without external modification.

The on-site waste system is between the brewery building and the dwelling on the land, so it does not encroach within the driveway or parking areas as sought by Desired Outcome 6.1.

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Infrastructure and Renewable Energy Facilities

Desired Outcome	
DO1	Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Water Supply PO11.1 & DTS/DPF1.1	
Wastewater Services PO12.1 & DTS/DPF12.1, PO12.2 & DTS/DPF12.2	

Council Environmental Health have approved an on-site wastewater treatment system for the proposed brewery use. The waste control system is wholly contained within the boundaries of the land and is away from dams and watercourses in the area as sought by Performance Outcome 12.1

The nominated car-parking area for visitors is away from the existing waste control system which services the dwelling on the land which accords with Designated Performance Feature 12.1.

Interface between Land Uses

Desired Outcome	
DO1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
General Land Use Compatibility PO 1.2	
Hours of Operation PO2.1 & DTS/DPF2.1	
Activities Generating Noise or Vibration PO4.1 & DTS/DPF4.1 & PO4.2	
Air Quality PO5.1 & PO5.2	
Light Spill PO6.1	

Hours of Operation

The brewery is to operate a maximum of two (2) days per week between 8:30am and 5:00pm and the associated sales and tasting is to operate every second Saturday between 11am and 5pm.

Both rural industry (beverage production) and shops (tourism development) are desired in the Zone. The brewery use is considered to be small-scale and operational matters are designed to mitigate against off-site impacts in the rural residential locality.

Activities Generating Noise or Vibration

Regarding noise, the EPA document *Evaluation Distances for Effective Air Quality and Noise Management (2023)* recommends that a brewery of this scale be setback 250m from the nearest sensitive receivers, recognising that with this land use noise is a potential impact.

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The brewery is 50m from the nearest dwelling not on the subject land - 16 Nioka Drive, Ironbank. However, the applicant has provided a noise assessment (acoustic report) by Sonus Engineers in support of the application. The noise assessment concludes that with some measures, that at the nearest sensitive receivers the proposal achieves the Environment Protection (Noise) Policy criteria as set out in Designated Performance Feature 4.1. Meeting Designated Performance Feature 4.1 is considered to satisfy corresponding Performance Outcome 4.1 which seeks for development emitting noise to not unreasonably impact the amenity of sensitive receivers.

It is worth noting that in the noise assessment the assumed internal noise level is *“based on the worse case level of a brewery with a much larger capacity. For the vast majority of the time (and particularly at night), noise levels will be much lower than the conservative assumption.”*

Achieving the Environment Protection (Noise) Policy criteria is considered to negate a reduced separation distance between land uses. This is noting that the *Evaluation Distances for Effective Air Quality and Noise Management (2023)* document is a guide only, including a mechanism for an applicant to demonstrate that a separation distance, other than the recommended distance is appropriate. Consequently, the distance quoted in the document should not be adopted as absolute criteria, but rather as indicative distances that may be adjusted having regard to specific site circumstances.

Recommended conditions four (4) to six (6) are the measures listed in the noise assessment report that should be incorporated to ensure the Environment Noise Protection (Policy) is achieved for the brewery use. An additional condition is recommended that noise levels from both the brewery use and the sales & tasting area use do not exceed the Environment Noise Protection (Policy) maximum day and night time noise levels at nearby dwellings - see recommended condition seven (8).

Performance Outcome 4.2 relates to design and operation. The part of the store building to be used for brewery activity is fully enclosed and on the western side of the building away from the nearest sensitive receiver on adjoining land, which includes the external chiller and fan. No specific acoustic barriers to brewery plant equipment were recommended in the noise assessment report.

There are no outdoor areas associated with the sales and tasting part of the proposal and it is not intended to host functions or other large events.

The approved private depot use of the land allows for the movement of heavy vehicles between 6:00am-6:00pm Monday-Saturday. The applicant has agreed to a condition that vehicle movements associated with the private depot use of the land do not occur when brewery processing is occurring, or the associated sales & tasting area is open - see recommended condition eight (7). Such condition is considered to address representor concern about the potential combined noise impact of both land uses.

Air Quality

As per the discussion above regarding noise impacts, the brewery is setback less than the recommended distance to the nearest sensitive receiver. The recommended distance also recognises that odour is a potential impact. Specifically, the document states:

Odours are generally due to emissions released during boiling and fermentation stages of the process, particularly volatile organic compounds. Wastewater can also be a source of odour. The use of vapour recovery systems, such as condensers which discharge the condensate as licensed trade waste can significant reduce the potential for odour impacts.

As part of the brewery design an extractor fan will be fitted, with discharge through the roof of the building. The applicant advises that the fan will only operate for one (1) hour at a time during the boiling part of the brewing process. Recommended condition eleven (11) requires the fan to be installed prior to use of the brewery commencing and to

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be switched on at all times during the boiling process. This condition further restricts the boiling activity to occur for a maximum of one (1) hour per day.

The wastewater system is more than 50m from a dwelling not on the subject land as desired by the Beverage Production in Rural Areas module.

Waste from the brewing process will be stored inside the brewery building to minimise odour impact to nearby residences. This is re-enforced by recommended condition twelve (12).

The proposal is considered to be consistent with Performances Outcomes 5.1 & 5.2.

Light Spill

PO6.1 seeks to control external lighting to ensure it does not cause unreasonable light spill. There is no lighting associated with the car-park area, and recommended condition fourteen (14) restricts security lighting around the brewery building.

Overall, in light of the above the proposal is considered to achieve Desired Outcome 1 and be consistent with the Interface Between Land Uses module policies.

As per representor concern if the application receives Planning Consent any future variation such as expansion to brewing capacity, hours of operation or visitor capacity will require assessment and approval through a separate development application.

Transport, Access and Parking

Desired Outcome	
DO1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Vehicle Access	
PO3.1 & DTS/DPF3.1	
Vehicle Parking Rates	
PO5.1 & DTS/DPF5.1	

The proposal will use an existing access point and internal driveway and 10 on-site compacted gravel parking spaces will be provided.

As a guide *Table 1 – General Off Street Parking Requirements* of the Planning & Design Code sets out that a shop use which is akin to the associated sales & tasting of beer activity be supported by 5.5 on-site car-park spaces per 100 square metres of floor area. Based on this only five (5) on-site parking spaces would be required. It is acknowledged however that a general shop may have a higher turn-over of parking spaces than a beverage sales & tasting area where visitors are encouraged to linger. Nonetheless, 10 on-site parking spaces is considered to be sufficient as the use is of the kind were visitors usually car-pool in groups and it is an owner operator venture which does not require parking for staff.

Recommended condition thirteen (13) requires the car-parking area to be completed prior to the sales & tasting use commencing, and for the car-parking spaces to be maintained in good condition at all times. The compacted gravel finish is considered to be acceptable in the rural setting.

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In addition to the 10 formally nominated parking spaces, there is space for overflow parking around the dwelling and grassed surrounds. Regarding representor concern, it is considered unlikely that visitors to the brewery will park off-site as it would not be convenient considering the long uphill walk to the brewery building. No events or functions are proposed to warrant the need for off-site parking.

The limited opening times, capacity and hours of the associated sales and tasting area are considered to result in limited additional traffic along Nioka Drive. Council Engineering support this view.

In regard to representor concern for pedestrian safety along Nioka Drive and driver safety at the Nioka Drive and Ironbank Road intersection, Council Engineering have agreed to install an intersection warning sign on Ironbank Road and a pedestrian warning sign at the start of Nioka Drive. No other traffic/pedestrian safety upgrades were recommended by Council Engineering.

Deliveries to the brewery will mostly be via a small 2.5t truck used by the owner operator in the existing private depot use, so there should not be a discernible change in nature of vehicle movements in this regard along Nioka Drive.

CONCLUSION

The proposal is for a brewery with associated sales and tasting area in the Productive Rural Landscape Zone.

The proposed brewery is to be located within part of an existing store building forming part of an approved private depot use, with the owner occupier of the land to operate both uses. The proposal is not linked to value adding of local primary production as sought by Performance Outcome 4.1 of the Zone relating directly to rural industry, but it does represent a diversification opportunity to the private depot use.

The land is located in a rural residential locality in a densely divided part of the Zone; however small-scale beverage production and the associated sales and tasting area which is considered to be a form of tourism type development are specifically desired. The proposal is considered to be small-scale in terms of output, hours of operation and the owner operator status of the use. In addition, the proposal is mostly consistent with the General Development Beverage Production in Rural Areas module policies directly relating to the proposal.

Residential and landscape amenity is considered to be maintained by the small-scale nature of the proposal and recommended conditions controlling noise, odour management, hours of operation, waste management/storage and car-park appearance.

Separate approval has been granted for on-site wastewater management. The wastewater approval is subject to an assessment against the relevant health legislation and there are ongoing conditions to ensure environmental protection.

Traffic impacts associated with additional vehicle movements are considered to be negligible considering the limited capacity and hours of operation of the proposed uses, and there should be no discernible difference in vehicle movement types along Nioka Drive. Council Engineering have agreed to traffic warning signage in response to representor traffic and pedestrian safety concerns.

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RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
- 2) Development Application Number 22041947 by Mark Kwiatkowski and Anthony Wagenknecht for change of use to include brewery (light industry) within part of store building (producing 44,000L per annum) & construction of mezzanine within the store building for sale & tasting of beer with associated car-parking at 14 Nioka Drive, Ironbank 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 hours of operation shall be as follows:
Brewery
Monday to Sunday between 8:30am – 5:00pm for a maximum of two (2) days per week.

Associated sales & tasting area
Every second Saturday between 11:00am – 5:00pm.
- 3) The maximum capacity of the associated sales & tasting mezzanine level area shall be 20 persons at any one time. No outdoor areas shall be used for the sale or tasting of beer.
- 4) An extractor fan shall only be located in the roof of the building above the nominated brewing area.
- 5) Only broadband reversing alarms shall be fitted to trucks, pallet jacks or forklifts.
- 6) Brewing shall not occur while any of the building doors are open.
- 7) No private depot use heavy vehicle movements shall occur while brewery processing activity is occurring, or the sales & tasting area is in operation.
- 8) The noise levels generated by both herein approved uses shall not exceed 52dB(A) between 7:00am and 10:00pm and 45dB(A) before 7:00am and after 10:00pm within the nearby dwellings.
- 9) A maximum 44,000L of beer shall be produced per annum. Any increase to the brewing capacity will require separate Development Approval.

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- a) Prior to commencement of the brewery operations, the brewery portion of the building must be fitted with an impervious flooring material and internally banded, with drainage connected to the wastewater management system; and
- b) Brewery activities, including storage and unloading of beer and solid waste must be carried out on an impervious area that drains to the wastewater management system.

11) Prior to commencement of the brewery operations, the brewery building shall be fitted with an extractor fan that is capable of discharging emissions. The exhaust system must be in operation during the boiling part of the brewing processing. Boiling shall only occur for a maximum of one (1) hour per day.

12) All solid brewery waste shall be stored within bins located in the brewery building prior to collection for off-site disposal.

13) All formally nominated car-parking spaces, driveway and manoeuvring areas shall be completed and delineated prior to the use commencing in accordance with the approved site plan. Driveways, vehicle manoeuvring and parking areas shall be constructed of compacted gravel (or similar) and be maintained in good condition at all times.

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

ADVISORY NOTES

Planning Consent

- 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).
- 5) Separate Development Approval is required for any new advertisements associated with the development herein approved.
- 6) The operator should have regard to preparing a bushfire survival plan (BSP). A template BSP document 'Bushfire Safety and Survival for Business and Organisations document' can found on the CFS website. The operator should consider restrictions on days of extreme weather or bushfire events.

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- 7) Compliance with Food Act SA 2001** This approval under the Development Act 1993 does not in any way imply compliance with the Food Act SA 2001 and/or Food Safety Standards. It is the responsibility of the owner of other person operating the food business from the building to ensure compliance with the relevant legislation before opening the food business on the site.

- 8) Food Handling Notification** Food business notification must be provided prior to commencing any food (or consumable product) handling activities. This may be provided on-line at www.fbn.sa.gov.au or by obtaining a notification form from Adelaide Hills Council.

OFFICER MAKING RECOMMENDATION

Name: Marie Molinaro

Title: Statutory Planner

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DEVELOPMENT NO.:	22015517
APPLICANT:	Wegener Constructions
ADDRESS:	61 SPRIGG RD CRAFERS SA 5152 CT 6223/726 & 6151/231
NATURE OF DEVELOPMENT:	Store associated with existing industry (spring water extraction, bottling & distribution), new opening to existing building, relocation of outbuilding (toilet block) & new parking area
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Productive Rural Landscape <p>Overlays:</p> <ul style="list-style-type: none"> • Environment and Food Production Area • Hazards (Bushfire - High Risk) • Heritage Adjacency • Hazards (Flooding - Evidence Required) • Limited Land Division • Mount Lofty Ranges Water Supply Catchment (Area 2) • Native Vegetation • Prescribed Water Resources Area • State Significant Native Vegetation • Scenic Quality • Traffic Generating Development • Water Resources
LODGEMENT DATE:	22 July 2022
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	2022.13
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes Notification period from 6 September to 26 September 2023
RECOMMENDING OFFICER:	Marie Molinaro Statutory Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Council Engineering Council Environmental Health

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ATTACHMENT 1: Application Documents

ATTACHMENT 6: Relevant P&D Code Policies

ATTACHMENT 2: Subject Land Map

ATTACHMENT 3: Zoning Map

ATTACHMENT 4: Representations

ATTACHMENT 5: Response to Representations

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DETAILED DESCRIPTION OF PROPOSAL:

Construction of one (1) store building which is intended to be used for the storage of bottled/package spring water products awaiting distribution. The applicant's advice is that the additional storage building is required as bottled spring water product is now required to be held longer on-site to pass new quality and assurance testing requirements of some external customers.

Further details are as follows:

Proposed Store Building

- 21.5m x 16m = 344 square metre floor area.
- 4.2m wall height and 6m overall height.
- Colorbond 'Cottage Green' walls and roof.
- The proposed store building is on the southern side of existing industry buildings on the land.
- The proposed store building is setback 3m from the nearest existing industry building and 50m from the south-western corner of the land adjoining the Cleland Conservation Park.
- The proposed store building is not closer to the Sprigg Road boundary than existing industry buildings on the land.
- The proposed store building is not higher than existing industrial buildings on the land.
- Stormwater from the proposed building will be directed to a 20,000L water storage tank, with overflow directed to a swale drain which connects to an existing stormwater pit on Sprigg Road.

New Opening to Existing Building

- The nearest existing industry building to the north will be altered to include a new sliding door opening which will enable bottled/package spring water to be transported by forklift to the proposed store building.

Relocation of Outbuilding (Toilet Block) & New Parking Area

- The proposed store building is located on an existing benched area that has been cut into the land and was used partly as an informal parking area, and also contains a toilet block.
- As a result, a proposed replacement parking area is to be located further south of the proposed store building, separated by an existing internal access road. It is approximately 70m from the Sprigg Road boundary.
- The parking area has already been completed, so this part of the proposal is retrospective. It required the removal of some vineyard plantings.
- The parking area is 36m x 30m = 1080 square metres in area with a compacted gravel surface treatment.
- Run-off from the parking area will be directed through the grass lined vineyard to an existing stormwater pit on Sprigg Road.
- The toilet block is to be re-located adjacent to the proposed store building.
- The toilet block will be connected to the existing on-site wastewater system.

The application documents are included as **Attachment 1 – Application Documents**.

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BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
1992	92/146/330	Industry – building extension
29 February 1996	94/142/330	Addition to shed (industry)
12 December 1996	96/231/330	Variation to development authorisations 92/146/330 & 92/231/330 to alter the internal driveway, widen cross-over and vary landscape screening
	99/673/473	WTHDRAWN – shed
29 March 1999	99/308/473	Demolition of existing shed
8 April 1999	99/328/473	Shed
28 May 1999	99/347/473	Variation to development authorisation 99/328/473 to alter the colour of the shed from beige to green
20 July 1999	99/656/473	Addition to shed
29 March 2000	99/121/473	Storage shed
5 July 2000	00/756/473	Consolidation of existing spring water packaging operation incorporating joinder of two existing sheds to form a new 468 square metre packaging shed and Relocation of existing water storage tanks
	01/368/473	WITHDRAWN – re-located the existing sheds (excluding the office) from the lower platform to the upper platform
1 August 2003	02/958/473	The Relocation of the storage area for bottled and packaged spring water from the existing (lower site level) building to new storage buildings (upper site level), the Relocation of the loading/unloading area and six (6) carparking spaces from the lower to the upper site level and the change of use of the lower site level building from office and storage to office and farm implement shed
12 August 2005	05/596/473	Variation to condition two (2) of 473/958/02 in order to increase storage area within existing shed
23 September 2008	08/872/473	Extension to existing storage shed associated with existing water extraction operation
26 April 2013	13/195/473	Addition to existing building for storage purposes only
1 September 2014	14/D017/473	Boundary re-alignment (3 allotments into 3 allotments)
8 September 2016	16/499/473	Horticultural building
4 January 2019	18/505/473	Boundary re-alignment (2 allotments into 2 allotments)
12 July 2023	23003710	Variation to conditions 4 & 5 of development authorisation 473/958/02 to alter timing of vehicle movements & adjust hours of operation

Development authorisation 23003710 was granted Development Approval by the Council Assessment Panel (CAP) at its meeting on 12 July 2023.

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SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 61 SPRIGG RD CRAFTERS SA 5152

Title ref.: CT 6223/726 **Plan Parcel:** D120793 AL21 **Council:** ADELAIDE HILLS COUNCIL
CT 6151/231 D95188 AL1

The subject land is comprised of two irregular shaped allotments with a combined area of 8.9 hectares. The land is on the high on the high side of Sprigg Road, which is a sealed Council road.

The land contains the spring water bores, buildings for packaging and storing the spring water with associated vehicle parking and manoeuvring areas and two dwellings with associated outbuildings. The applicant/operator of the business resides in one of the dwellings on the land. The land also contains a small vineyard and dam.

Built form on the land forming part of the industry use is clustered in two groups near Sprigg Road, comprising office and storage space on a lower level and packaging and storage on an upper level. The approximate combined floor area of all industry use buildings is approximately 1877 square metres. These buildings are mostly of Colorbond construction in shades of green.

The lower and upper level buildings are separated by an area which was formerly a mature tree lined landscaping strip. There are two access points to Sprigg Road for the industry use with a circular internal driveway around the buildings.

Both groups of buildings are cut into the land and framed by native vegetation to the rear of the land.

The land contains two easements for supply purposes, which are unaffected by the proposal.

The surrounding locality contains a mix of rural residential and primary production (viticulture & grazing) uses. The Cleland Conservation Park adjoins the subject land to the west and south-west. Cleland Conservation Park is a State Heritage Place. Sprigg Road and the Cleland Conservation Park contain part of the Heysen Walking Trail.

The subject land is identified on **Attachment 2 – Subject Land Map**. The zoning is shown on the map in **Attachment 3 – Zoning Map**.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**

Outbuilding: Code Assessed - Performance Assessed

Other - Commercial/Industrial – Car park: Code Assessed - Performance Assessed

Store: Code Assessed - Performance Assessed

- **OVERALL APPLICATION CATEGORY:**

Code Assessed - Performance Assessed

- **REASON**

The proposal is not listed as Accepted, Deemed to Satisfy or Restricted in the Planning & Design Code, so it defaults to being a Performance Assessed type of development.

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PUBLIC NOTIFICATION

- **REASON**

As per Table 5 procedural matters of the Productive Rural Landscape Zone, the store element is only excluded from public notification provided both Designated Performance Feature 4.1 Designated Performance 4.3 are met. The proposal does not meet all the criteria in both Designated Performance Features so public notification was required.

- **LIST OF REPRESENTATIONS**

Three (3) valid and one (1) invalid representations were received during the public notification period. One (1) supporting and two (2) opposing representations were received. The two (2) opposing representors wish to be heard in support of their written representation.

The representor details are below:

Representor Name	Representor's Address	Wishes to be Heard	Nominated Speaker (if relevant)
Stuart Bailey	69 Sprigg Road, Crafers	No	
Phillip Brunning	27 Halifax Street, Adelaide	Yes	Phillip Brunning
Abbie Southam	26 Sprigg Road, Piccadilly	Yes	Abbie Southam

The representor Phillip Brunning is representing a group of five (5) residents in the locality.

- **SUMMARY**

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

Supporting representation

- Consent should be granted to a long- standing producer of spring water products who supplies major supermarkets and employs local residents.

Opposing representations

- Seeking clarification as to why public notification was not undertaken as part of the assessment process of related development application 23003710.
- Alleging that the industry use is non-compliant with existing development authorisation conditions applicable to hours of operation and timing of associated truck movements.
- The proposal represents an incremental intensification of the existing land use, which exacerbates negative impacts on rural residential amenity.
- The application information is lacking to enable a full assessment of the proposal.
- The proposal is at variance with the Planning & Design Code.
- Concern that the proposed building will have a negative visual impact relative to a lack of landscape screening, removal of native vegetation and setback to the Heysen Trail.
- Concern that the proposed car-parking area and storage areas for large vehicles used in the industry use detract from the rural landscape setting of the locality.
- Concern regarding traffic volume impacts - that the industry use is generating traffic volumes not suitable for the adjoining road network and damaging the surface treatment of the surrounding road network.
- Concern regarding traffic safety - trucks used in the industry operations are too large for the adjoining road network.
- Concern regarding noise and dust impact from large trucks using the surrounding road network.

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- Seeking clarification regarding the setback of the industry use to non-associated dwellings and if this should be a specified 300m setback distance.

A copy of the representations is included as **Attachment 4 – Representations** and the applicant's response is provided in **Attachment 5 – Response to Representations**.

AGENCY REFERRALS

No agency referrals were required.

INTERNAL REFERRALS

- Council Engineering
Provided advice regarding stormwater management and traffic matters. Their advice is summarised in the report.
- Council Environmental Health
Advised that Relocation of the toilet block does not require separate wastewater approval.

PLANNING ASSESSMENT

Desired Outcomes

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

Performance Outcomes

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

Designated Performance Features

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in **Attachment 6 – Relevant P&D Code Policies**.

Productive Rural Landscape Zone

Desired Outcome	
DO 1	A diverse range of land uses at an appropriate scale and intensity that capitalise on the region’s proximity to the metropolitan area and the tourist and lifestyle opportunities this presents while also conserving the natural and rural character, identity, biodiversity and sensitive environmental areas and scenic qualities of the landscape.
DO 2	A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the sale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes its regional identity.
DO 3	Create local conditions that support new and continuing investment while seeking to promote co-existence with adjoining activities and mitigate land use conflicts.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Land Use & Intensity PO 1.1 & DTS/DPF 1.1	
Rural Industry PO 4.1 & DTS/DPF 4.1, PO 4.2, PO 4.3 & DTS/DPF 4.3	
Built Form & Character PO 11.1	

Desired Outcome 1 seeks in part for a diverse range of uses, noting that the existing and longstanding land use is a form of industry in a primarily rural residential and primary production locality. There is no change in land use resulting from the proposed store building, it is to support a change in packaged product storage requirements as driven by external customer needs. The scale of the industry operation is not changing with regard to hours of operation, staff numbers or timing or frequency of vehicle movements. Whilst as a result of the proposal the scale of the industry use is increasing with regard to the area of land occupied by built form and associated parking and manoeuvring areas, this is still considered to be at an appropriate scale with regard to the overall size of the subject land and maintenance of generous setbacks.

Desired Outcome 1 also seeks for amongst other matters the conservation of the natural and rural character and scenic qualities of the landscape. Visual amenity impact matters are discussed later in the report in the Overlays, Scenic Quality Overlays section.

Desired Outcome 3 specifically speaks to the proposal as it in part seeks the creation of conditions that support continuing investment. Desired Outcome 3 also seeks for the promotion of a co-existence with adjoining activities and the mitigation of land use conflicts. There is not anticipated to be an unreasonable impact on adjoining rural residential activities as a result of the proposed store building or the new parking area. However, land use conflict matters are discussed further in the report in the General Development Policies, Interface between Land Uses section.

The Rural Industry Performance Outcomes are discussed in full as they relate directly to the proposal.

PO 4.1

Small-scale industry (including beverage production and washing, processing, bottling and packaging activities), storage, warehousing, produce grading and packing, transport distribution or similar activities provide opportunities for diversification and value adding to locally sourced primary production activities.

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Performance Outcome 4.1 is viewed by Council staff as being mostly applicable to the establishment of new rural industries.

However, as per the representations, concern was raised that the proposal is at variance with part c) of corresponding Designated Performance Feature 4.1, which seeks for industries to have a total floor area not exceeding 350 square metres. The representation is of the view that this Designated Performance Feature is of particular relevance to the assessment of the proposal. However, this view is not shared by Council staff.

The combined floor area of existing industry buildings is already in excess of 350 square metres, being of an area of approximately 1877 square metres. The proposed store building represents a modest 18 per cent floor area increase.

Performance Outcome 4.2 below applies to the expansion of established industry and does not have a built form floor area guide.

PO 4.2

Expansion of established small-scale or new large-scale industry (including beverage production and washing, processing, bottling and packaging activities), storage, warehousing, produce grading and packing, transport distribution or similar activities:

- a) are commensurate with the allotment on which it is situated to mitigate adverse impacts on the amenity of land in other ownership and the character of the locality.*
- b) realise efficiencies in primary production related storage, sorting, packaging, manufacturing and the like.*
- c) primarily involve primary production commodities sourced from the same allotment and/or surrounding areas.*

Performance Outcome 4.2 is considered to be more relevant to the assessment of the proposal as it in part relates to the expansion of established industry. It is not clear why this Performance Outcome speaks to the expansion of 'small-scale' industry but also anticipates 'large-scale' new industry.

Nonetheless, the proposal is considered meet parts a) and b) of the Performance Outcome. Part c) is not relevant to the proposal as there is no change to the source location of the spring water, it is however sourced from the subject land.

With regard to part a) as noted above, the industry activity being the bottling and packaging of spring water is occurring on the same allotment as the spring water bore source. The proposal is not considered to have an adverse impact on the amenity of the land in other ownership as the new building is for storage only and maintains generous setbacks. The character of the locality viewed in land use terms is mainly rural residential and primary production (grazing and horticulture). The existing industry use is therefore somewhat of an anomaly in the locality. However, the proposal does maintain the character of the existing industry built form as it of the same material, colour scheme and height as existing buildings.

With regard to point b) and it seeking amongst other matters efficiency in storage, the new building is required as a result of bottle product needing to be stored on the land longer as a result of customer requirements.

Recommended condition two (2) re-enforces that the proposed store building is only to be used for the storage of bottled/package spring water.

PO 4.3

Industry, storage, warehousing, transport distribution or similar activities are sited, designed and of a scale that maintains rural function and character in a manner that respects landscape amenity.

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The siting and design of the proposed store building is considered to respect landscape amenity. The building is clustered near existing buildings, sited on an existing benched area that has been cut into the land. Further to this, the building is of a non-reflective material and finished in a green colour to complement existing industry buildings on the land.

As per the representations, vegetation has been removed from the land around the industry buildings in around 2019-2021. This matter is discussed further in the Overlays, Native Vegetation Overlay and Scenic Qualities Overlay section of the report.

The industry buildings on the land have the appearance of large agricultural buildings common to the Productive Rural Landscape Zone. The largest building on the upper level is sited lengthways on the land, which screens the smaller industry buildings behind. So, the full extent of all industry buildings on the land is not readily visible from the adjoining public road.

The new parking area is large with an area of 1080 square metres and required some excavation and removal of part of a vineyard. However, the parking area is sited in an area convenient to the industry buildings. It is finished in compacted gravel which is considered to be keeping with a rural setting and it is setback 70m from the Sprigg Road boundary with remaining vineyard in-between. The excavation for the new car-park area has been battered to blend with the slope of the land.

The issue of scale has been discussed earlier in the report. The industry use is considered to maintain a rural function as it relates to the processing of a product sourced from the land, and it does not impede upon other rural activities occurring in the locality.

Overlays

Environment and Food Production Areas Overlay

Desired Outcomes	
DO 1	Protection of valuable rural, landscape, environmental and food production areas from urban encroachment.
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO 1.1	

This Overlay is not relevant to the proposal as PO1.1 relates to land division.

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Hazards (Bushfire – High Risk) Overlay

Desired Outcome	
DO 1	Development, including land division is sited and designed to minimise the threat and impact of bushfires on life and property with regard to the following risks: <ul style="list-style-type: none"> - Potential for uncontrolled bushfire events taking into account the increased frequency and intensity of bushfires as a result of climate change. - High levels and exposure to ember attack - Impact from burning debris. - Radiant heat likelihood and direct exposure to flames from a fire front.
DO 2	Activities that increase the number of people living and working in the area or where evacuation would be difficult is sited away from areas of unacceptable bushfire risk.
DO 3	To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Land Use PO 1.1	
Siting PO 2.1	
Built Form PO 3.2	

The proposed store building is of Colorbond construction and sited away from native vegetation on the land, which is consistent with Performance Outcomes 1.1, 2.1 & 3.2.

Heritage Adjacency Overlay

Desired Outcome	
DO 1	Development adjacent to State and Local Heritage Places maintains the heritage and cultural values of those Places.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Built Form PO 1.1	

The proposal is considered to meet Performance Outcome 1.1, which seeks for development adjacent to a State (or Local Heritage) Place to not dominate, encroach on or unduly impact on the setting of the Place.

The proposed store building and the new car-park area are approximately 40-50m from the boundary of the adjoining State Heritage Place, Cleland Conservation Park. The proposed store building and new car-park area are clustered with existing built form and cleared driveway and manoeuvring areas and remaining native vegetation on the subject land behind the industry use provides a visual buffer between the two sites.

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Further to this, the subject land is at the fringe of the Conservation Park, which spans an area of approximately 35 hectares.

Per Overlay procedural matters, development which in the opinion of the relevant authority materially affects the context within which the State Heritage Place is situated requires a referral to the Minister responsible for the administration of the Heritage Places Act 1993 (State Heritage).

In light of the above, staff formed the opinion that the proposal does not materially affect the context of the adjoining Cleland Conservation Park so a referral to State Heritage was not undertaken.

The proposal is consistent with the Heritage Adjacency Overlay provisions.

Hazards (Flooding – Evidence Required) Overlay

Desired Outcome	
DO 1	Development adopts a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment from potential flood risk through the appropriate siting and design of development.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Flood Resilience PO 1.1 & DTS/DPF 1.1	
Environmental Protection PO 2.1 & DTS/DPF 2.1	

The subject land is on the high side of Sprigg Road and well away from mapped watercourses on the opposite side of Sprigg Road.

Limited Land Division Overlay

Desired Outcomes	
DO 1	The long term use of land for primary production is maintained by minimising fragmentation through division of land.

This Overlay is not relevant to the proposal as it is not for a land division.

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Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay

Desired Outcomes	
DO 1	Safeguard Greater Adelaide's public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from secondary reservoirs or diversion weir catchments from the Mount Lofty Ranges.
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Water Quality PO 1.1, PO 1.2	
Wastewater PO 2.4 & DTS/DPF 2.4	
Stormwater PO 3.1 & DTS/DPF 3.1	
Landscapes and Natural Features PO 4.1	

Regarding stormwater management, the applicant has provided a stormwater management plan with calculations for roof run-off from the proposed store building and from surface run-off from the new parking area.

As per the management plan, run-off will be directed to existing stormwater pits on Sprigg Road. Council Engineering accept the stormwater design.

Recommended condition four (4) requires the installation of a gross pollutant trap to the new parking area.

The proposal is consistent with the Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay provisions.

Native Vegetation Overlay

Desired Outcome	
DO 1	Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystem services, carbon storage and amenity values.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Environmental Protection PO 1.1 & DTS/DPF 1.1, PO 1.4	

As per the representations, a mature vegetation screen was removed from between the lower and upper level group of industry buildings sometime in 2021. The area for the proposed store building appears to have been levelled and cleared of vegetation before this in around mid-2019.

Council staff approached the Native Vegetation Council about this clearance. Their advice was that the vegetation that been removed was planted, so it was not native vegetation as defined under the Native Vegetation Act (1991).

The proposed store building and new park area are well setback from the remaining native vegetation behind so as to ensure this vegetation is protected.

The proposal is consistent with the Native Vegetation Overlay provisions. However, the removal of this vegetation is discussed further in the Scenic Quality Overlay section of the report.

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Prescribed Water Resources Area Overlay

Desired Outcomes	
DO 1	Sustainable water use in prescribed surface water resources areas maintains the health and natural flow paths of watercourses.

This Overlay is not relevant to the proposal as the DTS/DPF criteria relate to activities that require water allocation licences from Landscape South Australia such as horticulture, forestry and new dams or alterations to existing dams.

State Significant Native Vegetation Areas Overlay

Desired Outcome	
DO 1	Protect, retain and restore significant areas of native vegetation.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Environmental Protection PO 1.1 & DTS/DPF 1.1	

See comments above as per the Native Vegetation Overlay.

Scenic Quality Overlay

Desired Outcomes	
DO 1	Development complements natural and rural character, and areas of scenic value.
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Land Use and Intensity PO 1.1	
Built Form and Character PO 2.1	
Landscaping PO 3.1 & DTS/DPF 3.1	
Earthworks PO 4.1 & DTS/DPF4.1	

As per Performance Outcome 1.1 the existing, long standing industry use is not changing as a result of the proposal.

Performance Outcome 2.1 speaks to the design of built form and seeks for development to be carefully sited and designed to:

- a) Complement rural or natural character.
- b) Minimise disruption to natural landform.
- c) Integrate existing natural features.
- d) Minimise impacts on scenic features.
- e) Be low scale.
- f) Be visually unobtrusive and blend with the surrounding area.

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The proposal is considered to sufficiently meet all of parts a) – f) as follows:

- a) As discussed earlier in the report the industry use is somewhat of an anomaly in the locality. However, the industry use buildings have the appearance or character of large agricultural type buildings common in the Productive Rural Landscape Zone.
- b) The siting of the proposed store building minimises disruption to natural landform. It is located on an existing benched pad. It is acknowledged however that the resultant new parking area has required the disturbance to a large 1080 square metre area of land, requiring excavation and part removal of a vineyard.
- c) The siting of the new parking area takes advantage of an existing internal driveway.
- d) The proposal is considered to minimise impact on the adjoining Conservation Park as the proposed works are well setback from the shared boundaries.
- e) The proposed store building is considered to be low scale. It represents an 18 per cent floor area increase to the existing industry use. It is no higher than existing industry buildings.
- f) The proposed store building is considered to be visually unobtrusive as it is clustered near existing buildings, is sited lengthways facing the roadway, is of a non-reflective material in a colour that blends with existing industry buildings and is sited on a benched area that has been cut into the land.

Meeting Performance Outcome 2.1 is considered to also achieve compliance with Performance Outcome 11.1 of the Productive Rural Landscape Zone, which speaks to the desired siting and design of large buildings.

Recommended condition three (3) requires the external appearance of the proposed store building to complement existing industry buildings on the land.

Regarding landscaping and Performance Outcome 3.1, an indicative landscaping area has been shown on the site plan surrounding the new parking area. However, a recommended reserved matter seeks the provision of a detailed landscaping plan by a suitably qualified professional.

The reserved matter also seeks for replacement landscaping between the lower and upper level group of buildings.

If accepted, additional conditions can be applied to the reserved matter regarding planting timeframe and ongoing maintenance.

Performance Outcome 4.1 speaks to earthworks and seeks that excavation and filling is limited to reduce the visual prominence of buildings and make provision for water storage facilities to maintain natural landforms and landscapes.

The excavation for the new parking area is not technically consistent with this Performance Outcome.

The proposal is mostly consistent with the Scenic Quality Overlay provisions.

Traffic Generating Development Overlay

Desired Outcomes	
DO1	Safe and efficient operation of Urban Transport Routes and Major Urban Transport Routes for all road users.
DO2	Provision of safe and efficient access to and from urban transport routes and major urban transport routes.

This Overlay is not relevant to the proposal as the DTS/DPF criteria relate to large scale land division, commercial and education facility type developments.

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Water Resources Overlay

Desired Outcome	
DO1	Protection of the quality of surface waters considering adverse water quality impacts with projected reductions in rainfall and warmer air temperatures as a result of climate change.
DO2	Maintain the conveyance function and natural flow paths of watercourses to assist in the management of flood waters and stormwater runoff.

See comment above as per the Hazards (Flooding – Evidence Required) Overlay.

General Development Policies

Clearance from Overhead Powerlines

Desired Outcomes	
DO1	Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1 & DTS/DPF1.1	

The applicant has signed the building safety near powerlines declaration, which complies with DPF1.1.

Design

Desired Outcome	
DO 1	Development is: a) contextual – by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate areas b) dural – fit for purpose, adaptable and long lasting. c) inclusive – by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm for occupants and visitors. d) sustainable – by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.

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Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria
External Appearance PO 1.5
Landscaping PO 3.1 & PO 3.2
On-Site Waste Treatment Systems PO6.1 & DTS/DPF6.1
Carparking Appearance PO7.2, PO 7.6, PO 7.7
Earthworks and Sloping Land PO 8.1 & DTS/DPF 8.1

The proposed new store building is considered to meet part a) of Desired Outcome 1 as it has been designed to respond to the existing built environment forming the industry use. As discussed earlier in the report, the character of the industry use buildings is similar to that of large agricultural buildings common in the Productive Rural Landscape Zone.

With regard to PO 1.1 and external appearance, there is no outdoor storage of goods associated with the proposal. Large vehicle parking mostly occurs on the northern side of the land partly behind vegetation and one of the dwellings on the land as evidenced from a review of Metromaps aerial photography. The new parking area is first evident on Metromaps in December 2021 and in most of the following photography series is mostly vacant.

Performance Outcomes 7.2, 7.6 & 7.7 relate directly to the new parking area part of the proposal and its appearance. The proposed new parking area is approximately 170m from the nearest non-associated dwelling at 26 Sprigg Road, Piccadilly. The site plan shows indicative landscaping around the parking area and the recommended reserved matter seeks a formal landscaping plan by a suitably qualified person to enhance the appearance of the parking area and the industry use buildings.

Run-off from the parking area, which is a compacted gravel finish is to be directed through the grassed vineyard below and to existing stormwater infrastructure on Sprigg Road, which is consistent with PO 7.7. As discussed earlier in the report, recommended condition five (5) also requires the installation of a gross pollutant trap to the new parking area.

The proposed store building and the new parking area do not encroach upon the on-site waste control system as sought by PO 6.1.

The proposal is consistent with the Design module provisions.

Infrastructure and Renewable Energy Facilities

Desired Outcome	
DO 1	Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Wastewater Services PO12.1 & DTS/DPF12.1, PO12.2 & DTS/DPF12.2	

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Regarding wastewater, Council Environmental Health advised that relocation of the toilet block does not require wastewater approval.

The proposal is consistent with the Infrastructure and Renewable Energy Facilities module provisions.

Interface between Land Uses

Desired Outcome	
DO 1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
General Land Use Compatibility PO 1.2	
Hours of Operation PO 2.1 & DTS/DPF 2.1	
Light Spill PO 6.1	

Desired Outcome 1 and Performance Outcome 1.2 seek for development to be designed to minimise adverse effects on neighbouring uses and sensitive receivers.

The proposed store building is for storage only, so there will be no increase in processing/packaging activity that may produce additional noise. The proposed store building only contains a single personal access door on the southern side adjoining the internal driveway, so it is considered unlikely that vehicle loading or unloading would occur directly from this building which could also potentially result in additional noise impact.

The largest opening faces north towards existing industry buildings on the land so noise from forklift movements is not directed towards the nearest non-associated dwelling at 26 Sprigg Road, Piccadilly.

As per the representations, the proposed store building is no closer to the nearest non-associated dwelling than existing buildings.

Hours of operation of the industry use were revised as part of related development authorisation 23003710. As per the representations this application was not publicly notified as it was a variation to operational matters only. This application was submitted in response to compliance action undertaken by Council as a result of large vehicles entering and exiting the land at times in breach of conditions from development authorisation 02/958/473. Application 23003710 was granted approval by the Council Assessment Panel (CAP) at the 12 July 2023 meeting.

The current proposal does not alter the approved hours of operation from development 23003710.

Representor concern regarding traffic impacts is noted, but addressed by condition three (3) of development authorisation 02/958/473 as follows:

That the number of articulated tanker or semi-trailer deliveries to and/or from the site shall be limited to a maximum of 40 vehicles per week (with an average of no more than 8 vehicles per working day).

This condition continues to apply and the applicant advises they are compliant with this condition.

Council Engineering advise that General Access Vehicles have right of access to road networks, with General Access Vehicles being up to 19m in length and a 42 tonne in mass. Articulated tankers and semi-trailer trucks do not exceed this limit. There are no restrictions on Sprigg Road relating to General Access Vehicles.

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With regard to road user safety, there are two (2) truck warning signs one (1) on the northern and one (1) on the southern approach to the subject land. There is also one (1) pedestrian warning sign near the southern access point to the subject land. Council Engineering are of the view that this warning signage is sufficient.

Council Engineering have also inspected the roadway outside the subject land. There has been some recent patching and the remaining area is in good condition. No further repair work is recommended.

Regarding PO 6.1 and light spill, recommended condition six (6) restricts external lighting around the proposed store building as being necessary for security purposes only in a manner that does not cause nuisance to adjoining properties.

There is no lighting in the proposed parking area. The approved hours of operation are that industry operations cease by 8:00pm. Therefore, any headlight glare from vehicles leaving the site is not considered to be unreasonable in regard to timeframe of occurrence. Further, the nearest non-associated dwelling at 26 Sprigg Road, Piccadilly is screened by vegetation between the dwelling and the boundary facing Sprigg Road.

There are no registered complaints regarding light spill, noise or dust nuisance from the parking area, noting it was established almost two (2) years ago.

The proposal is consistent with the Interface between Land Uses module provisions.

Transport, Access and Parking

Desired Outcome	
DO 1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Vehicle Access	
PO 3.1 & DTS/DPF 3.1	
Vehicle Parking Rates	
PO 5.1 & DTS/DPF 5.1	

Performance Outcome 5.1 seeks the provision of sufficient off-street vehicle parking areas. Corresponding Designated Performance Feature 5.1 sets out a specific off-street vehicle parking rate for land uses relative to Table 1 - General Off-Street Car Parking Requirements.

Designated Performance Feature 5.1 is not considered to be particularly useful in the assessment of the proposal. If Table 1 was applied to the proposal an additional five (5) car-parking would be required based on the rate of 1.5 car-parking spaces per 100 square metres of total floor area for an industry use.

In the representations it is put forward that the on-site car parking provision has not been addressed. Council Staff do not share this view.

Development authorisation 02/958/473 included on the site plan 11 vehicle parking spaces, some on the lower level and some on the upper level. 11 parking spaces can be accommodated on the new parking area.

There are no registered complaints regarding staff vehicles parking off-site and Metromaps photography does not show any vehicles parked off-site.

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CONCLUSION

The proposal is primarily for an additional storage building in association with a long-standing spring water extraction, bottling and distribution facility (industry) in the Productive Rural Landscape Zone. Associated with the proposed storage building is a new parking area and some minor building work to existing structures.

The proposal complies with Performance Outcome 4.2 of the Productive Rural Landscape Zone relating directly to the expansion of established industry, and the proposed store building is considered to be sited and designed to sufficiently minimise visual impact in accordance with the Scenic Quality Overlay provisions.

The new parking area is large and there is associated land modification required. However, landscaping as sought by the recommended reserved matter is considered to assist with providing screening of both the parking area and to minimise the visual impact of industry buildings.

Representor concerns regarding large vehicle movements associated with the industry use and their impact on rural residential amenity and traffic safety are noted. However, this proposal has no bearing on these matters. There is an ongoing condition from preceding development authorisation 473/958/02 which controls the number of weekly overall large vehicle movements to and from the subject land. In addition, separate conditions from development authorisation 23003710 control hours of operation and large vehicle movement timeframes. Further to this, Council Engineering are satisfied with the existing traffic safety signage near the subject land.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and**
- 2) Development Application Number 22015517, by Wegener Constructions for store associated with existing industry (spring water extraction, bottling & distribution), new opening to existing building, Relocation of outbuilding (toilet block) & new parking area at 61 Sprigg Road, Crafers is GRANTED Planning Consent subject to the following reserved matter and conditions:**

RESERVED MATTER

Pursuant to section 102 (3) of the *Planning, Development and Infrastructure Act of 2016*, the following matter(s) shall be reserved for further assessment prior to the granting of Development Approval, the Assessment Manager is delegated to undertake this further assessment:

- 1) A detailed landscaping plan shall be prepared by a suitably qualified professional and submitted with further details regarding plant species and plant locations including screening around the new parking area and between the lower and upper level group of industry buildings.**

Plant species detailed in the landscaping plan shall be selected from the Council's Native Habitat Landscaping and Gardening Guide or Native Habitat Gardening Guide for Low Flammability Gardens. The guides can be downloaded from the Council website: [Native Gardens at Home • Adelaide Hills Council \(ahc.sa.gov.au\)](http://ahc.sa.gov.au).

Pursuant to Section 127(1) of the *Planning, Development and Infrastructure Act 2016*, the power to impose further conditions of consent in respect of the reserved matters above is delegated to the Assessment Manager.

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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 store building shall only be used for storage of bottled/package spring water in association with the existing industry use. Any additional or different use of this building will constitute a change in use and will require separate Development Approval.**
- 3) External finishes of the store building shall be of materials and colours to match or complement those of the existing industry buildings to the reasonable satisfaction of Council.**
- 4) All surface water from the new parking area shall be directed to a gross pollutant trap (GPT) capable of removing oils, silts, greases, and gross pollutants to Council satisfaction prior to discharge to the Council stormwater system.**
- 5) All roof runoff generated by the store building shall be directed to a rainwater tank with overflow to the street in accordance with the approved stormwater design report by Fyfe dated 17 August 2023 to the satisfaction of Council within one month of the roof cladding being installed. All roof and hard surface runoff shall be managed to prevent trespass onto adjoining properties and into the effluent disposal area.**
- 6) Flood lighting around the store building shall be restricted to that necessary for security purposes only and shall be directed and shielded in such a manner as to not cause nuisance to adjacent properties.**

ADVISORY NOTES

Planning Consent

- 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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OFFICER MAKING RECOMMENDATION

Name: Marie Molinaro
Title: Statutory Planner

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DEVELOPMENT NO.:	23014494
APPLICANT:	Oliver Sierp
ADDRESS:	1 BILNEY ROAD STIRLING SA 5152
NATURE OF DEVELOPMENT:	Change of use from dwelling to tourist accommodation (12 guests) and internal alterations (Retrospective)
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Suburban Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Affordable Housing • Hazards (Bushfire - Medium Risk) • Mount Lofty Ranges Water Supply Catchment (Area 2) • Native Vegetation • Prescribed Water Resources Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height (Metres) (Maximum building height is 8m) • Minimum Frontage (Minimum frontage for a detached dwelling is 12m; semi-detached dwelling is 10m; row dwelling is 7m; group dwelling is 15m; residential flat building is 15m) • Minimum Site Area (Minimum site area for a detached dwelling is 500 sqm; semi-detached dwelling is 450 sqm; row dwelling is 300 sqm; group dwelling is 500 sqm; residential flat building is 300 sqm) • Maximum Building Height (Levels) (Maximum building height is 2 levels)
LODGEMENT DATE:	22 May 2023
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	202..6 27 April 2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Melanie Scott Senior Statutory Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Council Engineering

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ATTACHMENT 3:	Zoning Map	ATTACHMENT 7:	Relevant P&D Code Policies
ATTACHMENT 4:	Council Referral Response		

DETAILED DESCRIPTION OF PROPOSAL:

Change of use from dwelling to tourist accommodation for a maximum of 12 guests. The two storey dwelling will have three units. One unit contains two bedrooms, the second contains a bedroom and the third is described as a studio.

There is an existing single garage with two off-street car parking spaces in front of it on Bilney Lane. The proposal includes a second access from Bilney Road which will accommodate parking for one vehicle. There is a Council tree which measures 2.42m in girth 5.9m from the proposed access on Bilney Road. However, this is not a regulated as it is within 10metres of the dwelling adjacent.

The application is retrospective. Tourist accommodation on the site previously secured planning consent but did not proceed to development approval. The additional access to Bilney Road was installed without Council approval and has been the subject of lengthy negotiation to ensure compliance with Council engineering standards with regards to slope in particular.

The swimming pool described in the dwelling approval has recently been transferred to the neighbouring property through a land division boundary realignment application.

BACKGROUND

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
19 September 2023	23017468	Land division - Boundary realignment (2 into 2)
Lapsed	20-170	Change of use from dwelling to motel (maximum 6 guests) including internal alterations
4 December 2018	18-414	Two storey dwelling, including attached deck (maximum height 3.2m), swimming pool & associated safety barriers, retaining wall (maximum height 1.6m), fencing on top of existing retaining wall, & associated earthworks
5 April 2018	17-1014 (D50-17)	Land division to create one additional allotment and associated earthworks

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SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 1 BILNEY ROAD STIRLING SA 5152

Title ref.: CT 6212/999 **Plan Parcel:** D119343 AL701

Locality

The subject land is on the zone boundary to the west with the Community Facilities zone which in this case is the Stirling Hospital. There is also retirement living on the western side of Bilney Road to the south west of the subject site. Bilney Lane to the south is a recent land division being developed for residential uses. The land to the east and north of the subject land is residential.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Other - Commercial/Industrial - internal alterations: Accepted
Change of use: Code Assessed - Performance Assessed
Tourist accommodation: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

- **REASON**
Tourist accommodation not listed as expected in the zone, or exempt from notification in the zone and is not considered to be a minor form of development.

Public Notification period – 13 July 2023 – 2 August 2023

● **LIST OF REPRESENTATIONS**

Representor Name	Representor's Property Address	Wishes to be heard (Y/N)	Nominated Speaker (if relevant)
Pascoe Ayling	3 Bilney Road Stirling	Y	Self

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- **SUMMARY**

The representor concerns are parking and access issues along with the possible conflict between short term and long term stays.

A copy of the representation is included as **Attachment 4 – Representations** and the applicant's response is provided in **Attachment 5 – Response to Representations**.

AGENCY REFERRALS

Nil

INTERNAL REFERRALS

- Council Engineering – access from Bilney Road built without appropriate approval and causing Bilney Road to be gouged by vehicles entering and leaving the property as the gradient is steep. This proposal will see the access to Bilney Road rectified in accordance with the approved plans which propose a maximum gradient of 1:4 across the verge which is Council's maximum allowable gradient. This does involve an existing 3 sleeper high retaining wall on the subject land and a small modification to the roadside verge.
- Council Arboriculture – regarding proposed upgrade to unauthorized access to Bilney Road and impact on a Council tree. Notes there are works proposed in the tree protection zone and lists condition requirements for those works.

PLANNING ASSESSMENT

Desired outcomes

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

Performance outcomes

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

Designated performance features

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in **Attachment 6 – Relevant P&D Code Policies**.

Suburban Neighbourhood Zone

Desired Outcomes	
DO1	Low density housing is consistent with the existing local context and development pattern. Services and community facilities contribute to making the neighbourhood a convenient place to live without compromising residential amenity and character
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1, PO1.5, PO12.1	

Tourist accommodation is not on the list of envisaged activities for the Suburban Neighbourhood zone, however a number of low impact commercial activities like consulting room, shop and supported accommodation are. On this basis the tourist accommodation is considered acceptable as it treads a line between residential and commercial uses in terms of impacts on residential amenity. Externally the building looks like a dwelling and is considered to complement the residential character and amenity of the neighbourhood noting the western side of Bilney Road is a different zone with more intensive activities than residential development. No advertisements are proposed and a note is included to remind any potential business operator that a sign would require a separate application.

Overlays

Affordable Housing

Desired Outcomes	
DO1	Affordable housing is integrated with residential and mixed use development.
DO2	Affordable housing caters for a variety of household structures
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Nil	

Nil of relevance.

Hazards (Bushfire - Medium Risk)

Desired Outcomes	
DO1	Development, including land division responds to the medium level of bushfire risk and potential for ember attack and radiant heat by siting and designing buildings in a manner that mitigates the threat and impact of bushfires on life and property taking into account the increased frequency and intensity of bushfires as a result of climate change
DO2	To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO3.1, PO3.3, PO5.2	

The proposal does not alter emergency vehicle access to the area and given the use of existing built form the proposal is considered to accord with PO3.1 and given Stirling is considered a bushfire safer place PO3.2 is redundant. In the event of building fire all parts of the building are accessible as expected by DPF 5.2 noting no part of the building is greater than 30 metres from the road.

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Mount Lofty Ranges Water Supply Catchment (Area 2)

Desired Outcomes	
DO1	Safeguard Greater Adelaide's public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from secondary reservoirs or diversion weir catchments from the Mount Lofty Ranges.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1, PO1.2, PO2.1, PO,	

The property is connected to mains sewer which removes any concerns when considering the performance outcomes of this overlay.

Native Vegetation

Desired Outcomes	
DO1	Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystem services, carbon storage and amenity values.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1	

Nil native vegetation on site.

Prescribed Water Resources Area

Desired Outcomes	
DO1	Sustainable water use in prescribed surface water resources areas maintains the health and natural flow paths of water courses.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1	

The site is connected to mains water supply.

Regulated and Significant Tree

Desired Outcomes	
DO1	Conservation of regulated and significant trees to provide aesthetic and environmental benefits and mitigate tree loss.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1, PO1.3, PO1.4, PO2.1,	

No trees on site are impacted by the proposal. The modifications to the access on Bilney Road have been confirmed to have some potential for impact on a Council street tree, an oak tree which is regulated in size but not protected by under the Planning Development and Infrastructure Act 2016 due to its proximity to the dwelling on the subject land. Council's arborist states that the tree has a fair to good ability to endure this minor level of encroachment within the Tree Protection Zone area. A condition had been proposed to manage any potential impact (*Condition 4*).

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Stormwater Management

Desired Outcomes	
DO1	Development incorporates water sensitive urban design techniques to capture and re-use stormwater.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	

No change to existing situation as approved for the dwelling on site.

Urban Tree Canopy

Desired Outcomes	
DO1	Residential development preserves and enhances urban tree canopy through the planting of new trees and retention of existing mature trees where practicable.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	

Nil relevance to this proposal.

General Development Policies

Design

Desired Outcomes	
DO1	<p>Development is:</p> <ul style="list-style-type: none"> (a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate area (b) durable - fit for purpose, adaptable and long lasting (c) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors sustainable - by integrating (d) sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO7.2, PO7.3, PO7.4, PO7.5, PO7.6, PO8.1, PO8.2, PO8.3, PO19.3, PO19.5, PO24.1, PO24.2,	

Four vehicle parking spaces are contained on the site using existing crossovers (one of which forms part of this application) which minimise impact on adjacent sensitive receivers and those parking spaces are connected to the dwelling by footpaths and stairs. The parking area from Bilney Road is fenced and uses existing trees for shade. The parking area access from Bilney Lane has some landscaping and a tree to mature. The access from Bilney Road involves a maximum of 300mm of cut to achieve an appropriate vehicle entry angle which Council engineering staff have approved. The driveway design on Bilney Lane is unchanged from that approved for the dwelling in 2018. The proposed new access on Bilney Road meets all the elements of DPF 19.4 being more than 6metres from the intersection with Bilney Lane, not near a pedestrian crossing and does not involve damage to street trees or furniture. The final design for the new crossover from Bilney Road meets the gradient requirements and alignment requirements of PO19.5. The proposal is not considered to impact on the availability of on street parking in the vicinity through the provision of the new driveway.

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Design in Urban Areas

Desired Outcomes	
DO1	<p>Development is:</p> <p>(a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributing to the character of the locality</p> <p>(b) durable - fit for purpose, adaptable and long lasting</p> <p>(c) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors (d)sustainable - by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.</p>
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO7.2, PO7.5, PO7.6, PO7.7, PO8.1, PO8.2, PO8.3, PO23.1, PO23.2, PO23.3, PO23.4, PO23.5, PO23.6	

The built for exists and no changes are proposed, which leaves only the access and parking elements of the proposed for review with the change of use. As previously described in this report both parking areas for this application are considered to be appropriately screened by fences and soft landscaping from both the street and neighbouring residential uses. Earthworks proposed for the new access to Bilney Road are less than .5m in height and considered in accordance with POs 8.1, 8.2 and 8.3. Further the access is proposed to be finished in compacted gravel as envisaged in PO7.7.

With regard to POs 23.1-6 the proposed new access to Bilney Road is existing, requires minimal modification and has been supported by Council engineering so is considered as envisaged by the Code. There are currently no parking restrictions on Bilney Road with only the Australian Road rule provision which says not parking within three metres of a centre white line. A representor has raised concerns with street parking in this vicinity however those comments do not directly apply to this application as it provides an appropriate number of on-site parks.

Interface Between Land Uses

Desired Outcomes	
DO1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1, PO1.2, PO2.1, PO4.1	

PO1.1 requires sensitive receivers be designed and sited to protect residents and occupants from adverse impacts generated by lawfully existing land uses and land uses desired in the zone. A representor has raised concerns regarding the potential for conflict between guests and local residents. The applicant advises the property is not marketed as a party house. Further the proposal is located close to central Stirling, adjacent the Stirling Hospital and a retirement village is situated in a vibrant neighbourhood. The applicant expects guests will walk to various Stirling locations. As the subject land is on a zone boundary Council staff consider the proposed location meets POs 1.1, 1.2, 2.1 and 4.1.

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Tourism Development

Desired Outcomes	
DO1	Tourism development is built in locations that cater to the needs of visitors and positively contributes to South Australia's visitor economy.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1, PO1.2	

The proposed accommodation houses an extensive art collection and is marketed as an art house and being located adjacent the heart of Stirling is considered to meet PO1.1 in providing an immersive experience. Given the proposal is for 3 self-contained units within an existing building it is in accordance with PO1.2.

Transport Access and Parking

Desired Outcomes	
DO1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.4, PO2.1, PO2.2, PO3.1, PO3.2, PO3.3, PO3.4, PO3.5, PO3.6, PO3.8, PO5.1, PO6.2, PO6.7	

The proposal does not interrupt the operation of the adjacent public roads in the opinion of Council engineering staff, nor does it alter sightlines at intersections. No new walls or fences are proposed and the proposed new access will be lawfully approved should this application proceed and has Council engineering support. Further, the new access includes an on-site turnaround, is not adjacent neighbouring dwellings and will not interfere with any street furniture or trees. The proposed new driveway is opposite an existing off street space associated with the hospital. With regards to PO3.6 it is noted Bilney Road is narrow and has no current parking controls, the proposed new access is not considered at variance with this performance outcome being 3.2m wide. A representor has suggested the proposal could result in 12 vehicles requiring access to the site. Off street parking is provided in accordance with Table 1 which determines tourist accommodation has 1 car parking space per accommodation unit / guest room. There are four spaces. The 3 spaces facing Bilney Lane do not change the existing situation on Bilney Lane.

CONCLUSION

The proposal is considered a creative use of an existing dwelling on a zone boundary. The proposal has one direct neighbour with a residential use. All other residential properties are separated by Bilney Lane and the proposed building to be used for tourist accommodation has an 8.7metre setback from the lane at the closest point to residential neighbours. The neighbours to the west are in a different zone and not considered sensitive uses. The second property access is narrow and provides an onsite turnaround. Whilst not envisaged in the zone the location on a corner allotment adjacent a zone boundary is considered to add merit to the proposal.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
- 2) Development Application Number 23014494 by Oliver Sierp for A change of use from dwelling to tourist accommodation (12 guests) and internal alterations at 1 Bilney Road Stirling is GRANTED Planning Consent subject to the following conditions:

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CONDITIONS

Planning Consent

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).
- 2) The tourist accommodation shall accommodate a maximum number of 12 guests at any given time.
- 3) The person(s) having the benefit of this consent shall refrain from permitting the use of the building (or any part thereof) for provision long term accommodation or as a separate dwelling. The tourist accommodation shall be used and operated on a short term rental arrangement with a maximum of a one 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.

4) Crossover requirements – Bilney Road:

- The excavation works must be conducted under the supervision of a qualified consulting Arborist;
- No mechanical excavation is to occur without comprehensive root zone investigation works being undertaken in relation to the Oak tree on the Council road verge;
- Hydro excavation of a liner trench to the depth of the proposed cut depth is required to first assess the extent of root material present and identify root pruning opportunities;
- The trench is required to be in an east-west orientation, positioned to the southern- most side of the existing crossover footprint;
- No severance of tree roots greater than 50mm should occur. If tree roots greater than 50mm are identified they must be wrapped in wet hessian and the Council Open Space team contacted for further assessment prior to work continuing;
- The applicant shall supply to Council a summary document of the root zone assessment findings prepared by the engaged consulting Arborist within 7 days of the root zone investigation works being completed; and
- The proposed crossover footprint cannot encroach any closer to the tree than the existing cut gravel surface.

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) A separate development application is required for any signs or advertisements (including flags and bunting) associated with the development herein approved.

OFFICER MAKING RECOMMENDATION

Name: Melanie Scott

Title: Senior Statutory Planner

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ITEM 8.4

DEVELOPMENT NO.:	23007983
APPLICANT:	Bargain Steel Centre
ADDRESS:	6 ONKAPARINGA ST, LOBETHAL SA 5241
NATURE OF DEVELOPMENT:	Outbuilding
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Township <p>Overlays:</p> <ul style="list-style-type: none"> • Hazards (Bushfire - Medium Risk) • Hazards (Flooding - Evidence Required) • Mount Lofty Ranges Water Supply Catchment (Area 2) • Native Vegetation • Prescribed Water Resources Area • Regulated and Significant Tree • Traffic Generating Development <p>Local Variation</p> <ul style="list-style-type: none"> • Minimum Site Area (Minimum site area for a detached dwelling is 1,000 sqm; semi-detached dwelling is 1,000 sqm; row dwelling is 500 sqm; group dwelling is 500 sqm; residential flat building is 500 sqm)
LODGEMENT DATE:	29 March 2023
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	2023.4
CATEGORY OF DEVELOPMENT:	Code Assessed – Performance Assessed
NOTIFICATION:	No
RECOMMENDING OFFICER:	Sebastien Paraskevopoulos Statutory Planner
REFERRALS STATUTORY:	N/A
REFERRALS NON-STATUTORY:	N/A

CONTENTS:

-
- ATTACHMENT 1: Application Documents**
- ATTACHMENT 2: Subject Land Map**
- ATTACHMENT 3: Zoning Map**
- ATTACHMENT 4: Relevant P & D Code Policies**
-

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DETAILED DESCRIPTION OF PROPOSAL:

The application proposes the construction of an outbuilding (shed), for the purposes of general domestic storage and the garaging of a caravan. A level site area has been previously prepared, with boundary retaining walls not exceeding 1m.

The proposal has dimensions of 7.00m x 12.20m and a total floor area of 85.40m², which corresponds to a total site coverage of 11%. It also features 3.6m wall heights, with a maximum building height of 4.37m above the finished level.

The proposal is located to the rear of the property, behind a recently approved detached dwelling currently under construction. To achieve a level site area, excavation down to 0.6m has been conducted to the east of the proposed building envelope, with fill up to 0.5m to the western side. Both batters and retaining walls have been utilised to support the earthworks.

The proposal is aligned in orientation with the rear boundary of the subject land, with its location in relation to the ancillary dwelling and primary street alike to the majority of properties in the locality. It has minimum 1m setbacks to the north side and east rear boundaries of the site.

The walls and roof of the proposed outbuilding will both be clad with corrugated iron finished in Colorbond 'Monument'.

BACKGROUND:

The subject allotment was owned by the SA Housing Trust prior to its sale to the current landowners last year. There is no record of any previous development applications while it was in state ownership.

The landowners recently received full Development Approval for a replacement dwelling, which is currently under construction.

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
25 August 2023	23008954	Single storey detached dwelling

SUBJECT LAND & LOCALITY:

Location reference: 6 Onkaparinga Street, Lobethal SA 5241

Title ref.: 5611/902 **Plan Parcel:** DAP prefill **Council:** delete this

Site Description:

The subject land has a primary street frontage to Onkaparinga Street. It has a total site area of 775m², and a front boundary length of 14.48m, which extends to the rear to a maximum depth of 45.77m. The allotment frontage and coverage are of a similar size as other residential allotments in the locality. While a new dwelling is currently under construction, the site remains technically vacant, following the demolition of the previous Housing Trust home.

The land is evenly sloping, ascending west to east from the front of the allotment to the rear, at a gradient of approximately 1:13.6.

There are no trees or other vegetation on site.

The land is connected to SA Water and Sewer Mains.

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Locality:

The property and its residential neighbours are situated either side of Onkaparinga Street, within the Township Zone of the Planning and Design Code. The subject land abuts a zone boundary, and to its south is the Lobethal Recreation Ground Sports Club, which is located within the Productive Rural Landscape Zone.

Residential allotments in the locality are of a moderate size, typically ranging from 600-1000m² in total area. Dwellings are highly visible from the roadside, due to majority 6-10m front boundary setbacks, and limited dense, mature vegetation in the road reserve or in private front gardens. Directly neighbouring the north side of the subject land is an existing single storey detached dwelling with a backyard outbuilding. To the south side is the Lobethal Recreation Ground, which accommodates sporting and recreational activities on a 12.8ha site.

There are no Local or State Heritage listed places in direct proximity of the subject land or the greater locale.

The subject land is identified on **Attachment 2 – Subject Land**. The zoning is shown on the map in **Attachment 3 – Zoning Map**.

CONSENT TYPE REQUIRED:

- Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**

Outbuilding: Code Assessed – Performance Assessed

- **OVERALL APPLICATION CATEGORY:**

Outbuilding: Code Assessed – Performance Assessed

- **REASON**

The proposed element did not qualify as no 'Accepted' or 'Deemed to Satisfy' under the Planning and Design Code –nor is it categorised as 'Restricted' under Table 4 of the zone. Therefore, as per sections 105 (b) and 107 of the Planning Development & Infrastructure Act 2016, the development is categorised as Code Assessed – Performance Assessed.

PUBLIC NOTIFICATION

- **REASON**

The proposal is excluded from public notification, as outbuildings are listed in Table 5 – 2 (j) of the Township Zone. Neither of the exceptions under Column B, relating to building height and number of dwellings are applicable.

One of the landowners of the subject land is a Council staff member. In accordance with Council Delegation Instrument D, the Assessment Manager has determined that delegation to the Council Assessment Panel be exercised.

AGENCY REFERRALS

Not applicable

INTERNAL REFERRALS

Not applicable

PLANNING ASSESSMENT

Desired outcomes

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

Performance outcomes

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

Designated performance features

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

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

Township Zone

Desired Outcomes	
DO 1	A township supporting a range of residential, community, retail, business, commercial and light industry uses and facilities.
DO 2	Development contributes to and enhances streetscapes and the settlement patterns comprising the township.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
N/A	

Table 3 of the Township Zone does not specify any POs or DPFs which are applicable to outbuildings.

The proposal's ancillary relationship with the new dwelling, along with its siting behind the front building line of the dwelling are broadly consistent with the DO 1 and DO 2 of the Zone.

OVERLAYS

The Planning and Design Code does not draw upon any assessment provisions for an outbuilding from the following Overlays: *Hazards (Flooding - Evidence Required)*, *Prescribed Water Resources Area, Regulated and Significant Trees*, and *Traffic Generating Development*. As such, they are not included among the overlays below.

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Hazards (Bushfire - Medium Risk)

Desired Outcomes	
DO 1	Development, including land division responds to the medium level of bushfire risk and potential for ember attack and radiant heat by siting and designing buildings in a manner that mitigates the threat and impact of bushfires on life and property taking into account the increased frequency and intensity of bushfires as a result of climate change.
DO 2	To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1; PO 2.1; PO 2.2 & DPF 2.2; PO 5.2 & DPF 5.2; PO 5.3;	

The proposal's design and location on the subject land is considered appropriate to satisfy PO 1.1 and PO 2.1. The topography of the site is moderate in slope, and there is no unacceptable risk posed by vegetation on either the subject land or neighbouring properties. The minimum 1m side and rear boundary setbacks are also wide enough to allow for management and clearing of potential flammable debris in proximity of the building. Although it would be within 6m of the dwelling (dissuaded by DPF 2.2), it would be a requirement of the Building Consent assessment for it to be constructed to relevant building standards for associated structures in Bushfire Prone Areas. The proposal would also not obstruct pedestrian access to the rear of the dwelling from the roadside, which accords with DPF 5.2 (a). PO 5.3, which relates to using fire tracks by means of evacuation, is not applicable for this site.

Mount Lofty Ranges Water Supply Catchment (Area 2)

Desired Outcomes	
DO 1	Safeguard Greater Adelaide's public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from secondary reservoirs or diversion weir catchments from the Mount Lofty Ranges.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1; PO 3.1; PO 3.2; PO 3.3; PO 3.9 & DPF 3.9; PO 4.1	

The proposed development would have a neutral effect on water quality, as its use as an outbuilding in association with the dwelling would be unlikely to pollute stormwater. Stormwater from the roof will be directed to a rainwater tank with a minimum capacity of 1,000L, with overflow directed to stormwater infrastructure available at the street. Earthworks are not in proximity of any watercourse or public water supply and are limited below 0.75m with minimised modification to the topography of the land. On these bases, the proposal is not considered to be at variance with any of the selected provisions of the Overlay.

Native Vegetation

Desired Outcomes	
DO 1	Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystems services, carbon storage and amenity values.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1 & DPF 1.1; PO 1.2; PO 1.4	

ITEM 8.4

The entirety of the subject land is absent of native vegetation and the applicant made their Native Vegetation Declaration upon submission of the proposal, which complies with DPF 1.1.

GENERAL DEVELOPMENT POLICIES

Clearance from Overhead Powerlines

Desired Outcomes	
DO 1	Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1 & DPF 1.1	

A declaration was made by the applicant upon submission of the application that the proposal would not be contrary to the regulations prescribed for the purposes of section 86 of the Electricity Act 1996. On this basis, the proposal is in accordance with the above provisions.

Design

Desired Outcomes	
DO 1	<p>Development is:</p> <ul style="list-style-type: none"> (a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributing to the character of the immediate area (b) durable - fit for purpose, adaptable and long lasting (c) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors (d) sustainable - by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 8.1 & DPF 8.1; PO 8.2 & DPF 8.2; PO 8.3; PO 8.4; PO 13.1 & DPF 13.1; PO 13.2 & DPF 13.2; PO 19.3 & DPF 19.3; PO 19.4 & DPF 19.4; PO 19.5 & DPF 19.5;	

The extent of excavation or filling of land does not exceed 1m in height, which aligns with DPF 8.1. The slope of the subject land does not exceed a gradient of 1 in 8, rendering PO 8.2, 8.3, and 8.4 not applicable.

The floor area of the proposal represents a departure from DPF 13.1 (b), which advises that ancillary buildings do not exceed 60m². On an allotment of 775m², the proposed 84.5m² is still considered moderate in size, and akin to other outbuildings in the locality (including direct neighbours at 8 Onkaparinga Street and 6 Golf Links Road, which feature rear outbuildings with areas of approximately 95m² and 90m² respectively). The outbuilding is also appropriately sited to the rear of the dwelling and would not be visually obtrusive from the primary street vantage. For these reasons, the proposed floor area is considered to remain consistent with PO 13.1.

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There is a further departure from DPF 13.1 in relation to wall height, of which part (h) recommends that such heights do not exceed 3m. The proposed outbuilding exceeds this by 0.6m, as it has been designed specifically to accommodate a caravan. When considered against the associated PO, however, this variance is considered acceptable. In addition to minimum 1m side and rear boundary setbacks, the level of the outbuilding is reasonably below that of the side and rear neighbouring allotment levels. This is especially the case for 8 Onkaparinga Street (which would experience the longest length of the outbuilding), which is between approximately 0.6m – 1m above the bench level of the proposal. The gable roof height of the outbuilding is also at a low profile (11-degree pitch), and well below the maximum 5m prescribed by part (i) of the DPF. The outbuilding's proposed location and associated low impact upon the streetscape further contribute to meeting PO 13.1. The remaining design elements of the proposal are demonstrably consistent with the rest of the parts of DPF 13.1.

The proposed location of the outbuilding does not impede car parking or open space requirements, and directly accords with parts (a) and (b) of DPF 13.2.

While the primary anticipated use of the outbuilding is not for vehicle car parking, the landowners have demonstrated written permission from the Lobethal Recreation Sports Ground Club to travel over their land to access the rear of the subject allotment and outbuilding from Onkaparinga Street. This would be necessary for the garaging of their caravan, which could not fit between the dwelling and side boundaries of the allotment. The agreement with the Club has not been formalised by a registered right of way, and the applicant has been made aware that the agreement could be rescinded without their permission or appeal in the future. Recommended planning advisory note 5 further clarifies that the granting of Planning Consent would *not* guarantee or infer any other protections or rights to travel over the neighbouring private land than what would otherwise be applicable in their agreement with the Club. Such an arrangement would not include any new driveway crossover points or accesses over Council land. If the Club were to rescind their permission to travel over their land in the future, the proposal could still serve its purposes as an outbuilding, albeit without the garaging of the caravan or vehicular access.

Within the context of the above, the proposal is not considered to conflict with remaining Zone POs 19.3, 19.4, and 19.5.

Infrastructure and Renewable Energy Facilities

Desired Outcomes	
DO 1	Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 12.2 & DPF 12.2	

Council mapping indicates that there is an existing SA Water meter on site, along with SA water sewer infrastructure available. There would be no encroachment upon the sewerage system as per the easements demonstrated on the Certificate of Title map.

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ITEM 8.4

CONCLUSION

The proposal is for an outbuilding in association with a dwelling at 6 Onkaparinga Street, Lobethal. The subject land is located in the Township Zone, among existing residential land uses.

The proposal is considered an appropriate example of ancillary residential development in the Township Zone. Despite DPF departures regarding floor area and wall height prescribed by the *Design* general development policy, it meets its obligations in relation to boundary setbacks, building height, design (colour/material selection), and overall purpose within the context of the locality.

The proposal is considered to satisfy all applicable Performance Outcomes of the selected overlays and general development policies of the Planning & Design Code, with no consequential departures of note.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and**
- 2) Development Application Number 23007983 by Bargain Steel Centre for an outbuilding at 6 Onkaparinga Street, Lobethal 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 outbuilding herein approved shall be as follows:
WALLS: Colorbond 'Monument' or similar or similar
ROOF: Colorbond 'Monument' or similar**
- 3) The outbuilding shall not be used for human habitation, commercial or industrial purposes. Any such activity may constitute a change in use and will require separate development approval.**
- 4) All roof runoff generated by the development hereby approved shall be directed to a rainwater tank with overflow to the street (via a pump if necessary) or a Council drainage easement to the satisfaction of Council within one month of the roof cladding being installed. All roof and hard surface runoff shall be managed to prevent trespass onto adjoining properties and into the effluent disposal area where an on-site waste control system exists.**

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ITEM 8.4

ADVISORY NOTES

Planning 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).**
- 5) This Planning Consent does not formalise or guarantee access across the land of 16 Onkaparinga Street currently allowed by the Lobethal Recreation Sports Ground Club. The most secure way to travel within neighbouring land to your property into the future would be to register a legal right of way over the land. Any other agreement to access the land could be rescinded in the future by the neighbouring landowners, risking your ability to access your property in the intended manner.**
- 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) Management of the property during construction shall be undertaken in such a manner as to prevent denudation, erosion or pollution of the environment.**
- 8) The onus of ensuring that any development is located in the approved position on the correct allotment is the responsibility of the landowner/applicant. This may necessitate a boundary survey being undertaken by a licensed land surveyor prior to the work commencing and when building work is complete.**

OFFICER MAKING RECOMMENDATION

Name: Sebastien Paraskevopoulos
Title: Statutory Planner

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ITEM 8.4

DEVELOPMENT NO.:	23007983
APPLICANT:	Bargain Steel Centre
ADDRESS:	6 ONKAPARINGA ST, LOBETHAL SA 5241
NATURE OF DEVELOPMENT:	Outbuilding
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Township <p>Overlays:</p> <ul style="list-style-type: none"> • Hazards (Bushfire - Medium Risk) • Hazards (Flooding - Evidence Required) • Mount Lofty Ranges Water Supply Catchment (Area 2) • Native Vegetation • Prescribed Water Resources Area • Regulated and Significant Tree • Traffic Generating Development <p>Local Variation</p> <ul style="list-style-type: none"> • Minimum Site Area (Minimum site area for a detached dwelling is 1,000 sqm; semi-detached dwelling is 1,000 sqm; row dwelling is 500 sqm; group dwelling is 500 sqm; residential flat building is 500 sqm)
LODGEMENT DATE:	29 March 2023
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	2023.4
CATEGORY OF DEVELOPMENT:	Code Assessed – Performance Assessed
NOTIFICATION:	No
RECOMMENDING OFFICER:	Sebastien Paraskevopoulos Statutory Planner
REFERRALS STATUTORY:	N/A
REFERRALS NON-STATUTORY:	N/A

CONTENTS:

-
- ATTACHMENT 1: Application Documents**
- ATTACHMENT 2: Subject Land Map**
- ATTACHMENT 3: Zoning Map**
- ATTACHMENT 4: Relevant P & D Code Policies**
-

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ITEM 8.4

DETAILED DESCRIPTION OF PROPOSAL:

The application proposes the construction of an outbuilding (shed), for the purposes of general domestic storage and the garaging of a caravan. A level site area has been previously prepared, with boundary retaining walls not exceeding 1m.

The proposal has dimensions of 7.00m x 12.20m and a total floor area of 85.40m², which corresponds to a total site coverage of 11%. It also features 3.6m wall heights, with a maximum building height of 4.37m above the finished level.

The proposal is located to the rear of the property, behind a recently approved detached dwelling currently under construction. To achieve a level site area, excavation down to 0.6m has been conducted to the east of the proposed building envelope, with fill up to 0.5m to the western side. Both batters and retaining walls have been utilised to support the earthworks.

The proposal is aligned in orientation with the rear boundary of the subject land, with its location in relation to the ancillary dwelling and primary street alike to the majority of properties in the locality. It has minimum 1m setbacks to the north side and east rear boundaries of the site.

The walls and roof of the proposed outbuilding will both be clad with corrugated iron finished in Colorbond 'Monument'.

BACKGROUND:

The subject allotment was owned by the SA Housing Trust prior to its sale to the current landowners last year. There is no record of any previous development applications while it was in state ownership.

The landowners recently received full Development Approval for a replacement dwelling, which is currently under construction.

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
25 August 2023	23008954	Single storey detached dwelling

SUBJECT LAND & LOCALITY:

Location reference: 6 Onkaparinga Street, Lobethal SA 5241

Title ref.: 5611/902 **Plan Parcel:** DAP prefill **Council:** delete this

Site Description:

The subject land has a primary street frontage to Onkaparinga Street. It has a total site area of 775m², and a front boundary length of 14.48m, which extends to the rear to a maximum depth of 45.77m. The allotment frontage and coverage are of a similar size as other residential allotments in the locality. While a new dwelling is currently under construction, the site remains technically vacant, following the demolition of the previous Housing Trust home.

The land is evenly sloping, ascending west to east from the front of the allotment to the rear, at a gradient of approximately 1:13.6.

There are no trees or other vegetation on site.

The land is connected to SA Water and Sewer Mains.

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Locality:

The property and its residential neighbours are situated either side of Onkaparinga Street, within the Township Zone of the Planning and Design Code. The subject land abuts a zone boundary, and to its south is the Lobethal Recreation Ground Sports Club, which is located within the Productive Rural Landscape Zone.

Residential allotments in the locality are of a moderate size, typically ranging from 600-1000m² in total area. Dwellings are highly visible from the roadside, due to majority 6-10m front boundary setbacks, and limited dense, mature vegetation in the road reserve or in private front gardens. Directly neighbouring the north side of the subject land is an existing single storey detached dwelling with a backyard outbuilding. To the south side is the Lobethal Recreation Ground, which accommodates sporting and recreational activities on a 12.8ha site.

There are no Local or State Heritage listed places in direct proximity of the subject land or the greater locale.

The subject land is identified on **Attachment 2 – Subject Land**. The zoning is shown on the map in **Attachment 3 – Zoning Map**.

CONSENT TYPE REQUIRED:

- Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**

Outbuilding: Code Assessed – Performance Assessed

- **OVERALL APPLICATION CATEGORY:**

Outbuilding: Code Assessed – Performance Assessed

- **REASON**

The proposed element did not qualify as no 'Accepted' or 'Deemed to Satisfy' under the Planning and Design Code –nor is it categorised as 'Restricted' under Table 4 of the zone. Therefore, as per sections 105 (b) and 107 of the Planning Development & Infrastructure Act 2016, the development is categorised as Code Assessed – Performance Assessed.

PUBLIC NOTIFICATION

- **REASON**

The proposal is excluded from public notification, as outbuildings are listed in Table 5 – 2 (j) of the Township Zone. Neither of the exceptions under Column B, relating to building height and number of dwellings are applicable.

One of the landowners of the subject land is a Council staff member. In accordance with Council Delegation Instrument D, the Assessment Manager has determined that delegation to the Council Assessment Panel be exercised.

AGENCY REFERRALS

Not applicable

INTERNAL REFERRALS

Not applicable

PLANNING ASSESSMENT

Desired outcomes

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

Performance outcomes

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

Designated performance features

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

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

Township Zone

Desired Outcomes	
DO 1	A township supporting a range of residential, community, retail, business, commercial and light industry uses and facilities.
DO 2	Development contributes to and enhances streetscapes and the settlement patterns comprising the township.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
N/A	

Table 3 of the Township Zone does not specify any POs or DPFs which are applicable to outbuildings.

The proposal's ancillary relationship with the new dwelling, along with its siting behind the front building line of the dwelling are broadly consistent with the DO 1 and DO 2 of the Zone.

OVERLAYS

The Planning and Design Code does not draw upon any assessment provisions for an outbuilding from the following Overlays: *Hazards (Flooding - Evidence Required)*, *Prescribed Water Resources Area, Regulated and Significant Trees*, and *Traffic Generating Development*. As such, they are not included among the overlays below.

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Hazards (Bushfire - Medium Risk)

Desired Outcomes	
DO 1	Development, including land division responds to the medium level of bushfire risk and potential for ember attack and radiant heat by siting and designing buildings in a manner that mitigates the threat and impact of bushfires on life and property taking into account the increased frequency and intensity of bushfires as a result of climate change.
DO 2	To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1; PO 2.1; PO 2.2 & DPF 2.2; PO 5.2 & DPF 5.2; PO 5.3;	

The proposal's design and location on the subject land is considered appropriate to satisfy PO 1.1 and PO 2.1. The topography of the site is moderate in slope, and there is no unacceptable risk posed by vegetation on either the subject land or neighbouring properties. The minimum 1m side and rear boundary setbacks are also wide enough to allow for management and clearing of potential flammable debris in proximity of the building. Although it would be within 6m of the dwelling (dissuaded by DPF 2.2), it would be a requirement of the Building Consent assessment for it to be constructed to relevant building standards for associated structures in Bushfire Prone Areas. The proposal would also not obstruct pedestrian access to the rear of the dwelling from the roadside, which accords with DPF 5.2 (a). PO 5.3, which relates to using fire tracks by means of evacuation, is not applicable for this site.

Mount Lofty Ranges Water Supply Catchment (Area 2)

Desired Outcomes	
DO 1	Safeguard Greater Adelaide's public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from secondary reservoirs or diversion weir catchments from the Mount Lofty Ranges.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1; PO 3.1; PO 3.2; PO 3.3; PO 3.9 & DPF 3.9; PO 4.1	

The proposed development would have a neutral effect on water quality, as its use as an outbuilding in association with the dwelling would be unlikely to pollute stormwater. Stormwater from the roof will be directed to a rainwater tank with a minimum capacity of 1,000L, with overflow directed to stormwater infrastructure available at the street. Earthworks are not in proximity of any watercourse or public water supply and are limited below 0.75m with minimised modification to the topography of the land. On these bases, the proposal is not considered to be at variance with any of the selected provisions of the Overlay.

Native Vegetation

Desired Outcomes	
DO 1	Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystems services, carbon storage and amenity values.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1 & DPF 1.1; PO 1.2; PO 1.4	

ITEM 8.4

The entirety of the subject land is absent of native vegetation and the applicant made their Native Vegetation Declaration upon submission of the proposal, which complies with DPF 1.1.

GENERAL DEVELOPMENT POLICIES

Clearance from Overhead Powerlines

Desired Outcomes	
DO 1	Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1 & DPF 1.1	

A declaration was made by the applicant upon submission of the application that the proposal would not be contrary to the regulations prescribed for the purposes of section 86 of the Electricity Act 1996. On this basis, the proposal is in accordance with the above provisions.

Design

Desired Outcomes	
DO 1	<p>Development is:</p> <ul style="list-style-type: none"> (a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributing to the character of the immediate area (b) durable - fit for purpose, adaptable and long lasting (c) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors (d) sustainable - by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.
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The extent of excavation or filling of land does not exceed 1m in height, which aligns with DPF 8.1. The slope of the subject land does not exceed a gradient of 1 in 8, rendering PO 8.2, 8.3, and 8.4 not applicable.

The floor area of the proposal represents a departure from DPF 13.1 (b), which advises that ancillary buildings do not exceed 60m². On an allotment of 775m², the proposed 84.5m² is still considered moderate in size, and akin to other outbuildings in the locality (including direct neighbours at 8 Onkaparinga Street and 6 Golf Links Road, which feature rear outbuildings with areas of approximately 95m² and 90m² respectively). The outbuilding is also appropriately sited to the rear of the dwelling and would not be visually obtrusive from the primary street vantage. For these reasons, the proposed floor area is considered to remain consistent with PO 13.1.

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ITEM 8.4

There is a further departure from DPF 13.1 in relation to wall height, of which part (h) recommends that such heights do not exceed 3m. The proposed outbuilding exceeds this by 0.6m, as it has been designed specifically to accommodate a caravan. When considered against the associated PO, however, this variance is considered acceptable. In addition to minimum 1m side and rear boundary setbacks, the level of the outbuilding is reasonably below that of the side and rear neighbouring allotment levels. This is especially the case for 8 Onkaparinga Street (which would experience the longest length of the outbuilding), which is between approximately 0.6m – 1m above the bench level of the proposal. The gable roof height of the outbuilding is also at a low profile (11-degree pitch), and well below the maximum 5m prescribed by part (i) of the DPF. The outbuilding's proposed location and associated low impact upon the streetscape further contribute to meeting PO 13.1. The remaining design elements of the proposal are demonstrably consistent with the rest of the parts of DPF 13.1.

The proposed location of the outbuilding does not impede car parking or open space requirements, and directly accords with parts (a) and (b) of DPF 13.2.

While the primary anticipated use of the outbuilding is not for vehicle car parking, the landowners have demonstrated written permission from the Lobethal Recreation Sports Ground Club to travel over their land to access the rear of the subject allotment and outbuilding from Onkaparinga Street. This would be necessary for the garaging of their caravan, which could not fit between the dwelling and side boundaries of the allotment. The agreement with the the Club has not been formalised by a registered right of way, and the applicant has been made aware that the agreement could be rescinded without their permission or appeal in the future. Recommended planning advisory note 5 further clarifies that the granting of Planning Consent would *not* guarantee or infer any other protections or rights to travel over the neighbouring private land than what would otherwise be applicable in their agreement with the Club. Such an arrangement would not include any new driveway crossover points or accesses over Council land. If the Club were to rescind their permission to travel over their land in the future, the proposal could still serve its purposes as an outbuilding, albeit without the garaging of the caravan or vehicular access.

Within the context of the above, the proposal is not considered to conflict with remaining Zone POs 19.3, 19.4, and 19.5.

Infrastructure and Renewable Energy Facilities

Desired Outcomes	
DO 1	Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity.
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Council mapping indicates that there is an existing SA Water meter on site, along with SA water sewer infrastructure available. There would be no encroachment upon the sewerage system as per the easements demonstrated on the Certificate of Title map.

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CONCLUSION

The proposal is for an outbuilding in association with a dwelling at 6 Onkaparinga Street, Lobethal. The subject land is located in the Township Zone, among existing residential land uses.

The proposal is considered an appropriate example of ancillary residential development in the Township Zone. Despite DPF departures regarding floor area and wall height prescribed by the *Design* general development policy, it meets its obligations in relation to boundary setbacks, building height, design (colour/material selection), and overall purpose within the context of the locality.

The proposal is considered to satisfy all applicable Performance Outcomes of the selected overlays and general development policies of the Planning & Design Code, with no consequential departures of note.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and**
- 2) Development Application Number 23007983 by Bargain Steel Centre for an outbuilding at 6 Onkaparinga Street, Lobethal is GRANTED Planning Consent subject to the following conditions:**

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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.**
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Planning 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.**
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- 5) **This Planning Consent does not formalise or guarantee access across the land of 16 Onkaparinga Street currently allowed by the Lobethal Recreation Sports Ground Club. The most secure way to travel within neighbouring land to your property into the future would be to register a legal right of way over the land. Any other agreement to access the land could be rescinded in the future by the neighbouring landowners, risking your ability to access your property in the intended manner.**
- 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.**
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OFFICER MAKING RECOMMENDATION

Name: Sebastien Paraskevopoulos
Title: Statutory Planner