

**CAP MEETING – 13 MARCH 2024**

**ITEM 8.1**

<b>DEVELOPMENT NO.:</b>	23034228
<b>APPLICANT:</b>	Scott Butler
<b>ADDRESS:</b>	47 LESLEY CRESCENT CRAFERS SA 5152 CT 5637/466
<b>NATURE OF DEVELOPMENT:</b>	Single storey detached dwelling, in-ground swimming pool with associated safety barriers, tennis court with 4x light poles, combined fence & retaining walls, retaining walls & 2x water storage tanks
<b>ZONING INFORMATION:</b>	<p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• Rural Neighbourhood</li> </ul> <p><b>Subzones:</b></p> <ul style="list-style-type: none"> <li>• Adelaide Hills</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Hazards (Bushfire - Medium Risk)</li> <li>• Hazards (Flooding - Evidence Required)</li> <li>• Mount Lofty Ranges Water Supply Catchment (Area 2)</li> <li>• Native Vegetation</li> <li>• Prescribed Water Resources Area</li> <li>• Regulated and Significant Tree</li> </ul> <p><b>Technical Numeric Variations (TNVs):</b></p> <ul style="list-style-type: none"> <li>• Minimum Site Area (Minimum site area is 2,000 sqm)</li> </ul>
<b>LODGEMENT DATE:</b>	20 November 2023
<b>RELEVANT AUTHORITY:</b>	Assessment Panel at Adelaide Hills Council
<b>PLANNING &amp; DESIGN CODE VERSION:</b>	P&D Code (in effect) - Version 2023.16 - 09/11/2023
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	Yes 8 January 2024 – 29 January 2024
<b>RECOMMENDING OFFICER:</b>	Doug Samardzija Senior Statutory Planner
<b>REFERRALS STATUTORY:</b>	Nil
<b>REFERRALS NON-STATUTORY:</b>	<ul style="list-style-type: none"> <li>• Council Engineering</li> <li>• Council Open Space</li> </ul>

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#### DETAILED DESCRIPTION OF PROPOSAL:

The proposal is for a replacement single storey dwelling, the existing dwelling on the land is in the process of being demolished. The proposed dwelling will comprise the following:

- Five (5) bedrooms all with walk-in-robe and ensuite, open plan kitchen, living and dining room, separate rumpus room, laundry, rear verandah (alfresco) and triple width garage.
- Attached to the rear of the dwelling is an enclosed space, covering a proposed in-ground swimming pool. There is an internal access door between the swimming pool enclosure and the dwelling.
- The pump equipment of the proposed swimming pool is to be within a fully enclosed structure. The pump enclosure is approximately 17m from the nearest dwelling on adjoining land – 45 Lesley Crescent, Crafers.
- The dwelling is 24.8m wide facing Lesley Crescent and has a maximum length of 40m adjacent the northern side boundary.
- The total floor area of the dwelling including the garage, rear verandah (alfresco) and enclosed swimming pool area under main roof is 665 square metres.
- The dwelling setbacks are as follows:
  - Front boundary – 14m to the front façade (12m to the front entrance porch/verandah).
  - Side boundaries – 2m from the northern side and 1.5m at the closest point from the southern side boundary, tapering out to 5.4m.
  - Rear boundary – 21m at the closest point.
- The building height details are as follows:
  - Wall height – 2.7m.
  - Maximum building height – 6m, measured to the top of the roof peak. The dwelling includes a maximum 22.5 degree roof pitch.
- External materials and colours are as follows:
  - Roof – Colorbond ‘Monument’ (dark grey).
  - Walls – a mixture of rendered Austral brickwork in ‘Dover White’ colour and feature Carey Gully sandstone to the front façade and rear elevation and exposed Austral brickwork in ‘Hamptons Whitehaven’ colour to the southern side elevation.

Associated with the proposed dwelling is the following:

- 24m long x 14m wide tennis court at the rear of the dwelling, near the southern side boundary.
- The tennis court is surrounded by an 3m high black powder coated chain mesh fence on three (3) sides. The remaining southern side of the tennis court is enclosed by a 1.7m high cut retaining wall with the chain mesh fence atop the retaining wall.
- The tennis court is to be lit by four (4) light poles of 6m in height with a black powder coated finish. The light poles are located on the northern and southern sides of the tennis court.
- The tennis court fencing is setback 980mm from the southern side boundary at the closest point, tapering out to 1.6m; and 9.7m from the rear boundary.

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- Two (2) 50,000L Colorbond ‘Monument’ water storage tanks behind the in-ground swimming pool enclosure. The water storage tanks are setback 1.5m from the northern side boundary. The water storage tanks form part of the roof drainage system and will also serve as the bushfire water supply.
- Closure of the existing cross-over on the northern side of the land and construction of a new 5m wide paved driveway cross-over further south.
- The creation of the new driveway cross-over will require the removal of (1) small tree in the road verge and pruning of some road verge shrubs for adequate driver sight lines.
- Planting of landscaping between the front façade of the dwelling and the front boundary and along the southern side of the tennis court fence. Landscaping in front of the dwelling is of a formalised garden style comprising lawn and low-level exotic hedging.
- Stormwater will be directed to the proposed water storage tanks, with overflow directed to Lesley Crescent.
- Earthworks are a maximum of 1.7m of cut along the southern side of the dwelling and 900mm of fill on the northern side of the dwelling.
- The earthworks are to be supported by concrete sleeper retaining walls. The retaining on the southern side of the dwelling is off-set from the side boundary. However, the retaining on the northern side of the dwelling is on the boundary.
- The retaining wall on the northern side boundary is to be fitted with a 1.8m high Colorbond Good Neighbour fence. The combined maximum height of the retaining wall and fence is 2.8m for a maximum length of 5m.

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

### BACKGROUND:

After public notification commenced, an amended light spill detail for the tennis court lighting was received. The amendment was for additional clarity only. The amended plan is included in **Attachment 1 – Application Documents**.

Initially the assessment did not have any regard to tree damaging activity given that all trees being impacted were within 20m of an existing dwelling and therefore the works were not classified as tree damaging activity in accordance with *Planning, Development and Infrastructure (General) Regulations 2017*- Schedule 4 Part 18 (1)(b). However, since the original assessment of the application and subsequent public notification, it has come to Council’s attention that there was one fundamental change which resulted in one of the trees at the rear of the neighbouring property at 23 Old Mount Barker Road no longer having the exemption under the Regulations. The change came about as a result of the demolition of the existing dwelling on site, requiring reconsideration of whether these works resulted in tree damaging activity. Detailed discussion in relation to this is provided further in the report.

Previous approval on site included the following:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
24/06/2014	473/443/14	Verandah & outbuilding
25/10/2007	473/548/2007	Single storey dwelling addition
19/10/2004	473/838/2004	Domestic outbuilding
26/02/1991	330/126/91	Domestic Garage
25/05/1984	330/419/84	Carport addition to dwelling

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#### SUBJECT LAND & LOCALITY:

##### Site Description:

**Location reference:** 47 LESLEY CRESCENT CRAFTERS SA 5152

**Title ref.:** CT 5637/466 **Plan Parcel:** D6506 AL10 **Council:** ADELAIDE HILLS COUNCIL

The subject land is rectangular in shape, with an area of 2108 square metres. It has a 29m frontage to Lesley Crescent and is 74m long. The subject land is on the south-eastern side of the road and approximately 69m from the intersection of Old Mount Barker Road.

The land currently contains a single storey dwelling, which is in the process of being demolished. The existing dwelling has a floor area of 224 square metres and is setback 18m from the front boundary.

The front yard consists of a large lawn area, bordered by low lying plants with some irregularly spaced small trees. The front boundary is setback approximately 6m from the edge of the Lesley Crescent carriageway. The road verge along both sides of the road is planted with trees and shrubs. There is generally a lack of front fencing with the larger row of tree plantings on the south-eastern side of Lesley Crescent near the subject land acting as the marker between public and private property. In other sections along Lesley Crescent the distinction is not so clear with front yard landscaping creeping up to the edge of the carriageway.

There are no easements or other restrictions on the Certificate of Title. The land is serviced by mains water, sewer and electricity supply.

The locality is characterised by predominantly single storey dwellings. Well landscaped yards and a sense of spaciousness resulting from generous building setbacks are a defining part of the locality, which is wholly residential in nature. Dwellings in the locality that are most visible from the roadway are generally older in nature and constructed of brick walls with tiled roofs.

The Lesley Crescent carriageway is sealed, but there is no kerb and gutter.

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

#### CONSENT TYPE REQUIRED:

Planning Consent

#### CATEGORY OF DEVELOPMENT:

##### PER ELEMENT:

Water tank (above ground): Code Assessed - Performance Assessed

Fence: Code Assessed - Performance Assessed

Retaining wall: Code Assessed - Performance Assessed

Other - Residential - Tennis court & associated light poles: Code Assessed - Performance Assessed

Swimming pool or spa pool and associated swimming pool safety features: Code Assessed - Performance Assessed

Detached dwelling: Code Assessed - Performance Assessed

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- **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**

Only some of the proposal elements are excluded from public notification in Table 5 procedural matters of the Rural Neighbourhood Zone. Therefore, public notification was required.

- **LIST OF REPRESENTATIONS**

Six (6) opposing representations were received during the public notification period. All of the 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)
Michael Bush	23 Old Mount Barker Road, Crafers	Yes	
Trudy Gore	43 Lesley Crescent, Crafers	Yes	
Jane & John van Mierle	6 Millar Avenue, Crafers	Yes	
Tim Kaethner	27 Old Mount Barker Road, Crafers	Yes	
Paul Angus	25 Old Mount Barker Road, Crafers	Yes	
Valerie Potts	1 Tyalla Court, Crafers	Yes	

- **SUMMARY**

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

- Boundary setback
- Stormwater management
- Earthworks
- Tennis court light spill
- Impacts on Regulated and Significant trees and landscape
- Streetscape appearance
- Bulk and scale

The representations are included in **Attachment 4 – Representations**; and the applicant's response is provided in **Attachment 5 – Response to Representations**.

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#### AGENCY REFERRALS

Nil

#### INTERNAL REFERRALS

- Council Engineering

Council's Technical Officer has reviewed the plans and provided the following comments:

- 700m<sup>2</sup> of roof stormwater is directed to a minimum 9508L detention tank with a restricted discharge of 5.7 L/sec via a 50mm orifice.
- All ground stormwater is to be collected in 130m of 225mm diameter pipes with a detention volume of 5170L with a discharge rate of 8.3 L/sec via a 100mm orifice.
- Vehicle turn around area to be provided within the property boundary to ensure vehicles exit the property in a forward motion only.

- Council Open Space

Council's Arborist identified 4 trees within the Council verge with the following comments:

- Pittosporum undulatum- Tree to be retained. Will require crown lifting to improve line of sight.
- Photinia sp- Removal to facilitate driveway crossover acceptable.
- Liquidambar styraciflua- Owner proposes to retain tree.
- Scattered small trees, Poplars, Hawthorns- Will develop larger crowns requiring ongoing pruning. Removal of young trees acceptable.

#### 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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#### Rural Neighbourhood Zone

Desired Outcomes	
DO1	Housing on large allotments in a spacious rural setting, often together with large outbuildings. Easy access and parking for cars. Considerable space for trees and other vegetation around buildings, as well as on-site wastewater treatment where necessary. Limited goods, services and facilities that enhance rather than compromise rural residential amenity.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 2.1, 3.1, 5.1 and 6.1	
DPFs: 2.1, 3.1, 5.1 and 6.1	

The proposal is consistent with the desired outcome of the zone which envisages houses on large allotments in a spacious rural setting whilst still allowing for easy access, parking and vegetation around the building as depicted on the submitted drawings.

PO 2.1 envisages that buildings contribute to the low-rise residential character and complement the height of nearby buildings. The proposal is for a single storey dwelling with 2.7m wall heights and with a 22.5-degree roof pitch resulting in a 6m maximum building height measured to the top of the roof peak. Whilst the zone allows for two storey dwellings, the proposed single storey nature of this dwelling is more consistent with the locality given that it is characterised by predominantly single storey dwellings.

POs 3.1, 5.1 and 6.1 along with the corresponding DPFs refer to the appropriate setbacks from front, side and rear boundaries of the allotment. The proposals has been designed to include a 14m setback from the front allotment boundary to the front façade of the dwelling with a 12m setback to the entry/porch area whilst the garage has been recessed further back to be set 14.7m from the front boundary. Side boundaries setbacks proposed are 2m from the northern side and 1.5m at the closest point from the southern side boundary, tapering out to 5.4m. The tennis court with the associated retaining walls and fencing has been proposed to have 825mm setback at its closest point and widening to a 1.6m at its furthest point. The rear boundary setback is proposed to be 21m at the closest point to the house and 9.7m to the tennis court. Two large 50KL water storage tanks have also been proposed to the rear of the property with an 8.2m setback from the rear boundary and 1.2m from the eastern boundary. The front boundary setback doesn't satisfy the quantitative requirements in the DPF 3.1 however it is still considered to satisfy the corresponding PO which seeks that *buildings are set back from primary street boundaries consistent with the existing streetscape*, with a 14m setback considered sufficient to still maintain the character of deep setback within the streetscape. Side boundary setbacks are adequately satisfied despite the departure from the quantitative requirement in the DPF seeking 2m setback from side boundaries, with the eastern boundary setback proposed at 1.5m. The setback still ensures that there is an appropriate area for access and landscaping around the building. Rear boundary setbacks are satisfied and provide ample separation between dwellings and does not restrict natural light and ventilation for the neighbour's dwelling. Lastly, the nominated setback distances from all boundaries except for the eastern boundary still allows for landscaping to be established between the boundary and the proposed building.

#### Adelaide Hills Subzone:

Desired Outcome	
DO1	Additional residential and tourist accommodation that retains and embraces the values of the established mature vegetation as a defining characteristic of the area.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Land Use & Intensity	
PO 1.1 & DPF 1.1	

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The Adelaide Hills Subzone provides very little guidance on the proposed development with the subzones primary focus being land division and creation of new allotments for residential purposes. Desired Outcome 1 of the Subzone envisages additional residential accommodation that retains and embraces the values of the established mature vegetation as a defining characteristic of the area. In the recent Supreme Court case *Geber Super Pty Ltd v The Barossa Assessment Panel [2023] SASC 154* the judgment concluded that Desired Outcomes assist in the interpretation of Performance Outcomes; they are not policies in their own right. Rather, they set a general policy agenda which informs the Performance Outcomes. Given that the Subzone lacks any policies relevant to the proposed development Council is of the view that the Subzone in this instance has little work to do.

#### Hazards Bushfire – Medium Risk Overlay

<b>Desired Outcomes</b>	
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.
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
POs: 2.1, 3.1, 3.2, 3.3 and 5.2 DPFs: 3.2 and 5.2	

This property is located in a medium bushfire area and as such there was no mandatory referral required to the CFS. The proposal still needs to effectively demonstrate that sufficient access is provided for the CFS in the event of a fire. The siting and the design of the house is such that all parts of the house are going to be located within 60m of the road allowing CFS clear and unobstructed pedestrian pathway to all parts of the house. The proposal complies with PO 5.2 and DPF 5.2.

As the property is located in a medium bushfire area, it is automatically allocated a bushfire attack level rating of 12.5 which dictates the building code standards that the dwelling will need to be built to. Considering the nominated building materials and the overall design of the dwelling there is no suggestion that this cannot be achieved and as such the proposal is considered to be consistent with PO 2.1. Further to the above, the dwelling is also required to have a 2,000-litre water supply for firefighting purposes in accordance *Ministerial Building Standard MBS 008 - Designated bushfire prone areas - additional requirements*. As specified in PO 3.3. a 2,000-litre water supply for firefighting purposes has been incorporated into one of the 50kl tanks at the rear of the property immediately adjacent to the eastern boundary.

#### Hazards (Flooding – Evidence Required) Overlay

<b>Desired Outcome</b>	
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.
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
Flood Resilience PO 1.1 & DTS/DPF 1.1	

The subject land is not registered as a flood prone property nor was there any evidence on land to suggest that flooding was an issue on this property. As such Council did not consider that further investigation was warranted.



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#### Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay

<b>Desired Outcomes</b>	
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.
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
POs: 1.1, 2.1, 3.1, 3.9 and 4.1	
DPFs: 2.1 and 3.9	

The proposal is not going to result in any negative impacts on water quality or the catchment area. The subject land has a mains sewer connection which the dwelling is going to connect to. The proposal is therefore consistent with PO 2.1 and DPF 2.1.

A stormwater management plan has been designed to ensure stormwater from all hard surface areas is appropriately captured. The design involves stormwater being directed into detention tank and then slow released to the street. The design has been reviewed by Council's Engineering Department to ensure that the post and predevelopment flows discharge to the street at an appropriate rated determined by Council Engineering. The proposal is therefore consistent with PO 3.1 and PO and DPF 3.9.

#### Native Vegetation Overlay

<b>Desired Outcomes</b>	
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.
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
POs: 1.1	
DPFs: 1.1	

A Native Vegetation Declaration has been signed declaring that the proposal will not result in clearance of any native vegetation. All of the vegetation identified on the plans requiring removal is predominantly within the access handle or in the area required to facilitate access to the site. All of this vegetation has been identified as being exotic or a weed species and therefore not protected under the Native Vegetation Act. This proposal is therefore consistent with the desired outcome seeking protection and preservation of native vegetation as well as the relevant PO and DPF.

#### Prescribed Water Resources Area Overlay

<b>Desired Outcome</b>	
DO 1	Sustainable water use in prescribed water resources areas maintains the health and natural flow paths of surface water, watercourses and wells.
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
N/A	

This Overlay is not relevant to the proposal as it relates to water taking activities such as horticulture and intensive animal husbandry or the alteration to a water body.

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#### Regulated and Significant Tree Overlay

<b>Desired Outcomes</b>	
DO1	Conservation of regulated and significant trees to provide aesthetic and environmental benefits and mitigate tree loss.
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
POs: 1.2, 1.4	
DPFs: -	

A number of concerns were raised by neighbours during the public notification process in relation to impacts on vegetation and more specifically impacts on Regulated and Significant Trees. As outlined at the start of the report, this application originally considered that the proposal did not involve removal of regulated or significant trees, nor did it consider that the proposal involved tree damaging activity. This is still largely the case as the majority of the trees that are being impacted upon are within 20m of a dwelling. The *Planning, Development and Infrastructure (General) Regulations 2017- Schedule 4 Part 18 (1)(b)* clearly outlines that *a tree-damaging activity in relation to a regulated tree (including a tree that also constitutes a significant tree) is excluded from definition of development if the tree is within 20m of a dwelling in a Medium or High Bushfire Risk area within a Hazards (Bushfire Protection) Overlay in the Planning and Design Code.*

However, since the original assessment of the application and subsequent public notification, there was one fundamental change which resulted in one of the trees at the rear of the neighbouring property at 23 Old Mount Barker Road no longer having the exemption under the *Planning, Development and Infrastructure (General) Regulations 2017- Schedule 4 Part 18 (1)(b)*. The change came about as a result of the owner of the subject land demolishing the existing dwelling on site, these works resulted in Council needing to consider if the proposed works were now involving tree damaging activity. As a result, the Applicant was asked to provide an arborist report which considered if the proposed development would result in tree damaging activity given the proximity of the proposed works.

Planning, Development and Infrastructure Act 2016 defines tree damaging activity as the following:

*tree-damaging activity* means—

- (a) the killing or destruction of a tree; or
- (b) the removal of a tree; or
- (c) the severing of branches, limbs, stems or trunk of a tree; or
- (d) the ringbarking, topping or lopping of a tree; or
- (e) any other substantial damage to a tree,

and includes any other act or activity that causes any of the foregoing to occur but does not include maintenance pruning that is not likely to affect adversely the general health and appearance of a tree or that is excluded by regulation from the ambit of this definition;

The Arborist report identified the subject tree as a *Quercus robur* (English Oak) and a significant tree. The tree was identified as being healthy with no evident signs of disease. The report also concluded that the extent of encroachment of the proposed development within the Tree Protection Zone (TPZ) was 7.8% or 33.4m<sup>2</sup>. An encroachment of up to 10% within the TPZ is considered to be a minor encroachment (as per AS 4970-2009 – Protection of Trees on Development Sites) and detailed root investigations are generally not required. As such, whilst this tree is no longer afforded the exemption under the *Planning, Development and Infrastructure (General) Regulations 2017- Schedule 4 Part 18 (1)(b)*, Council is satisfied that the proposed works will not result in tree damaging activity as outlined above

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given that the extent of encroachment into the TPZ is within the accepted tolerance of 10% and therefore considered minor in nature.

#### 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 (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1	
DPFs: 1.1	

A Powerline declaration form has been signed and submitted with the application stating that proposed development will involve the construction of a building which would, if constructed in accordance with the plans submitted, not be contrary to the regulations prescribed for the purposes of section 86 of the Electricity Act 1996. The proposal is therefore consistent with DO 1 and PO and DPF 1.1.

##### Design:

Desired Outcomes	
DO1	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 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 Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 8.1, 8.2, 9.1, 9.2, 11.1, 11.2, 12.1, 14.1, 15.1, 17.1, 19.1, 19.3, 19.4, 19.5, 19.6, 22.2, 22.3, 22.4 and 24.4	
DPFs: 8.1, 8.2, 9.2, 11.1, 12.1, 14.1, 17.1, 19.1, 19.3, 19.4, 19.5, 19.6 and 24.4	

The extent of earthworks exceeds 1m of cut as envisaged by DPF 8.1. Maximum extent of the earthworks associated with the dwelling is 1.7m of cut along the southern side of the dwelling and 900mm of fill on the northern side of the dwelling with additional excavation proposed around the perimeter tennis court along the southern boundary which is not going to be visible from the public realm or any of the neighbouring properties. Whilst the extent of the earthworks exceeds that envisaged by DPF 8.1, the departure is considered to be minor in nature bearing in mind that the majority of the earthworks and retaining wall is going to be screened by the dwelling as well as by the proposed landscaping along the front of the property. This excavation is also partially occurring in an already benched area and which contributes to lowering the profile of the dwelling, associated tennis court, lighting, and fence. Earthworks associated with the driveway and access are within the parameters envisaged by the DPF 8.1 and ensures that the appropriate driveway gradients are achieved. The proposal is therefore considered to be consistent with POs and DPF 8.1, 8.2, 9.1 and 9.2.

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POs 11.1, 11.2, 12.1 and 14.1 along with the corresponding DPFs put high emphasis on the design of the dwelling and in particular, how it presents to the street in terms of ensuring that it incorporates windows, has a clearly visible entry door, with living rooms providing external outlook and ensuring that the garaging does not detract from the streetscape. The proposal is considered to satisfy POs 11.1, 11.2 and 12.2 as it has been designed with front facing windows and entry doors to provide positive contribution to the streetscape, whilst the living room has been designed with an external outlook towards the private open space area of the site. Some concerns were raised in the representations about the front elevation and the extent of garaging facing the street. PO 14.1 seeks that garaging is designed to not detract from the streetscape or the appearance of a dwelling with the corresponding DPF envisaging that the garage is set behind the main face of the dwelling, being at least 5.5m from the front boundary and does not exceed 7m in width and 50% of the site frontage. When considered against all of the quantitative measures in DPF 14.1 the proposed design is considered to achieve all of the requirements except for one, being that the total garage opening width is 8.1m, exceeding the envisaged 7m width by 1.1m. Given that that quantitative measure in the DPFs are just a guide rather than mandatory requirement that needs to be met, it is considered that a 1.1m departure is acceptable in this instance. In consideration that the total width of the allotment is 29.21m, the garage setback is 14.7m and behind the main face of the dwelling and, that the garage has been designed with 3 individual panel lift doors with brick columns in-between to break up the garage width and reduce its impact, the departure from the garage opening guideline is acceptable.

PO 15.1 seeks that the visual mass of large buildings is reduced when viewed from adjoining allotments or the public realm. Concerns raised in the representation argue that the proposed development is too large for the subject site. The dwelling is proposed to be single storey in nature in a zone that envisages dwellings up to two storeys in height. The overall height with a deep setback is consistent with the majority of dwellings in the locality. Its overall bulk and scale is further reduced by the design utilising more cut than fill. As such from a public realm perspective the building is not considered to be of a large scale. The total floor area of the dwelling including the garage, rear verandah (alfresco) and enclosed swimming pool area under main roof is 665 square metres with the dwelling, garage and the alfresco area comprising the bulk of the area. Whilst the total footprint of the building is of a larger scale, this is not uncommon for the locality, nor does this mean that visually the building is of a kind that would impact on neighbouring properties. The overall bulk and scale has been reduced by choosing to build single storey, the works are proposed on a predominantly excavated site and, proposal has been designed with adequate setbacks from all property boundaries. The tennis court and associated fencing has also been appropriately sited along the southern boundary because this section of the land is excavated and below the neighbouring properties. This reduces the visual impacts from the lighting and the fence and the height of the structures are less than if the tennis court was positioned along the eastern boundary.

Finally, there is adequate private open space to the rear of the proposed dwelling, along with soft landscaping. The proposed access point has been reviewed and approved by Council's Engineering Department in conjunction with Council's Arboriculture team due to the required modification to roadside vegetation. Landscaping has been proposed along the front of the property and around the tennis court. Landscaping in front of the dwelling is of a formalised garden style, comprising lawn and low-level exotic hedging and trees. Landscaping along the tennis court is going to be select evergreen shrubs which are able to grow to a height of 3m.

#### Infrastructure and Renewable Energy Facilities:

<b>Desired Outcomes</b>	
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.
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
POs: 11.2 and 12.1	
DPFs: 11.2 and 12.1	

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The subject land is connected to reticulated mains water, and sewer services which is compliant with, and satisfies POs 11.2 and 12.1.

#### 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	
POs: 1.2, 3.1, 3.2, 3.3, 6.1	
DPFs: 3.1 and 3.2	

The proposal is for a single storey dwelling which will predominantly utilise excavation rather than filling and will therefore ensure that the vertical profile of the dwelling as well as other associated structures is minimised. Given the low profile of the building work, the proposed excavations, the separation distance from neighbouring properties and the general topography of the locality, it is not considered that the proposed building work will result in any overshadowing of adjoining properties. The proposal satisfies POs 3.1, 3.2 and 3.3.

PO 1.2 seeks that development adjacent to sensitive receivers is designed to minimise adverse impacts. Additionally, PO 6.1 seeks that external lighting is positioned and designed to not cause unreasonable light spill impacts on adjoining sensitive receivers. Concern was raised by one of the representors about the impact of light spill as a result of the tennis court and associated lighting. Whilst it is recognised there would be some light spill, this would appear to be an unavoidable situation given the narrow nature of allotments in the locality. However, this impact has been significantly reduced by the topography of the land and the difference in property levels with the proposed tennis court and lighting positioned below the levels of the two immediate neighbouring properties. The Applicant has provided a supporting LUX plan prepared by Environmental Lighting Australia which confirms that the design will be compliant to the AS4282:2019. Notwithstanding this, the Australian Standards are guidelines and not mandatory rules. The following excerpt from the Australian Standards is considered important in this regard:

With any outdoor lighting it will rarely be possible to contain all light within the boundaries of the property on which the lighting system is installed. Some light will inevitably be spilled outside the property boundaries, either directly or by reflection. The determination of when the spill light becomes obtrusive to others is difficult since both physiological and psychological effects are involved.

Local government plays an important role in controlling the obtrusive effects of outdoor lighting through the development approvals process, and in resolving neighbourhood disputes involving residents who experience discomfort or annoyance from nearby outdoor lighting installations. Some local government authorities have applied restrictions on the frequency of use and hours of operation of outdoor lighting, and on the levels of light spilled beyond the boundaries of the subject site.

The objective of this Standard is to provide a common basis for assessment of the likely effects of developments that involve the provision of outdoor lighting. However, it should be noted that the potentially obtrusive effects of the lighting will normally be only one of a number of environmental considerations that will need to be addressed. Compliance with this Standard, i.e. with the recommended limits for the various light technical parameters, will therefore not usually be the sole basis for the approval of particular development proposals.

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The proposal is therefore considered to be relatively consistent with PO 6.1 to ensure that adverse impacts on sensitive receivers is reduced as much as possible. Conditions has also been included in the recommendation requiring the tennis court lights to be installed in accordance with the Australian Standards and for the lights to not be operated after 10pm or before 7am- refer recommended Conditions 8 and 9.

#### Site Contamination:

<b>Desired Outcomes</b>	
DO1	Ensure land is suitable for the proposed use in circumstances where it is, or may have been, subject to site contamination
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
POs: 1.1	
DPFs: 1.1	

The subject land is a residential allotment which up until recently contained a single storey dwelling and as such the proposal is not resulting in a change in land use to a more sensitive use of the land. The site is therefore considered to be suitable for the intended use and as such is consistent with DO 1 and PO 1.1 and DPF 1.1.

#### Transport, Access and Parking:

<b>Desired Outcomes</b>	
DO1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
POs: 5.1	
DPFs: 5.1	

Three undercover parking spaces as well as additional on-site visitor parking spaces have been provided as part of the proposal which satisfy PO 5.1 and DPF 5.1 and Table 1- General Off-Street Car Parking Requirements.

### **CONSIDERATION OF SERIOUSLY AT VARIANCE**

The proposal is not considered to be seriously at variance with the provisions of the P & D Code. Rural Neighbourhood Zone policies envisage buildings that contribute to the low-rise residential character and complement the height of nearby buildings. The proposal being a single storey dwelling in a locality generally defined as being of predominantly single storey dwellings satisfies the requirements of the Zone. The zone also seeks that buildings are setback from primary street boundaries consistent with existing streetscape. Whilst the proposal doesn't directly satisfy the corresponding DPF given that it is further forward than existing dwellings in the streetscape, the 14m setback from the front boundary is still considered to be a generous setback to ensure it meets the intent of the PO.

The policies in the most pertinent overlays being the Hazards (Bushfire - Medium Risk), Mount Lofty Ranges Water Supply Catchment (Area 2), Native Vegetation and Regulated and Significant Tree overlays are satisfied. In short the bushfire risks are adequately satisfied from a water supply, access and vegetation management perspective. Water quality requirements are satisfied as the property is connected to mains sewer. There was no native vegetation identified on site and as such the native vegetation overlay is satisfied. The Regulated and Significant Tree overlay was also satisfied with the impact on the one regulated tree identified considered to be within the permitted tolerance levels. Impacts on other trees was not deemed to be tree damaging activity that requires Council authorisation given the proximity of the trees to existing dwellings.

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The relevant policies in the general policies section of the Code have also been satisfied. Whilst there are some slight departures from applicable DPFs relating to earthworks, these departures have been considered minor. The interface issues associated with the proposed tennis court and lighting has also been considered and deemed acceptable given that the lighting levels are within the Australian standards.

### **CONCLUSION**

The proposal is for a replacement single storey dwelling with associated in-ground swimming pool and tennis court with lighting in the Rural Neighbourhood Zone.

The proposed dwelling is larger than the existing dwelling, which in turn has reduced the boundary setbacks. Nonetheless, it is considered that generous setbacks are still provided, which achieve the relevant Performance Outcomes of the Zone.

Regarding the front setback specifically there is no uniform setback in the immediate locality. The proposed 14m setback still allows for landscaping between the dwelling and the front boundary, which will contribute to the maintenance of the character of the locality which is defined by landscaping as a dominant feature.

The planting and ongoing maintenance of the proposed landscaping is ensured by two (2) of the recommended conditions.

Other recommended conditions control the appearance of the proposed dwelling, and related matters such as stormwater management, erosion control during construction, access and bushfire safety.

Separate conditions controlling lighting of the tennis court are also recommended to ensure potential light spill impact is not unreasonable to adjoining residential properties.

### **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 23034228 by Scott Butler for single storey detached dwelling, in-ground swimming pool with associated safety barriers, tennis court with 4x light poles, combined fence & retaining walls, retaining walls & 2x water storage tanks at 47 Lesley Crescent, Crafers is GRANTED Planning Consent subject to the following conditions:**

### **CONDITIONS**

#### **Planning Consent**

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.**
- 2) The vehicle access point(s) and cross-over shall be constructed at a maximum width of 5 metres with splays. Any existing crossing places not providing vehicle access shall be considered redundant and shall be closed off.**

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- 3) All external lighting shall be directed away from residential development and shielded if necessary to prevent light spill causing nuisance to the occupiers of those residential properties.
- 4) The external finishes to the dwelling herein approved shall be as follows:
  - WALLS: Mixture of Render Colorbond Dover White, Carey Gully Sandstone and Brickwork Austral Hampton or similar
  - ROOF: Colorbond Monument or similar
- 5) Prior to commencement of work, straw bales (or other soil erosion control methods as approved by Council) shall be placed and secured below areas of excavation and fill to prevent soil moving off the site during construction.
- 6) A supply of water independent of reticulated mains supply shall be available at all times for fire-fighting purposes:
  - a minimum supply of 2,000 (two thousand) litres of water shall be available for fire-fighting purposes at all times; and
  - the water supply shall be located such that it provides the required water; and
  - the water supply shall be fitted with domestic fittings (standard household taps that enable an occupier to access a supply of water with domestic hoses or buckets for extinguishing minor fires); and
  - the water supply outlet shall be located at least 400mm above ground level for a distance of 200mm either side of the outlet; and
  - a water storage facility connected to mains water shall have an automatic float switch to maintain full capacity; and
  - where the water storage facility is an above-ground water tank, the tank (including any support structure) shall be constructed of non-combustible material.
- 7) Stormwater management shall be undertaken in accordance with the site works and drainage plan prepared by Herriot Consulting and approved by Adelaide Hills Council. 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) to the satisfaction of Council within one month of the roof cladding being installed.
- 8) The tennis court lights shall be installed and angled in accordance with Australian Standard AS 2560.2.1—2007 Sports Lighting Part 2.1: Specific applications—Lighting for outdoor tennis courts. The lights shall be maintained in good condition at all times to the reasonable satisfaction of the Council.
- 9) The tennis court lights herein approved shall not operate between 10.00pm and 7.00am Monday through to Sunday.
- 10) Landscaping, as detailed in the landscaping plan shall be planted in the planting season following occupation and maintained in good health and condition at all times. Any such vegetation shall be replaced in the next planting season if and when it dies or, becomes seriously diseased.
- 11) The existing trees and vegetation as shown on the landscaping plan shall be retained and maintained in good health and condition at all times with any dead or diseased plants being replaced as necessary in the next planting season.



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### **ITEM 8.1**

#### **ADVISORY NOTES**

##### **Planning Consent**

- 1) You as an Applicant may have a right of appeal if this notification is:
  - a) A refusal
  - b) Conditions of Consent

Such an appeal must be lodged within two months of the date of this decision or such longer time as the Environment, Resources and Development Court allows.

For assistance with the lodgement of an appeal and its associated costs it is suggested you contact the Court which is located in the Sir Samuel Way Building, Victoria Square, Adelaide, or phone the Court on (08) 8204 2444.

- 2) 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.
- 3) 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).
- 4) 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.

#### **OFFICER MAKING RECOMMENDATION**

**Name:** Doug Samardzija

**Title:** Senior Statutory Planner

**CAP MEETING – 13 MARCH 2024**

**ITEM 8.2**

<b>DEVELOPMENT NO.:</b>	22040143
<b>APPLICANT:</b>	Nicholas Lea
<b>ADDRESS:</b>	28 TEMBYS RD NORTON SUMMIT SA 5136
<b>NATURE OF DEVELOPMENT:</b>	Intensive Animal Husbandry - the keeping of 3000 laying chickens in 5 mobile chicken enclosures and change of use to two existing outbuildings to an agriculture building (packing shed) and poultry shed
<b>ZONING INFORMATION:</b>	<p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• Productive Rural Landscape</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Environment and Food Production Area</li> <li>• Hazards (Bushfire - High Risk)</li> <li>• Hazards (Flooding - Evidence Required)</li> <li>• Limited Land Division</li> <li>• Native Vegetation</li> <li>• Prescribed Wells Area</li> <li>• Water Resources</li> </ul>
<b>LODGEMENT DATE:</b>	31 Jan 2023
<b>RELEVANT AUTHORITY:</b>	Assessment panel at Adelaide Hills Council
<b>PLANNING &amp; DESIGN CODE VERSION:</b>	2023.1 19 January 2023
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	Yes
<b>RECOMMENDING OFFICER:</b>	Melanie Scott Senior Statutory Planner
<b>REFERRALS STATUTORY:</b>	Nil
<b>REFERRALS NON-STATUTORY:</b>	Nil

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<b>ATTACHMENT 1:</b>	<b>Application Documents</b>	<b>ATTACHMENT 6:</b>	<b>Response to Representations</b>
<b>ATTACHMENT 2:</b>	<b>Subject Land Map/Representation Map</b>		
<b>ATTACHMENT 3:</b>	<b>Zoning Map</b>	<b>ATTACHMENT 7:</b>	<b>Relevant P &amp; D Code Policies</b>
<b>ATTACHMENT 4:</b>	<b>Public Notification Documents</b>		
<b>ATTACHMENT 5:</b>	<b>Representations</b>		

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## CAP MEETING – 13 MARCH 2024

### ITEM 8.2

#### DETAILED DESCRIPTION OF PROPOSAL:

The proposal is for the keeping of up to 3000 free range laying chickens in 5 mobile chicken enclosures on a property of some 6 hectares. PIRSA (Department of Primary Industries and Regions) has licensed the site for 3000 chickens and the applicant has been accredited since 2019 with ongoing licensing responsibilities like water quality monitoring.

This application is partially retrospective. There is currently one (1) chicken enclosure (600 hens), 990 hens and use of outbuildings for packing and chicken management (390 hens). Once fully operational the stocking rate would increase from 166 birds per hectare to 503 birds per hectare with 5 mobile chicken enclosures. It is expected to take a number of years to reach full capacity.

The applicant has three section 221 permits for use of the roadside along Tembys Road, for their road-side stall and existing shed encroachment. It should be noted the shed encroachment is historical, the property was purchased by the applicant with the permits in place. The applicant has a long term plan to modify the building and remove the encroachment which would be the subject of a separate application.

There is a 1.8m high vermin (predator) proof fence on site around chicken containment and forage areas to minimise predation, along with two Maremma dogs. Neither of these elements are considered development in their own right.

The applicant has described the chicken enclosure locations as “parking bays” which measure 30metres by 10metres. It is not envisaged all will come on-line at once. The proposed earthworks include a maximum of 1 metre cut with an agricoil drain with geotextile and metal aggregate rocks to ensure any run-off is clean in “parking bay” locations 3, 4 and 5. The “parking bays” associated with chicken enclosures 3 (40m boundary setback), 4 (10m boundary setback) and 5 are a minimum of 5 metres from the nearest boundary, which is the western boundary. Parking bay locations 3, 4 and 5 are also a minimum of 28metres from a seasonal watercourse. It should be noted the western portion of the subject land will be surveyed at the applicant’s expense prior to works and location of chicken enclosures 3, 4 and 5 as this portion of the site has known fencing anomalies.

One of the existing outbuildings on the site is used for egg packing, noting no water or chemicals are required for this process. There is an egg grading and packing machine in this outbuilding and a number of refrigerator units. A condition is proposed for packing activities (*Condition 8*). There are 4 car parking spaces adjacent this shed. This shed and the associated parking area are approved with current 221 approvals under the Local Government Act 1999 as there is a long standing encroachment into the road reserve.

The other outbuilding on the site known as the “blue shed” currently houses 390 hens and the dogs overnight. It will be returned to an outbuilding with a small office which dual purposes as a dog kennel at night, should this application be supported.

Egg cartons and associated shipping materials are delivered quarterly by a small truck mid morning or around 2pm and a zero emission forklift is used to unload the supplies which are stored in the proposed agriculture building (packing). Egg deliveries are normally made Thursdays and Fridays using an SUV sized van. There is currently one contract staff member on site approximately 12 hours per week and this is expected to grow to three, all part time for a maximum of 12 hours each per week. Flexible working hours are offered, and the current staff member works 7.30am to 10.30am. There is parking for up to 4 vehicles adjacent the proposed packing shed. Chicken feed is currently brought in fortnightly by the owners’ tandem trailer which is backed into the packing shed for unloading. Once operations are at full capacity feed will be in a mobile silo that a bulk feed truck will fill once a month.

The applicant has an arrangement with a large composting company to pick-up excess waste in the form of manure and deceased livestock. This waste is to be stored in a 660 litre bin in a location central to the site adjacent the “blue shed” and is expected to be emptied quarterly. The waste vehicle will use a turnaround area adjacent the packing shed.

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#### BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
14 June 2022	06/311/473	Alterations and additions to outbuilding
14 February 1993	93/0202/030	Dwelling addition
15 October 1993	93/0150/030	Extension to existing dwelling
14 March 1986	86/042/030	Storage Shed
15 February 1977	1785	Garage/workshop

#### SUBJECT LAND & LOCALITY:

##### Site Description:

**Location reference:** 28 TEMBYS RD NORTON SUMMIT SA 5136

**Title ref.:** CT 5365/787      **Plan Parcel:** D18287 AL12

The subject land is some 5.9ha, is a steeply undulating site with an irregular shape which includes a small frontage to Marble Hill Road and approximately 300 metres frontage to Tembys Road. The national guidelines [Australian Animal Welfare Standards and Guidelines for Poultry - DAFF \(agriculture.gov.au\)](https://www.daff.gov.au/australian-animal-welfare-standards-and-guidelines-for-poultry) for non intensive free range chicken stocking density with housing (fixed or mobile) is 1,500 birds per hectare. The existing operation is currently 166 birds per hectare. Once fully operational, subject to approval, the stocking rate would increase to 503 birds per hectare with housing. The applicant' printed cartons promote their brand as having less than 750 birds per hectare which falls well below the National guideline for free range non intensive housed egg farming.

Tembys Road terminates adjacent the packing shed on this property. Where Tembys Road traverses around the packing shed there are very large Council pinus radiata trees in the road reserve and the road is built up from natural ground level to transition to the right of way for the three properties to the rear.

There is a seasonal watercourse in the north-western portion of the site.

There is a house, two sheds and an old horse arena on the site. The site was used for horticulture in the past and currently has considerable regrowth of both native and exotic trees. There are current permits issued under Section 221 of the Local Government Act by Council for use of the road side verge as part of the land, the encroachment of the proposed packing shed to the road and a road side stall for the sale of eggs. It should be noted the building encroachment to the road reserve pre-exists the current ownership of the land.

The subject land is not in a water supply catchment or protection area.

##### Locality

The neighbouring properties to the south and west are best described as rural residential however these properties share the same zoning as the subject land. They average approximately 4 hectares in size and three share a right of way to access Tembys Road adjacent to the applicant's proposed packing shed. Land at nearby 41 Tembys Road does have approval for intensive animal husbandry – chicken hatchery. Properties to the north and east vary in size and are also best described as rural residential.

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**ITEM 8.2**

**CONSENT TYPE REQUIRED:**

Planning Consent

**CATEGORY OF DEVELOPMENT:**

- **PER ELEMENT:**  
Intensive animal husbandry: Code Assessed - Performance Assessed  
Agricultural building: Code Assessed - Performance Assessed  
Change of use: 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**  
The proposal is not listed as an exemption in table 5 and is not considered of a minor nature.
- **LIST OF REPRESENTATIONS**

Representor Name	Representor's Property Address	Wishes to be heard (Y/N)	Nominated Speaker (if relevant)
Rino & Katarzyna Rosa	39 Tembys Road Norton Summit	Y	Self/Masterplan
Michael & Venessa Scane	41 Tembys Road Norton Summit	Y	Self/Masterplan
Laszlo Snr & Laszlo Bilki	199 Marble Hill Road Norton Summit	Y	Self/Masterplan

- **SUMMARY**

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

- Traffic
- Amenity – dust, dog noise, smell, rodents
- Water quality
- General environmental impact

A copy of the representations is included as **Attachment 5 – Representations** and the applicant's response is provided in **Attachment 6 – Response to Representations**.

**AGENCY REFERRALS**

Nil

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#### INTERNAL REFERRALS

Nil – Council Property team provided confirmation of Section 221 of the Local Government Act Approvals for the roadside stall and use of the verge along Tembys Road.

Council engineering advised they had received a request for a traffic count on Tembys Road however declined it on the basis of the small number of properties using the road for access.

#### 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.*

A detailed assessment of the application has taken place against the relevant provisions of the Planning and Design Code (P & D Code) and this is provided below under a series of headings. A Policy Enquiry extract containing the relevant provisions of the P & D Code is contained in **Attachment 6 – Relevant P & D Code Policies**.

#### Productive Rural Landscape Zone

Desired Outcomes	
DO1	A diverse range of land uses at an appropriate scale and intensity that capitalise on the region's proximity to the metropolitan area and the tourist and lifestyle opportunities this presents while also conserving the natural and rural character, identity, biodiversity and sensitive environmental areas and scenic qualities of the landscape.
DO2	A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the sale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes its regional identity
DO3	Create local conditions that support new and continuing investment while seeking to promote co-existence with adjoining activities and mitigate land use conflicts.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Land Use and Intensity PO1.1 & DPF1.1	
Siting and Design PO2.1 & DPF2.1	

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Rural Industry PO4.1 & DPF4.1 a,b & c PO4.2 PO4.3
Offices PO7.1 & DPF 7.1 a & b
Agricultural Buildings PO13.1 & DPF 13.1 a, b & e
Outbuildings, Carports and Verandahs PO14.1 & DPF 14.1 a, b, c, d, e & f

#### Land Use and Intensity

PO1.1 envisages primary production activity and says it should be supported, protected and maintained. The associated DPF envisages low intensity animal husbandry. The silence on intensive animal husbandry is not considered fatal to the proposal. The nature of the development as intensive animal husbandry is contestable and the proposal represents an economic way to ensure the land returns an income to support a family, something that as agriculture upscales to commercial conglomerates, is essential in preserving the productive rural land for primary production Adelaide Hills.

#### Siting and Design

The site is serviced by an existing all weather trafficable road and the proposed extra vehicle movements associated with the proposal, up to twenty times a week, is not considered excessive or an overload to the road capacity.

#### Rural Industry

The proposed packing activities are directly related to the proposed intensive animal keeping on site and would meet all the elements of DPF 4.1 as the site is greater than 2ha and the packing area does not exceed 350m<sup>2</sup>. The applicant has demonstrated capacity to expand the packing activities to match projected egg production. It is proposed to mitigate any adverse impacts of the packing activities with the provision of on-site parking and the use of low emission loading vehicles along with minimal traffic to and from the site. The packing portion proposal does not meet all the elements of DPF 4.3 as the building is not 50metres from the road and all allotment boundaries. Noise from the egg packing machine and refrigeration is minimal and cannot be heard from outside the building. As the packing portion of the proposal is greater than 100metres from any sensitive receiver, incorporates loading and unloading on site and does not propose a new building, it is considered acceptable.

#### Offices

A small office is proposed in the blue shed which also doubles as the dog sleeping area and is considered to meet the expectations of DPF 7.1.

#### Agricultural Buildings

Council has considered the chicken enclosures are mobile agricultural buildings. The site is greater than 2 hectares, the enclosures do not exceed 10metres in height, their combined floor area is less than 350m<sup>2</sup> and loading and unloading is proposed on site. Chicken enclosures 4 and 5 do not meet the 40metre boundary setback however this is not considered fatal to the proposal. Enclosure 4 is 10m and enclosure 5 is 5m from the nearest boundary. The close proximity to the boundary is considered acceptable as there is a considerable height difference and dense vegetation between the proposed locations and the boundary. There is some 90metres to the nearest sensitive receiver as the

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crow flies which would exceed 100metres when measured over the ground taking into account the terrain. The existing outbuildings are being converted to agricultural buildings in this proposal. The packing shed is 270m<sup>2</sup> and the poultry shed (blue shed) is 84m<sup>2</sup>. The packing shed does not meet the required boundary setbacks however using an existing building is considered an acceptable solution.

#### Outbuildings

These provisions relate to the location of buildings and are not considered here as the out-buildings are existing and are being converted to agricultural buildings.

#### **Overlays**

##### Environment and Food Production Area Overlay

<b>Desired Outcomes</b>	
DO1	Protection of valuable rural, landscape, environmental and food production areas from urban encroachment.
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
Not applicable to this application as talks to urban encroachment.	

##### Hazards (Bushfire – High Risk) Overlay

<b>Desired Outcome</b>	
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"><li>- Potential for uncontrolled bushfire events taking into account the increased frequency and intensity of bushfires as a result of climate change</li><li>- High levels and exposure to ember attack</li><li>- Impact from burning debris</li><li>- Radiant heat likelihood and direct exposure to flames from a fire front.</li></ul>
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.
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
Land Use PO1.1	
Built Form PO3.1 PO3.2 & DPF3.2	
Vehicle Access – Road, Driveways and Fire Tracks PO6.3	

#### Land Use

The proposed use is not considered to increase the potential for fire outbreak and better management of the land and vegetation on the undulating site may lessen the risk of fire outbreak.



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#### Built Form

The chicken enclosures are not considered buildings in the meaning of this PO. The other buildings on site being repurposed are located an appropriate distance to residential uses on the subject or neighbouring land.

#### Vehicle Access – Road, Driveways and Fire Tracks

The proposal does not alter current fire egress to and from the site.

#### Hazards (Flooding – Evidence Required) Overlay

<b>Desired Outcome</b>	
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.
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
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 as no portion of the site is flood mapped. There is no new permanent built form proposed as part of the application.

#### Limited Land Division Overlay

This Overlay is not considered to be relevant to the proposal.

#### Native Vegetation Overlay

<b>Desired Outcome</b>	
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.
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
Environmental Protection PO1.1 & DTS/DPF1.1 PO1.2 PO1.3 & DPF 1.3 PO1.4 & DPF 1.4	

The applicant has completed an on-line declaration regarding the clearance of native vegetation.

The site has previously been an orchard and any native vegetation on site is regenerative. No vegetation clearance is proposed and there are no known wildlife corridors or rare or vulnerable plant species. Of note there are many large pinus radiata on the site which the applicant intends to preserve along with any native vegetation as they offer shelter for foraging chickens and from overhead predation.

The nearest State Significant Native Vegetation area is some 400 metres to the north-west of the site and only at one point. The proposal is not considered fatally at odds with DPF 1.3.

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The applicant has undertaken reparation works on the property which was weed infested and continues to enhance the banks of the watercourses and waters in the pond on site. For example, the existing level garden area to the rear of the dwelling has been relevelled to drain back into the hillside through a drain and then filter back to the land in the subsoil. This model is proposed for each of the chicken “parking bay” areas. This model is intended to retain water on the subject land and improve the quality of the soil overtime with natural filtering of waste product back to the land. The proposal is considered to accord with PO 1.4 through weed improved management as the site is currently heavily infested with blackberry bushes.

#### Prescribed Wells Area Overlay

<b>Desired Outcomes</b>	
DO1	Sustainable water use in prescribed wells areas
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
PO1.1 & DPF 1.1 (b)	

PO 1.1 and the associated DPF describes intensive animal husbandry as requiring a sustainable and reliable water supply that does not place an undue strain on water resources in a prescribed well area. The applicant does not have a water license and does not need one as no water is used in the packing and preparation of eggs and sufficient rain water is harvested on site to supply domestic needs and that of proposed stock. The proposal is considered to accord with DPF1.1 (b).

#### Water Resources Overlay

<b>Desired Outcomes</b>	
DO1	Protection of the quality of surface waters considering adverse water quality impacts associated 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.
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
Water Catchment	
PO1.1, 1.2, 1.4	
PO1.5 & DPF1.5	

The subject land is not in a water supply catchment area. The proposed chicken enclosures are all greater than 20metres from the water course on the site. The applicant has undertaken water quality monitoring required by PIRSA and does not propose any modification to the beds or banks of the watercourse ensuring the proposal accords with PO 1.1.

The applicant has undertaken drainage works on site and proposes further to improve the existing hydrology of the site to enhance the environmental quality of water run-off from the site in accord with PO 1.2. As previously mentioned, the existing level garden area to the rear of the dwelling has been relevelled to drain back into the hillside through a drain and then filter back to the land in the subsoil. This model is proposed for each of the chicken park up areas. This model is intended to retain water on the subject land and improve the quality of the soil overtime with natural filtering of waste product back to the land.

Further the applicant intends to fence 10metres either side of the watercourse to limit stock access. The fencing will ensure there is sufficient land to enable any water run-off from the chicken forage areas to be filtered by natural ground surface vegetation. The applicant intends to undertake the works for the chicken enclosures in times of the year when a vegetated surface can be maintained to filter water run off that has been through the previously mentioned geo swales. The land adjacent proposed enclosures 3, 4 and 5 is steep and densely vegetated, mostly with

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### ITEM 8.2

weeds, the proposed 10metres wide strip on either side of the watercourse is considered generally in accordance with PO 1.5 despite not achieving the 20metres of revegetated land sought in DPF 1.5.

#### General Development Policies

##### Animal Keeping and Horse Keeping

Desired Outcomes	
DO1	Animals are kept at a density that is not beyond the carrying capacity of the land and in a manner that minimises their adverse effects on the environment, local amenity and surrounding development.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Siting and Design PO1.1, PO1.2	
Waste PO4.1, PO4.2	

##### Siting and Design & Waste

There are no DPFs in association with PO 1.1 which seeks animal keeping, horse keeping and associated activities to not create adverse impacts on the environment or the amenity of the locality. Representors have raised the issue of dog noise rather than stock noise, smell and dust nuisance in their representations. The applicant has offered that they manage the quality of their environment to minimise the potential for adverse impacts given they are raising a family there and it is in their own interest to do so. Management measures to aid in ensuring compliance with PO 4.1 and 4.2 include a proposed waste disposal bin in the centre of the site for storage of waste and deceased stock and regular removal of this for disposal off-site. The chicken enclosures are rotated through their parking areas regularly and manure is collected for disposal and reuse in other areas. Further the management of the flock to minimise disease transmission includes measures for the introduction of new animals, the size and design of enclosures and forms part of their agreement with PIRSA.

##### 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 (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1	

The Applicant completed an on-line declaration as part of this application.

##### Intensive Animal Husbandry and Dairies

Desired Outcomes	
DO1	Development of intensive animal husbandry and dairies in locations that are protected from encroachment by sensitive receivers and in a manner that minimises their adverse effects on amenity and the environment.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Siting and Design PO1.1, PO1.2, PO1.3	

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Waste PO2.1
Soil and Water Protection PO3.1 & DPF 3.1 a, b & c PO3.2

Siting and Design

The applicant has taken care to minimise any impacts on the environment and the amenity of the locality as sought by PO 1.1 by siting the chicken enclosures apart from each other on a level “parking bay” area which enables a three week rotation of the enclosures on each parking bay. Further the national guidelines for non-intensive free range chicken stocking density with housing (fixed or mobile) is 1,500 birds per hectare. The existing operation is currently 166 birds per hectare. Once fully operational, subject to approval, the stocking rate would increase to 503 birds per hectare with housing. The applicant’ printed cartons promote their brand as having less than 750 birds per hectare which falls well below the National guideline for free range non intensive housed egg farming. Given the proposal is at a lesser rate than national guidelines the proposal is considered to accord with PO 1.1. The lower stocking rate will also ensure less threat of disease as envisaged in PO 1.2. Representors have raised issues with the noise associated with the dogs on site, not the stock. The applicant has proposed an adequate waste management system central to their site which along with their dog management practices is considered to satisfy PO 1.3 in relation to waste management.

Waste

As required by PO 2.1 the applicant has proposed a secure container central to the site to be collected and then disposed off-site. There are conditions proposed in relation to management of waste disposal (*Conditions 4 & 12*).

Interface between Land Uses

<b>Desired Outcomes</b>	
DO1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
Hours of Operation PO2.1	
Activities Generating Noise or Vibration PO4.1 & DPF 4.1 PO4.2, PO4.3	
Air Quality PO5.1	
Interface with Rural Activities PO9.6 PO9.7	

Hours of Operation

The applicant has indicated activity on the site, particularly in the way of staff and deliveries is during normal daylight hours. Given the proposal is primary production the DPFs associated with PO 2.1 are not considered relevant. The applicant has agreed to a condition with regard to packing (*Condition 8*) and a condition in regard to feed and packing supply deliveries (*Condition 9*).

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#### Activities Generating Noise or Vibration

Representor noise concerns were regarding the two guardian dogs which are registered and kennelled from one hour after sunset until one hour before sunrise. There are separate Council controls with regard to dog nuisance. There is no guide from the EPA regarding chicken noise and representors did not raise chicken noise. Deliveries to and from the site are conducted from the property's main access point which is more than 100 metres from any sensitive receiver. The volume of traffic generated by the proposal is not considered more than a normal domestic use and parking is managed on site. There is some manoeuvring using the road but it is considered minimal. I am satisfied the road blockages mentioned by representors were not created by the applicant. The proposal is considered to accord with PO 4.2. The only plant proposed are refrigeration units which are within a building and is unlikely to cause unreasonable noise emission. The proposal is considered to accord with PO 4.3.

#### Air Quality

PO 5.1 is not considered relevant as the zone is not intended to accommodate sensitive receivers. The zone is rural. That said the EPA guideline document [https://www.epa.sa.gov.au/files/15485\\_eval\\_distances\\_2023.pdf](https://www.epa.sa.gov.au/files/15485_eval_distances_2023.pdf) Evaluation distances for effective air quality and noise management discusses chickens in particular and allows for terrain, vegetation and type of bird keeping which indicates a 43 metre separation distance from dwellings (sensitive receivers) is the minimum acceptable for the scale of chicken keeping proposed. As stated elsewhere the nearest dwelling is 90 metres from the nearest proposed chicken enclosure.

#### Interface with Rural Activities

The DPFs in this section of the Code are written for the reverse situation to that proposed in that they speak to designing sensitive receivers to mitigate impact on any existing neighbouring rural activities. DPFs 9.1 – 9.7 can only be used to reverse engineer as a guide to the rural activity which is proposed after the existence of the sensitive receivers. POs 9.6 and 9.7 are the only POs describing an activity relevant to that proposed in this application. Using 9.7 as a commencement for the reverse engineering, urban development should not prejudice agricultural or horticultural activity. The subject site has been used for horticulture in the past and the zoning of the land expects horticulture and agriculture. PO 9.6 requires appropriate boundary setbacks and as argued elsewhere in this report the nearest sensitive receiver (other than that on the subject land) is approximately 90m from the nearest chicken enclosure and with mitigating factors described by EPA guidelines is an considered an adequate setback.

#### Transport, Access and Parking

<b>Desired Outcomes</b>	
DO1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
Movement Systems PO1.1, 1.2, 1.3, 1.4	
Vehicle Access PO3.1 & DPF3.1 PO3.3 PO3.4 PO3.8 PO3.9	
Vehicle Parking Areas PO6.1, PO6.2, PO6.6	

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#### Movement systems

Movement levels are so minimal they cannot be said to impact on the existing transport system as stated by representors, nor can Tembys Road be described as a residential area. It is noted Tembys Road ceases at the subject land adjacent the proposed packing shed and three properties then share a right of way. The applicant has ensured there is parking on their land to minimise disruption to traffic on Tembys Rd. Council engineering declined to do a traffic count for the site as there is so little traffic. The proposal is considered to accord with POs 1.1, 1.2, 1.3 and 1.4.

#### Vehicle Access

The access is lawful in accordance with DPF 3.1 and considered adequate for projected vehicle movements as foreshadowed in PO 3.3.

I am satisfied that the access issues described by the representors are not of the applicants making, they exist from the shared right of way. Further another access could be created for the subject land closer to the corner of Marble Hill Road and Tembys Road using the road rented from Council however this would be aesthetically unappealing. The proposal is considered to accord with PO 3.4.

### **CONSIDERATION OF SERIOUSLY AT VARIANCE**

The proposal is not considered Seriously at Variance with the provisions of the P&D Code given the desired outcomes for the zone expect the promotion of agriculture and associated value adding activities. The zone is silent on intensive animal husbandry however Council does not consider that to mean such a proposal cannot be supported. It is important to consider an agrarian activity at a scale which ensures the property owner can invest and value add to a relatively small land holding as being within activities envisaged for the zone as long as amenity impacts can be managed. The zone does speak to protecting agrarian activity over residential use.

### **CONCLUSION**

The applicant has agricultural qualifications and has proposed appropriate management measures to ensure the operation is managed to minimise neighbour concerns. The applicant has PIRSA licensing and audit requirements to meet and the proposal is not the maximum scale PIRSA would approve for the site. The site is zoned for rural activities and on balance the proposal is considered to be acceptable. The subject land is steep and weed infested, the proposal represents an opportunity to improve the quality and management of the land which will in turn improve the environmental outcome for the land. The applicant has demonstrated an adequate waste management plan. Representor concerns with regard to traffic are unfounded and in large part are considered to be due to the unique access arrangement to their own properties.

The application presents a rare opportunity to use a smaller parcel of land in the Adelaide Hills Council area in the Productive Rural Landscape Zone for its intended purpose and value add to the owners holding.

### **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**

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### **ITEM 8.2**

- 2) Development Application Number 22040143 by Nicholas Lea for Intensive Animal Husbandry – the keeping of 3000 laying chickens in 5 mobile chicken enclosures and change of use to two existing outbuildings to an agriculture building (packing shed) and poultry shed at 28 Tembys Road, Norton Summit is GRANTED Planning Consent subject to the following conditions:

#### **CONDITIONS**

##### **Planning Consent**

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.
- 2) The development shall achieve the criteria of the Environment Protection (Commercial and Industrial Noise) Policy 2023 in relation to noise at all times.
- 3) The free-range chicken farm shall not exceed a maximum capacity of 3000 chickens at any given time.
- 4) All deceased birds must be disposed of into sealed bin(s) immediately upon discovery and composting bins removed from the subject land as soon as practical to the reasonable satisfaction of Council. This composting of mortalities must be maintained in a neat, clean and good condition at all times to the reasonable satisfaction of Council.
- 5) Any bunding must be constructed in accordance with the standards outlined in the Egg Industry Environmental Guidelines, Edition II | May 2018 and in accordance with the EPA requirements.
- 6) All free-range areas must be setback a minimum separation distance of 10 metres from any watercourse on the subject land, and 90 metres from any sensitive receiver.
- 7) All free range areas and associated fencing, storage/industry shedding, inclusive of water storage tanks, amenities block, and feed silo must be maintained in good condition and repair at all times to the reasonable satisfaction of Council.
- 8) The packing shed operating hours shall not exceed the hours of 6:00am to 8:00pm.
- 9) All deliveries to and from the site in relation to the approved use must be during 7:00am – 7:00pm Monday to Saturday and 9:00am to 7:00pm Sundays and Public Holidays.
- 10) The mobile roosting vans and feeders must be cleaned regularly to prevent accumulation of waste and the creation of unsanitary conditions to the satisfaction of Council’s Environmental Health Team and the EPA.
- 11) All materials, chicken feed, manure and other associated goods shall at all times be loaded and unloaded within the confines of the subject land. Materials and goods shall not be stored on the land in areas delineated for use as car parking.
- 12) Collection of chicken waste by a licenced contractor must be undertaken from within the confines of the subject land. Waste bins shall be kept out of view from public areas and maintained with a lid to prevent access by vermin.

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- 13) No poultry manure should be stored or stockpiled on the property at any time and manure shall be removed regularly from the property to limit generation of dust and contamination of nearby water sources and sensitive areas.

#### **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) Allotment boundaries will not be certified by the Authority. The onus of ensuring that the buildings are sited as illustrated on the approved plans is the responsibility of the owner. This may necessitate a survey being carried out by a licensed land surveyor.
- 6) The applicant is reminded of their obligations under the Local Nuisance and Litter Control Act 2016 and the Environment Protection Act 1993, in regard to the appropriate management of environmental impacts and matters of local nuisance.

#### **OFFICER MAKING RECOMMENDATION**

**Name:** Melanie Scott

**Title:** Senior Statutory Planner



**CAP MEETING – 13 MARCH 2024**  
**ITEM 8.3**

<b>DEVELOPMENT NO.:</b>	23024780
<b>APPLICANT:</b>	Apex Home Improvements
<b>ADDRESS:</b>	126 TREGARTHEN RD ASHTON, SA 5137
<b>NATURE OF DEVELOPMENT:</b>	Winery building and verandah
<b>ZONING INFORMATION:</b>	<p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• Productive Rural Landscape Zone</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Environment and Food Production Area</li> <li>• Hazards (Bushfire - Medium Risk)</li> <li>• Heritage Adjacency</li> <li>• Hazards (Flooding - Evidence Required)</li> <li>• Limited Land Division</li> <li>• Mount Lofty Ranges Water Supply Catchment (Area 1)</li> <li>• Native Vegetation</li> <li>• Prescribed Water Resources Area</li> </ul> <p><b>Technical Numeric Variation</b></p> <ul style="list-style-type: none"> <li>• N/A</li> </ul>
<b>LODGEMENT DATE:</b>	10 October 2023
<b>RELEVANT AUTHORITY:</b>	Assessment Panel at Adelaide Hills Council
<b>PLANNING &amp; DESIGN CODE VERSION:</b>	2023.13
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed – Performance Assessed
<b>NOTIFICATION:</b>	Yes 8 January 2024 – 29 January 2024
<b>RECOMMENDING OFFICER:</b>	Sebastien Paraskevopoulos Statutory Planner
<b>REFERRALS STATUTORY:</b>	Environment Protection Authority
<b>REFERRALS NON-STATUTORY:</b>	Nil

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<b>ATTACHMENT 1:</b>	<b>Application Documents</b>	<b>ATTACHMENT 5:</b>	<b>Response to Representations</b>
<b>ATTACHMENT 2:</b>	<b>Subject Land Map/ Representation Map</b>	<b>ATTACHMENT 6:</b>	<b>Referral Response</b>
<b>ATTACHMENT 3:</b>	<b>Zoning Map</b>	<b>ATTACHMENT 7:</b>	<b>Relevant P &amp; D Code Policies</b>
<b>ATTACHMENT 4:</b>	<b>Representations</b>		

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## CAP MEETING – 13 MARCH 2024

### ITEM 8.3

#### DETAILED DESCRIPTION OF PROPOSAL:

The application proposes the construction of a shed with an attached verandah and associated earthworks. The intended purpose of the building would be to increase storage capacity and efficiency in association with the existing winery on site. There is no associated increase to the tonnes of grapes processed per annum, inclusion of bottling or other activities in this application.

The proposed shed has a total floor area of 297.8m<sup>2</sup>, with the attached verandah adding an additional 50.1 m<sup>2</sup> to the combined size of the structure. The maximum building height is 5.17m to the roof peak, with 4m high walls. The verandah is in the form of a 'lean-to', with a post height of 3.7m. The roof of the buildings will be clad with corrugated iron in Colorbond 'Manor Red', with the walls of the shed to be clad with 'Lo-Rib' steel in Colorbond 'Woodland Grey'.

The proposal is located in the northeast corner of the subject land, in proximity of the existing winery and cellar door complex. It has setbacks of 5m to the north boundary and 3.6m to the nearest east boundary. It would be sited behind the front building lines of the existing cellar door and winery buildings in relation to Tregarthen Road and is approximately 120m from the primary street frontage.

Excavation up to 1.65m in depth to the northeast of the building envelope is anticipated to achieve a level site area, with minor fill required to the opposite corner to provide an even transition to the internal driveway which runs adjacent the proposed building.

#### BACKGROUND:

The subject land is home to the Ashton Hills Vineyard, which was established in 1982. The estate processed approximately 20 tonnes of grapes annually up until 2022, when the most recent Development Approval was granted to increase this amount to 120 tonnes. All land use applications on record relate to the viticulture and winery uses conducted on the subject land.

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
23/02/2022	20/1178/473 (Transitional DA 22002142)	Variation to Development Authorisation 20/663/473 to change the use of the Horticultural Building to a Winery together with the change of use of existing sheds to a Winery (120 tonne crush), retaining walls 1.35m & associated earthworks
02/08/2021	20/663/473	Horticultural building in association with existing vineyard, retaining wall (max height 1.3m) and associated earthworks
21/09/2018	18/748/473	Conversion of portion of winery building into sanitary facilities
02/11/2020	17/70/473	Deck addition to existing cellar door (maximum 720mm height)
22/07/2015	15/424/473	Boundary realignment (2 into 2)

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### ITEM 8.3

#### SUBJECT LAND & LOCALITY:

**Location reference:** 126 Tregarthen Road, Ashton

**Title ref.:** 6164/803    **Plan Parcel:** DP:111019

#### Site Description:

The subject land resembles a rectangular shape with an upper northeast corner cut off. It has a total site area of 4.47ha, and a frontage along Tregarthen Road of approximately 234m, which extends to the rear boundary to a for a distance of 212m.

There are three primary buildings present on the site. They include the cellar door, the main winery building, and an associated barrel storage shed. These buildings are grouped in direct proximity of each other to the north of the land.

The slope of the land is of a consistent gradient across the full extent of the site, descending northeast to southwest by approximately 1-in-10 across the proposed building footprint.

There are many trees on the subject land, including several where the proposed building would be sited. None of these trees are protected, however, as the Regulated and Significant Tree Overlay is not applicable, while historic aerial mapping indicates that indigenous native vegetation has long been removed.

The land is not serviced by SA Water or any sewerage infrastructure. Wastewater generated by the winery is directed to an on-site self-bunded holding tank with a capacity of 7000L.

#### Locality

The locality is characterised by primary production land uses, predominantly in the form of horticulture on moderate to large allotments up to ten hectares in size. Rural living activities where allotments are smaller are also present in the locality. Buildings are unobtrusively located and well set back from the roadside, which contributes to a scenically attractive rural character.

There is one local heritage listed house in the locality, approximately 130m north of the subject land, at 147 Tregarthen Road.

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

#### CONSENT TYPE REQUIRED:

Planning Consent

#### CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**  
Winery building (shed): Code Assessed - Performance Assessed  
Verandah: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**  
Code Assessed - Performance Assessed
- **REASON**  
The Planning and Design Code provides no 'Accepted' or 'Deemed to Satisfy' pathway for the above elements –nor are they 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.

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### ITEM 8.3

#### PUBLIC NOTIFICATION

- **REASON**

Winery development is not excluded under Table 5 - Procedural Matters (PM) – Notification of the Productive Rural Landscape Zone.

Public Notification period – 8 January to 29 January 2024

- **LIST OF REPRESENTATIONS**

One (1) representation in support of the development (with some concerns) was received during the public notification period.

Representor Name	Representor's Property Address	Wishes to be heard (Y/N)	Nominated Speaker (if relevant)
CDN Thomas	154 Tregarthen Road, Ashton	Yes	

- **SUMMARY**

The issues in the representation can be summarised as follows:

- Concern with operators' compliance with previous development authorisations
- Amenity impacts associated with the winery (including smell and noise)
- Size of proposal and concern that unapproved uses (i.e. increased crush or on-site bottling) will be undertaken
- Scepticism of location of existing barrel storage shed and proposal's 5m set-back to north boundary

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

- Environment Protection Authority (EPA)

The proposal was referred as per Part 9.1 (Food production and animal and plant product processing - Wineries or Distilleries) of the Planning and Design Code.

As part of their assessment, the EPA investigated potential impacts which could arise from the proposal in relation to noise, water quality, wastewater, stormwater, and waste management. While these matters were considered, the authority confirmed that they are ultimately managed via their existing license conditions as part of previous development application number 20/1178/473.

Ultimately, their referral advice concluded that risk of environmental impacts arising from the proposed development is acceptable.

No further conditions were directed, although two notes were recommended (refer recommended notes 7 and 8).

A copy of the referral advice is included as **Attachment 6 – Referral Response**.

**INTERNAL REFERRALS**

Nil

**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.*

A detailed assessment of the application has taken place against the relevant provisions of the Planning and Design Code (P & D Code) and this is provided below under a series of headings. A Policy Enquiry extract containing the relevant provisions of the P & D Code is contained in **Attachment 7 – Relevant P & D Code Policies**.

**Productive Rural Landscape Zone**

<b>Desired Outcomes</b>	
DO1	A diverse range of land uses at an appropriate scale and intensity that capitalise on the region's proximity to the metropolitan area and the tourist and lifestyle opportunities this presents while also conserving the natural and rural character, identity, biodiversity and sensitive environmental areas and scenic qualities of the landscape.
DO2	A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the sale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes its regional identity.
DO3	Create local conditions that support new and continuing investment while seeking to promote co-existence with adjoining activities and mitigate land use conflicts.
<b>Performance Outcomes (PO) &amp; Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria</b>	
PO 1.1 & DPF 1.1 PO 2.1 & DPF 2.1, PO 2.2 & DPF 2.2, PO 4.1 & DPF 4.1, PO 4.2, PO 4.3 & DPF 4.3, PO 11.1	

The proposed use of the building in association with the existing winery on site directly satisfies DPF 1.1 (w) and is considered to accord with the associated PO, as well as DO 2 of the Zone itself.

While the slope of the proposed site area is no greater than 10% (1-in-10), excavation of the land would exceed 1.5m from natural ground level, which is advised by DPF 2.2 (b). It is observed that the earthworks are internal to the site, facing the proposed shed and would not be visible from the roadside. Further, the majority of the excavation would

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be less than 1.5m deep, with the portion beyond this at a maximum variance of just 15cm. As such, the associated earthworks are considered to meet PO 2.2.

While PO 4.1 is understood to be intended for *new* rural industry activities, it is acknowledged that the proposal would remain in accordance with the related DPF criteria and the PO itself.

The proposal represents an expansion to the existing storage capabilities of the current winery, with a primary goal to be to realise greater efficiency in this land use. Amenity impacts additional to the current practices of the winery, such as noise, smell, and waste management are understood to be limited to what is existing and have satisfied the EPA. It would also not incorporate the sourcing of additional commodities for processing. This abides with PO 4.2.

The proposal is sited well away from Tregarthen Road behind the existing cellar door and winery buildings. This location, combined with the topography of the locality and vegetation on the road verge and private property, would result in extremely limited public vantages of the building –if any at all. Conversely, the building is proposed in closer proximity to the north and east site boundaries. This presents potential visual amenity impacts, with the length of the shed 3.6m from the east boundary and its width 5m from the north boundary. These reduced setbacks are mitigated by several factors, however. Residential densities in the locality are very low, and the nearest sensitive receiver (a dwelling at neighbouring 36C Jennings Drive) is approximately 88m away from the proposed site area. All other neighbouring habitable dwellings are well over 100m away. The visual extent of the building viewed from private land would be broken-up and partially obscured by existing mature vegetation primarily on neighbouring allotments to its north and northeast, while its profile would also be reduced from these vantages due to a benched level 1.65m below the natural ground. It is recognised that the proposal is not the first among the existing winery buildings to be sited with such setbacks, and it is acknowledged that clustering the proposal with these buildings provides its own value, by ensuring that the majority of the allotment remains open in appearance. Based on these considerations, the proposal is considered to generally accord with relevant POs 4.3 and 11.1.

### OVERLAYS

#### Environment and Food Production Area

Desired Outcomes	
DO 1	Protection of valuable rural, landscape, environmental and food production areas from urban encroachment.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
N/A	

This overlay concerns urban encroachment and seeks to ensure land division is undertaken in accordance with Section 7 of the *Planning, Development and Infrastructure Act 2016*. This is not applicable to the proposal.

#### Hazards (Bushfire - High Risk)

Desired Outcomes	
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: (a) potential for uncontrolled bushfire events taking into account the increased frequency and intensity of bushfires as a result of climate change (b) high levels and exposure to ember attack (c) impact from burning debris (d) radiant heat

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	(e) 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.
<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>	
PO 1.1; PO 2.1; PO 3.1; PO 3.2 & DPF 3.2; PO 6.1 & DPF 6.1; PO 6.2 & DPF 6.2; PO 6.3;	

The proposal would not introduce any new residential or habitable land uses, the nature of which are currently absent on the site. The building is not considered to be located in an area which could pose an abnormally high bushfire risk, while the design of the building would not be prone to trapping flammable debris. Relevant PO 2.1 and 3.1 are satisfied.

There is no expectation under the Overlay that access for CFS fire-fighting personnel is required for non-habitable buildings. As such, PO 6.1, 6.2, and 6.3 are not applicable.

#### Hazards (Flooding - Evidence Required)

<b>Desired Outcomes</b>	
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.
<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>	
PO 1.1 & DPF 1.1, PO 2.1 & DPF 2.1	

There is no flood mapping on or in proximity of the subject land, nor the greater locality.

#### Limited Land Division

<b>Desired Outcomes</b>	
DO 1	The long term use of land for primary production is maintained by minimising fragmentation through division of land.
<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>	
N/A	

This overlay pertains to land division and is not applicable to the proposal.

#### Heritage Adjacency Overlay

<b>Desired Outcomes</b>	
DO 1	Development adjacent to State and Local Heritage Places maintains the heritage and cultural values of those Places.
<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>	
PO 1.1	

There is one local heritage listed house in the locality, approximately 130m north of the subject land, at 147 Tregarthen Road. The proposal is detached from the context of this historic home, according with PO 1.1.

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#### Mount Lofty Ranges Water Supply Catchment (Area 1) Overlay

<b>Desired Outcomes</b>	
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 primary reservoirs or diversion weir catchments from the Mount Lofty Ranges.
<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>	
PO 1.1; PO 2.1 & DPF 2.1; PO 2.2 & DPF 2.2; PO 2.3 & DPF 2.3; PO 2.4 & DPF 2.4; PO 3.1; PO 3.2; PO 3.3; PO 3.9 & DPF 3.9; PO 4.1	

As the proposal is intended to accommodate wine storage tanks, the slab has been designed to incorporate a fall capable of accounting for 120% of the largest tank volume. Any spills would be directed to the current wastewater system of a 7000L bunded tank via a strip drain in the shed. This method and design are to the satisfaction of the EPA, and as such, are considered to be compliant with relevant POs 2.1, 2.3, and 2.4 under the 'Wastewater' section of this Overlay.

Roof stormwater would be directed from the roof and captured via an existing rainwater tank for later use. While stormwater trespass into neighbouring land would be unlikely as the site is not upslope from the two neighbouring properties, the satisfactory management of overflow from the tank has been included as a recommended condition (refer recommended condition 4). Although the proposed earthworks exceed 750mm in height and are at variance with DPF 3.9, these will be appropriately battered so that stormwater quality is not detrimentally impacted.

Overall, the proposal would not result in a detrimental effect on the quality of water which drains from the site.

#### Native Vegetation

<b>Desired Outcomes</b>	
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.
<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>	
PO 1.1 & DPF 1.1; PO 1.2; PO 1.4	

The proposal incorporates the removal of several trees of native Australian species. The applicant sought advice from a qualified arborist, who identified the trees as being planted and as such not classified as "Native Vegetation" under the *Native Vegetation Act 1991*. This determination is supported by historic aerial mapping which indicates that *indigenous* native vegetation has been cleared and replaced. The applicant has submitted a Native Vegetation Declaration, which complies with DTS/DPF 1.1.

#### Prescribed Water Resources Area

<b>Desired Outcomes</b>	
DO 1	Sustainable water use in prescribed water resources areas maintains the health and natural flow paths of surface water, watercourses and wells.
<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>	
PO 1.1 & DPF 1.1; PO 1.2;	



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The proposal would not result in the taking of additional water, which aligns with PO 1.1. Nor is it contrary to PO 1.2, which pertains to development involved in collecting or diverting surface water which flows over land.

#### GENERAL DEVELOPMENT POLICIES

##### Beverage Production in Rural Areas

Desired Outcomes	
DO 1	Mitigation of potential amenity and environmental impacts of value-adding beverage production facilities such as wineries, distilleries, cideries and breweries.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1; PO 1.2; PO 1.3; PO 1.4 & DPF 1.4; PO 1.5 & DPF 1.5; PO 2.1 & DPF 2.1; PO 2.2; PO 2.3; PO 2.4; PO 3.1; PO 3.2 & DPF 3.2; PO 3.3	

This policy suite is primarily oriented in aiding the assessment of *new* beverage production activities or the expansion of the processing capacity of such uses. There is no proposed increase to the weight of grapes crushed per annum with regard to the proposal, nor the introduction of any new production methods (i.e., on-site bottling). The wastewater management system and ongoing hard waste management procedures, authorised by the EPA as part of Development Application 20/1178/473, would remain fit for purpose. The proposal accords with the applicable Performance Outcomes.

##### Clearance from Overhead Powerlines

Desired Outcomes	
DO1	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	
DO1	Development is: (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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<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>
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PO 1.5; PO 6.1 & DPF 6.1; PO 7.2; PO 7.4; PO 7.5; PO 7.6; PO 7.7; PO 8.1 & DPF 8.1
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In accordance with the intent of PO 1.5, the proposal increases the general storage capabilities of the winery, mitigating the potential negative visual impact of items currently stored outdoors.

The remaining applicable Performance Outcomes of this policy suite refer to new on-site waste systems and dedicated vehicle parking areas. These are not related to the nature of the proposal.

#### Infrastructure and Renewable Energy Facilities

<b>Desired Outcomes</b>
-------------------------

<b>DO 1</b>
-------------

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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<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>
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PO 11.1 & DPF 11.1; PO 12.1 & DPF 12.1; PO 12.2 & DPF 12.2
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The subject land has access to bore water and multiple water storage tanks, as SA Water does not supply the area. The proposal would not generate additional wastewater, with the EPA not requiring any alterations or addition to the existing wastewater management system. No Performance Outcomes are conflicted with.

#### Interface between Land Uses

<b>Desired Outcomes</b>
-------------------------

<b>DO 1</b>
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Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.
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<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>
---

PO 4.1 & DPF 4.1; PO 4.2, PO 4.5; PO 4.6 & DPF 4.6; PO 5.1; PO 5.2; PO 6.1
--

The proposal would not introduce any new noise sources to the winery, nor relocate any existing noisy equipment. There are no proposed changes to the operation of the existing cellar door, either.

The proposal would have a neutral effect upon air quality in the locale, while potential light spill impacts could be addressed as a condition of approval (refer recommended condition 5). The proposal, which does not present an intensification of the existing, approved uses, it not at variance with any applicable PO of this policy suite.

#### Transport, Access and Parking

<b>Desired Outcomes</b>
-------------------------

<b>DO 1</b>
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A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
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<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>
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PO 1.4 & DPF 1.4; PO 3.1 & DPF 3.1; PO 3.5 & DPF 3.5; PO 5.1 & DPF 5.1; PO 6.1 & DPF 6.1; PO 6.6 & DPF 6.6; PO 10.1 & DPF 10.1
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The proposal does not incorporate any new driveway crossovers to Tregarthen Road, with the development capable of being accessed via a lawfully existing main access point. Owing to the nature of the proposal it would be unlikely for there to be an increase to onsite carparking, although, there would be more than sufficient space for a small increase if needed (while wineries are not specified under Table 1 – General Off-Street Car Parking Requirements, a similarly-themed 'store' would require only 0.5 spaces per 100sqm of total floor area). Overall, there are no variances had by the proposed development against any relevant PO of this policy suite.

### **CONSIDERATION OF SERIOUSLY AT VARIANCE**

The proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code.

Beverage production in the form of wineries is envisaged in the Productive Rural Landscape Zone, with the proposal not increasing the grape processing amount or introducing bottling or any new production method to the enterprise as approved. Although the proposed site area of the building is in proximity of the north and east boundaries, it is mitigated by several factors. It would be clustered with the existing cellar door and winery buildings, sensitive receivers are located well away, and its visual profile would be broken-up and partially obscured owing to surrounding mature vegetation and the proposed level of excavation. Views of the proposal from any public vantage would also be very limited. The proposal generally accords with all applicable Overlay policies, the most imperative being the Hazards (Bushfire – High Risk), Mount Lofty Ranges Water Supply Catchment (Area 1), and Native Vegetation. While a noticeable selection of the General Development Policies are oriented to guiding the establishment of *new* wineries under the Code, the proposal is not considered to be seriously at variance with any policy suite.

### **CONCLUSION**

The proposal is for the construction of a shed with an attached verandah, for the purposes of increasing storage capacity and efficiency in association with the existing winery of the Ashton Hills Vineyard. The subject land is within the Productive Rural Landscape Zone, amongst primary production land uses mostly in the form of horticulture, and low-density rural living.

The application does not propose an intensification of the existing winery use, as there is no associated increase to the tonnes of grapes processed per annum, nor the inclusion of bottling or any other new production activity. The proposal would increase the storage capacity of the winery and enhance the visual appearance of the land by relocating items currently stored outside indoors. The EPA are satisfied that the constraints of the previous approval for the winery expansion remain applicable to this proposal and did not recommend any additional conditions as part of their positive referral response.

The proposal is not considered to be seriously at variance with any of the applicable policies of the Planning & Design Code, adequately addressing all relevant Zone, Overlays, and General Development provisions.

Standard conditions controlling the proposal's external appearance, stormwater management, erosion control during construction, and light spill are recommended. Matters pertaining to the winery's waste management procedures, processing capacity, hours of operation, and more were conditioned in previous Development Approval 20-1178/473.

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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 23024780 by Apex Home Improvements for a Winery building and verandah at 126 Tregarthen Road, Ashton is GRANTED Planning Consent subject to the following conditions:

#### **CONDITIONS**

##### **Planning Consent**

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.
- 2) The external finishes to the building herein approved shall be as follows:

**WALLS:** Colorbond 'Woodland Grey' or similar

**ROOF:** Colorbond 'Manor Red' or similar

- 3) Prior to commencement of work, straw bales (or other soil erosion control methods as approved by Council) shall be placed and secured below areas of excavation and fill to prevent soil moving off the site during construction.
- 4) All roof runoff generated by the development hereby approved shall be directed to a rainwater tank with overflow managed on-site to the satisfaction of Council within one month of the roof cladding being installed using design techniques such as:
  - Grassed swales
  - Stone filled trenches
  - Small infiltration basins

All stormwater including hard surface runoff shall be managed on site with no stormwater to trespass onto adjoining properties.

- 5) 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 Notes**

- 1) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

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### **ITEM 8.3**

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

#### **EPA Notes**

- 7) **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.**
- 8) **More information about the Environmental Protection Act and policies can be found at: [www.epa.sa.gov.au](http://www.epa.sa.gov.au)**

#### **OFFICER MAKING RECOMMENDATION**

**Name:** Sebastien Paraskevopoulos  
**Title:** Statutory Planner

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ITEM 8.4

<b>DEVELOPMENT NO.:</b>	23037445
<b>APPLICANT:</b>	Fairmont Homes
<b>ADDRESS:</b>	53 MOFFETT STREET WOODSIDE, SA 5244
<b>NATURE OF DEVELOPMENT:</b>	Single storey detached dwelling and combined fence and retaining walls
<b>ZONING INFORMATION:</b>	<p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• Township</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Hazards (Bushfire - Medium Risk)</li> <li>• Hazards (Flooding - Evidence Required)</li> <li>• Mount Lofty Ranges Water Supply Catchment (Area 2)</li> <li>• Native Vegetation</li> <li>• Prescribed Water Resources Area</li> <li>• Regulated and Significant Tree</li> </ul> <p><b>Local Variation</b></p> <ul style="list-style-type: none"> <li>• 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)</li> </ul>
<b>LODGEMENT DATE:</b>	9 February 2024
<b>RELEVANT AUTHORITY:</b>	Assessment Panel at Adelaide Hills Council
<b>PLANNING &amp; DESIGN CODE VERSION:</b>	2023.19
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed – Performance Assessed
<b>NOTIFICATION:</b>	No
<b>RECOMMENDING OFFICER:</b>	Sebastien Paraskevopoulos Statutory Planner
<b>REFERRALS STATUTORY:</b>	N/A
<b>REFERRALS NON-STATUTORY:</b>	<ul style="list-style-type: none"> <li>• Council Engineering</li> <li>• Council Environmental Health</li> <li>• Council Open Space</li> </ul>

**CONTENTS:**

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- 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 a single storey detached dwelling with combined fence and retaining walls (maximum height 2.9m) and associated earthworks. The proposed floor plan features four bedrooms (including a master bedroom with an en-suite), a second bathroom, open plan kitchen and dining area, separate lounge, laundry, al fresco and double car garage under the main roof.

The proposal has a combined floor area of 277.49m<sup>2</sup>, which includes the al fresco and garage. This corresponds to a total site coverage of approximately 27%. The proposal features 2.7m ceiling heights, with a maximum building height of 5.97m above the finished floor level (FFL).

The proposal is located centrally within the subject land, although closer to the front boundary than the rear. To achieve a level site area, excavation up to 0.7m is anticipated to the east of the building envelope, with 1.1m of fill anticipated to the western side. Batters will be used to smooth out the cut of the land, while a side boundary retaining wall up to 1.1m will be utilised to support the filled portion.

The proposal is similarly oriented as the majority of dwellings on Moffett Street. It has a 11.5m setback from the south front boundary, 21.2m setback from the north rear boundary, and 3.0m and 1.4m setbacks from the east side and west side boundaries respectively.

The walls of the proposed dwelling will be finished using Austral Bricks in their Urban One 'Seed' colour, and the piers at the front of the building will be rendered in Colorbond 'Surfmist'. Corrugated iron in Colorbond 'Bluegum' is specified for the roof.

#### BACKGROUND:

The subject allotment was created through a land division approved in March 2022, where adjacent 55 Moffett Street was halved in size. There have been no other applications received since Land Division Consent was granted.

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
8 March 2022	21027687	Land division (1 into 2) at 55 Moffett Street, Woodside

#### SUBJECT LAND & LOCALITY:

**Location reference:** Lot 21 - 53 Moffett Street, Woodside SA 5244

**Title ref.:** 6273/509      **Plan Parcel:** DP: 129649

#### Site Description:

The subject land is located on the northside of Moffett Street, towards its eastern end. It has four primary boundaries, with its frontage oriented to Moffett Street. It has a total site area of 1043m<sup>2</sup>, and a frontage width of 20.36m, which extends to the rear to a depth of 52.70m. The allotment frontage and proposed site coverage are of a similar size as other residential allotments in the locality. The site is currently vacant, following its creation through land division DA 21027687.

The land is evenly sloping, descending laterally east to west across the allotment, at a gradient of approximately 1-in-15.

There are several trees on the site, although none of these are protected.

The land is connected to SA Water and Council's Community Waste Management System.

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#### Locality:

The property and its residential neighbours are situated along Moffett Street, which runs east-west and connects to Woodside's main street of Onkaparinga Valley Road, within the Township Zone of the Planning and Design Code. This portion of the town consists of a rectangular street layout and generally regularly shaped allotments of a moderate size, typically ranging between 600-1000 m<sup>2</sup> in area. Dwelling facades are mostly visible from the roadside, due to typical 6-10m front boundary building setbacks, although mature vegetation in the road reserve or in private front gardens is common. The subject land is neighboured by single storey detached dwellings either side, at number 51 and 55 Moffett Street.

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

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

#### CONSENT TYPE REQUIRED:

Planning Consent

#### CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
  - Detached dwelling: Code Assessed – Performance Assessed
  - Fence: Code Assessed – Performance Assessed
  - Retaining wall: Code Assessed – Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
  - Code Assessed – Performance Assessed
- **REASON**

The Planning and Design Code provides no 'Accepted' or 'Deemed to Satisfy' pathway for the above elements –nor are they 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. Dwellings are listed under 2 (c) of *Table 5 - Procedural Matters – Notification* of the Township Zone, and fences and retaining walls are listed under 5 (d) and 5 (k) of the same table, respectively. Neither of the exceptions under Column B, relating to the 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.



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#### AGENCY REFERRALS

Not Applicable.

#### INTERNAL REFERRALS

- Council Engineering

The application was referred to Council Engineering, who directed the requirement for a stormwater management plan and calculations. These details were later provided, and following their review, Council engineering considers stormwater impacts will be satisfactorily managed.

Engineering also assessed the proposed driveway crossover. They identified that a bottle brush shrub on the verge adjacent the proposed access point would cause line of sight issues, and that it would need to be removed. Aside from this, Council Standards are otherwise met.

- Council Environmental Health

The subject land is serviced by Council's Community Waste Management System. Environmental Health have confirmed that associated Wastewater Works Application 24/W023/473 was granted approval on 7 February.

- Council Open Space

Council's Senior Arborist conducted an assessment of the proposed removal of the bottle brush shrub required to facilitate safe driveway access. It was determined that the shrub represents a low level of streetscape value, and as such, did not oppose its removal. This was formalised through a section 221 approval under the *Local Government Act 1999*.

#### 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.*

A detailed assessment of the application has taken place against the relevant provisions of the Planning and Design Code (P & D Code), and this is provided below under a series of headings. A Policy Enquiry extract containing the relevant provisions of the P & D Code is contained in **Attachment 4 – Relevant P&D Code Policies**.

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#### Township Zone

Desired Outcomes	
DO1	A township supporting a range of residential, community, retail, business, commercial and light industry uses and facilities.
DO2	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	
PO 1.1 & DPF 1.1, PO 2.1 & DPF 2.2, PO 2.2 & DPF 2.2, PO 2.3 & DPF 2.3, PO 2.4 & DPF 2.4, PO 2.5 & DPF 2.5, PO 2.6 & DPF 2.6, PO 2.7 & DPF 2.7, PO 3.1 & DPF 3.1, PO 5.1 & DPF 5.1	

The residential use of the building as a dwelling directly satisfies DPF 1.1, while aligning with DO 1 of the Zone itself.

The proposed dwelling is of a dimension and a design which is complementary of the existing built form and overall streetscape of the locality. It has a limited site coverage of 27%, which, in combination with the single storey profile of the building, is considered to satisfy PO 2.1. The height of the building also directly satisfies DPF 2.2.

Like most dwellings on Moffett Street, the proposal is sited directly parallel to its front boundary. The forwardmost point of the dwelling, the portico, would be setback by 11.51m, which is a similar building setback to the majority of dwellings in the locality. This would afford a good presentation to the street while complementing the existing streetscape character, satisfying the intended outcome of PO 2.3.

The 21.23m rear boundary setback of the proposal directly meets DPF 2.5, while the minimum 1m side boundary setbacks also meet DPF 2.6.

#### OVERLAYS

##### 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 Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1; PO 2.1; PO 3.1; PO 3.2 & DPF 3.2; PO 3.3; PO 5.2 & DPF 5.2; PO 5.3;	

The proposed dwelling is located well within 60m of the roadside, allowing CFS vehicle access from the street and thereby negating the requirement to accommodate on-site fire-fighting vehicle manoeuvring. There is clear pedestrian access to the rear of the proposed dwelling, along with a 2000L water tank proposed as an on-site fire-fighting provision. The topography of the land is only moderately sloping, while the design of the building would not be prone to trapping flammable debris. The proposal is not deemed at variance with any relevant provisions of the Code for bushfire hazard.

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#### Hazards (Flooding - Evidence Required)

<b>Desired Outcomes</b>	
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.
<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>	
PO 1.1 & DPF 1.1	

There is no flood mapping on or in proximity of the subject land, nor the greater locality.

#### Mount Lofty Ranges Water Supply Catchment (Area 2)

<b>Desired Outcomes</b>	
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.
<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>	
PO 1.1; PO 2.1 & DPF 2.1; PO 2.4 & DPF 2.4; PO 2.5 & DPF 2.5; PO 3.1; PO 3.2; PO 3.3; PO 3.9 & DPF 3.9; PO 4.1	

Council Engineering has determined that the property has the ability to manage stormwater runoff created by the proposed dwelling and there are no concerns regarding wastewater management or harmful impacts on water quality in association with the residential use. Although the proposed earthworks exceed 750mm in height (at variance with DPF 3.9), these will be managed through appropriate methods so that storm water quality is not detrimentally impacted.

#### Native Vegetation

<b>Desired Outcomes</b>	
DO1	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.
<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>	
PO 1.1 & DPF 1.1; PO 1.2; PO 1.4	

The entirety of the subject land is absent of native vegetation and the applicant has submitted a Native Vegetation Declaration, which complies with DTS/DPF1.1.

#### Prescribed Water Resources

<b>Desired Outcomes</b>	
DO1	Sustainable water use in prescribed water resources areas maintains the health and natural flow paths of surface water, watercourses and wells.
<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>	
N/A	

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This overlay is not relevant to the proposal as it pertains to water taking activities such as horticulture and intensive animal husbandry or the alteration to a water body.

#### Regulated and Significant Tree

Desired Outcomes	
DO1	Conservation of regulated and significant trees to provide aesthetic and environmental benefits and mitigate tree loss.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
N/A	

Although there are several trees located on the subject land and neighbouring property, there are none which are of a circumference which constitute as regulated or significant.

## 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 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	
DO1	Development is: (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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Performance Outcome (PO) and Designated Performance Feature (DPF) criteria
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PO 6.1 & DPF 6.1; PO 8.1 & DPF 8.1; PO 8.2 & DPF 8.2; PO 8.3; PO 8.4; PO 8.5; PO 9.1; PO 9.2 & DPF 9.2; PO 10.1 & DPF 10.1; PO 10.2 & DPF 10.2; PO 11.1 & DPF 11.1; PO 11.2 & DPF 11.2; PO 12.1; PO 14.1 & PO 14.1; PO 15.1; PO 17.1 & DPF 17.1; PO 19.1 & DPF 19.1; PO 19.1 & DPF 19.1; PO 19.2 & DPF 19.2; PO 19.3 & DPF 19.3; PO 19.4 & DPF 19.4; PO 19.5 & DPF 19.5; PO 19.6 & DPF 19.6; PO 20.1; PO 21.1 & DPF 21.1; PO 22.2; PO 23.3; PO 22.4 & DPF 22.4; PO 24.4 & DPF 24.4
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With regard to PO/DPF 6.1, the locality is serviced by Council’s Community Waste Management System, which eliminates the need for an effluent disposal area in association with the septic tank. As such, parking upon such an area could not occur.

Although the maximum extent of fill exceeds 1m, which is the height advised by DPF 8.1, this is a variance of just 10cm and limited to a small portion of the overall earthworks. Further, the line of cut and fill is positioned in the centre of the dwelling footprint. On this basis, the earthworks are determined to align with PO 8.1. The driveway which provides vehicle access to the dwelling will be constructed of an all-weather trafficable surface at a maximum gradient of 1-in-11, which directly satisfies DPF 8.2.

The filling of land necessitates a retaining wall along the east side boundary to a height of up to 1.1m. Combined with a standard 1.8m high Colorbond fence atop it, the maximum height of this combined structure would be 2.9m. As the wall would be retaining fill, the full extent of the structure would present to the side neighbour at 51 Moffett Street. Although, such boundary development is not considered to unreasonably impact the visual amenity of this neighbour. The maximum height of the structure would be below 3m and is considered to be moderate, while the majority of the length of the retaining wall would be under 1m in height (resulting in an approximate combined height of 2.5m and less).

The proposal is of a single storey profile and as such, overlooking from upper-level windows is not a consideration. There is no deck or similar element included with the proposal.

The dwelling facade is oriented directly to the front boundary, where the entry door and two windows would be clearly legible from the street vantage, according with DPFs 11.1 and 11.2. The garage under the main roof also meets all the criteria (regarding siting, setback, and width) prescribed by DPF 14.1.

The proposal is located centrally within the site with a front boundary setback that is consistent with the existing streetscape. It does not infringe upon any of the rear or side boundary setback minimums sought by the Township Zone provisions and would be constructed with appropriate materials finished in colours that blend within the streetscape context. The proposal would minimise the impact on ‘amenity’ as sought by PO 22.2.

Finally, there is adequate private open space to the side and rear of the proposed dwelling, along with soft landscaping, car parking and access, and waste storage, ensuring the remaining relevant assessment criteria of the Design general development provisions are met.

#### Infrastructure and Renewable Energy Facilities

Desired Outcomes	
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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.
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<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>
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PO 11.2 & DPF 11.2; PO 12.1 & DPF 12.1; PO 12.2 & DPF 12.2
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The subject is connected to SA Water mains. A Wastewater Works Application has been approved by Council Environmental Health permitting connection of a septic tank to Council's Community Waste Management System.

#### Interface between Land Uses

<b>Desired Outcomes</b>
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DO1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.
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<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>
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PO 3.1 & DPF 3.1; PO 3.2 & DPF 3.2; PO 3.3
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As the proposed dwelling is of a single storey height with even cut and fill of the land, there would be no risk of the type of overshadowing which would be significantly detrimental to any neighbouring occupants.

#### Site Contamination

<b>Desired Outcomes</b>
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DO1	Ensure land is suitable for the proposed use in circumstances where it is, or may have been, subject to site contamination.
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<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>
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PO 1.1 & DPF 1.1
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While the subject land is currently vacant, it was created through a land division for residential purposes and has not been used for any other purpose since that time. As per *Practice Direction 14*, the proposed dwelling does not constitute a change to a more sensitive use.

#### Transport, Access and Parking

<b>Desired Outcomes</b>
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DO1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
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<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>
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PO 5.1 & DPF 5.1; PO 10.1
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The proposal includes off-street undercover parking for at least two vehicles, along with space for at least one additional vehicle outside cover.

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#### **CONSIDERATION OF SERIOUSLY AT VARIANCE**

The P & D Code envisages residential development in the Township Zone while also identifying potential infrastructure and amenity impacts that new dwellings must accord with through the relevant assessment policies. The preceding assessment demonstrates that the proposal is broadly consistent with all relevant Desired Outcomes and Performance Outcomes applicable to dwellings, fences, and retaining walls, and as such, is not considered to be seriously at variance with the provisions of the P & D Code.

#### **CONCLUSION**

The proposal is for a single storey detached dwelling with associated earthworks and retaining walls and fencing at 53 Moffett Street, Woodside. The subject land is located in the Township Zone, amongst existing residential land uses.

The proposal is considered a good example of dwelling development in the Township Zone, meeting its obligations in relation to boundary setbacks, building height, design (colour/materials selection), and overall character within the context of the locality. The subject land is already connected to SA Water mains, while approval has been granted by Council Environmental Health for septic tank connection to the Community Waste Management System.

Similarly, the proposal satisfies the other applicable provisions of the relevant overlays and general development policies of the Planning & Design Code, with no major 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 23037445 by Fairmont Homes for a Single storey detached dwelling and combined fence and retaining walls at 53 Moffett Street, Woodside 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 dwelling herein approved shall be as follows:

**WALLS:** Austral Bricks' Urban One 'Seed' with render in Colorbond 'Surfmist'  
**ROOF:** Colorbond 'Bluegum' or similar

- 3) The driveway cross-over shall be a maximum of 4m wide, and shall be constructed in accordance with Council Standard SD13. Joins between new concrete works and bitumen are to be crack sealed to avoid seepage.

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- 4) Prior to commencement of work, straw bales (or other soil erosion control methods as approved by Council) shall be placed and secured below areas of excavation and fill to prevent soil moving off the site during construction.**
- 5) 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.**
- 6) A supply of water independent of reticulated mains supply shall be available at all times for fire-fighting purposes:**
  - a minimum supply of 2,000 (two thousand) litres of water shall be available for fire-fighting purposes at all times; and**
  - the water supply shall be located such that it provides the required water; and**
  - the water supply shall be fitted with domestic fittings (standard household taps that enable an occupier to access a supply of water with domestic hoses or buckets for extinguishing minor fires); and**
  - the water supply outlet shall be located at least 400mm above ground level for a distance of 200mm either side of the outlet; and**
  - a water storage facility connected to mains water shall have an automatic float switch to maintain full capacity; and**
  - where the water storage facility is an above-ground water tank, the tank (including any support structure) shall be constructed of non-combustible material.**

### **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) 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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- 6) Management of the property during construction shall be undertaken in such a manner as to prevent denudation, erosion or pollution of the environment.
- 7) 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.
- 8) The Applicant's attention is drawn to the requirements of the Fences Act 1975 regarding notification of any neighbours affected by new boundary development or boundary fencing. Further information is available in the 'Fences and the Law' booklet available through the Legal Services Commission.

**OFFICER MAKING RECOMMENDATION**

**Name:** Sebastien Paraskevopoulos  
**Title:** Statutory Planner