

CAP MEETING – 10 APRIL 2024
ITEM 8.1

DEVELOPMENT NO.:	23015113
APPLICANT:	Michele Ronan
ADDRESS:	151 STOCK ROAD MYLOR SA 5153
NATURE OF DEVELOPMENT:	Change of use from dwelling to tourist accommodation and variation to Development Approval 18/481/473 to remove Condition 4
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Productive Rural Landscape <p>Overlays:</p> <ul style="list-style-type: none"> • Environment and Food Production Area • Hazards (Bushfire - High Risk) • Hazards (Flooding - Evidence Required) • Limited Land Division • Mount Lofty Ranges Water Supply Catchment (Area 2) • Native Vegetation • Prescribed Water Resources Area • State Significant Native Vegetation • Scenic Quality • Water Resources
LODGEMENT DATE:	30 May 2023
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	2023.6 - 27 April 2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Melanie Scott Senior Statutory Planner
REFERRALS STATUTORY:	Environment Protection Authority South Australian Country Fire Service
REFERRALS NON-STATUTORY:	Environmental Health

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DETAILED DESCRIPTION OF PROPOSAL:

The proposal is seeking a change of use from a dwelling to tourist accommodation and variation to Development Application 18/481/473 to remove of Condition 4 of the consent.

The following is a more detailed overview of the proposal:

- Change the use of an existing dwelling to tourist accommodation. The subject building is identified as 'Building A' on the proposal plans and was formerly the main residence on the land prior to the recent construction of a new dwelling that was approved under Development Application 18/481/473.
- The tourist accommodation contains two/three bedrooms for up to five people and will be offered on a temporary / short term basis of no more than 110 days per year (mostly weekends and public holidays). The accommodation will be managed by the owners and occupiers of the land.
- Variation to Development Application 18/481/473 to allow for the retention of the Building A on the site for tourist accommodation purposes. The variation comprises the removal of Condition 4 from the consent. The application was granted Development Approval on 4 January 2019, with Condition 4 requiring the demolition of an existing dwelling:

Condition 4

The existing dwelling on the land, identified on the site plan from Weeks Building Group drawing number SP01 Revision C dated 20 August 2018 shall be demolished within three (3) months of occupancy of the herein approved dwelling. Council shall be provided with a statement by the Applicant or owner within 14 days of occupancy advising the date occupancy of the new dwelling commenced. Occupancy is considered to have commenced when the owner/occupier has begun sleeping overnight within the dwelling on a consecutive or frequent basis.

- There are no changes to the existing vehicle access and car parking on the site. An existing driveway extends from Stock Road to the tourist accommodation building where there is one covered parking space under the main roof and room for at least one uncovered space adjacent to the building.
- Stormwater runoff will be directed to soakage trench on the northern side of the building. An existing 100,000L above-ground tank that is located between Building A and the existing dwelling will be used for fire-fighting purposes.

BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
Withdrawn 18 April 2023	22004734	Variation to development approval 473/481/18 to retain the existing second dwelling (not be demolished) and Change of Use to Tourist Accommodation
12 August 2022	22015046	Land Division (Boundary realignment) 2 into 2
29 June 2021	21006181	Above ground concrete water tank
Withdrawn 3 June 2021	20/148	Decommissioning of existing dwelling to farm building and home office/industry (non-complying)
4 January 2019	18/481	Demolition of existing dwelling and construction of split-level detached dwelling & associated earthworks

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20 March 2018	18/50	Farm Building
24 September 2008	08/D23	land division - boundary realignment (DAC relevant authority)
16 October 2007	07/382	Alterations and additions to existing dwelling
22 January 2007	06/1084	Farm building - shed (measuring 6m x 3.4m x 3m wall height)
14 December 2005	05/1112	Water storage tank (91 000 litres) and associated excavation
13 February 2004	03/1333	Domestic outbuilding - shed
24 February 2005	01/90026	The division of one allotment into two (non-complying)

SUBJECT LAND & LOCALITY:

Location reference: 151 STOCK ROAD MYLOR SA 5153

Title ref.: CT 6281/488 **Plan Parcel:** D131157 AL102

Site Description:

The subject land comprises a rural living allotment located at 151 Stock Road, Mylor.

The land is mostly a rectangle shape with a narrow 'handle' section of land that provides driveway access from Stock Road. The road frontage is approximately 26 metres wide, and the allotment has a depth of up to 425 metres and a total site area of 6.2 hectares. The land comprises a single allotment that is formally described as Allotment 102 in Deposited Plan 131157, Certificate of Title Volume 6281 Folio 488. There are no registered interests on the land title such as easements, encumbrances or Land Management Agreements.

There are three main buildings on the site; a recently constructed dwelling, an existing dwelling (Building A) that is the subject of this application, and a small cottage that is currently occupied by a family member. The cottage was formerly part of 2A Bandicoot Lane prior to a realignment of property boundaries that amalgamated the building with the subject land. There are also several ancillary buildings (i.e. sheds and rainwater tanks).

The main access on Stock Road provides two-way vehicle for an internal driveway that extends to the middle of the site and follows the western side boundary to Bandicoot Lane.

The land has an undulating topography with several depressions and a fall of some 55 metres from Stock Road to Bandicoot Lane.

There is considerable native vegetation on the site that surrounds cleared areas to the north, near existing buildings and along the internal driveway.

Locality

The locality has a semi-rural character with rural living being the predominant land use.

Allotments are as large as 8 hectares and as small as 2000m². Most allotments have limited productive value due to their small size, steep topography and dense native vegetation.

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Land to the north comprises densely vegetated rural living allotments of varying size. Land to the east is more heavily vegetated with fewer dwellings and other buildings. Immediately to the south fronting Stock Road is a series of small residential allotments of about 2000m². The largest rural living allotments are on the southern side of Stock Road and to the west.

The undulating land topography, dense stands of native vegetation and mostly inconspicuous buildings are notable features of the locality.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Change of Use
Tourist Accommodation
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

- **REASON**

The proposed tourist accommodation does not satisfy DPF 6.3 (a) of the Productive Rural Landscape Zone as the land is not use for primary production.

Public Notification period – 8 January 2024- 29 January 2024

- **LIST OF REPRESENTATIONS**

Four (4) representations were received during the notification period with three opposing the proposed development and one in support. The three representors opposing the development have requested to be heard by the Panel.

Representor Name	Representor's Property Address	Wishes to be heard (Y/N)	Nominated Speaker (if relevant)
Craig Lock	169 Stock Road Mylor	Yes	Self
Benjamin Wallace	167 Stock Road Mylor	No	Na
Mattis Vanzati	2A Bandicoot Lane Mylor	Yes	Self
Matthew Thomas	149 Stock Road Mylor	Yes	Self

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- **SUMMARY**

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

- Increased traffic
- Traffic safety concerns
- Headlight glare from vehicles accessing the site
- Loss of privacy
- Concerns that the building will be used as a long-term rental property
- Future land use intensification
- Nuisance from dust and noise
- The accommodation will enhance the region's tourism potential and contribute significantly to the economic growth of local businesses and communities
- The development will contribute to sustainable and responsible tourism, ensuring the long-term prosperity of the Adelaide Hills as a sought-after destination

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

AGENCY REFERRALS

- **EPA**
No objection, with conditions.
- **South Australian Country Fire Service**
No objection, with conditions.

INTERNAL REFERRALS

- **Environmental Health Department:**
Council Environmental Health Department approved a wastewater application on 22 June 2023 (W106/23).

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.

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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**.

Zone:

Productive Rural Landscape Zone

Desired Outcomes	
DO1	A diverse range of land uses at an appropriate scale and intensity that capitalise on the region's proximity to the metropolitan area and the tourist and lifestyle opportunities this presents while also conserving the natural and rural character, identity, biodiversity and sensitive environmental areas and scenic qualities of the landscape.
DO2	A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the sale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes its regional identity.
DO3	Create local conditions that support new and continuing investment while seeking to promote co-existence with adjoining activities and mitigate land use conflicts.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 2.1, 6.3, and 8.1	
DPFs: 1.1, 2.1, 6.3 and 8.1	

Desired Outcome (DO) 1 and 2 of the Productive Rural Landscape Zone are seeking a diverse range of land uses that promote primary production activities and associated value adding uses while maintaining the natural and rural character. PO 1.1 reinforces the retention of rural land for a range of primary production and horticultural activities and opportunities for associated value adding, such as retailing and tourism.

The subject land is a rural living allotment of approximately 6.2 hectares. The land has not been used for primary production and is considered to have limited productive value due to the relatively small allotment size, steep topography and stands of native vegetation.

The proposal is seeking to retain an existing dwelling and change its use to tourist accommodation. The existing dwelling was required to be decommissioned and demolished as a condition when a new dwelling was approved for the site. This requirement was based on the policies of the former Development Plan that sought to restrict residential development to only one dwelling per allotment.

The proposed tourist accommodation will comprise two/three bedrooms for up to five people. The applicant has confirmed that the accommodation will be offered on a temporary / short term basis of no more than 110 days per year (mostly weekends and public holidays) and will be managed by the current owners and occupiers of the land. The existing building has a modest floor area of 115m² (excluding the carport), is well removed from property boundaries and will require only minor internal alterations. The accommodation is therefore small-scale and of low intensity.

DPF 1.1 of the Zone identifies 'tourist accommodation' as an envisaged land use. DPF 1.1 also lists other preferred land uses for the zone, which include more intensive uses such as a shop, industry and transport distribution. The small-scale and low intensive nature of the proposed accommodation is considered far more complementary than these preferred land uses, which are likely to have greater external impacts and demands on services and infrastructure.

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While there is a preference for tourist accommodation to be associated with primary production as recommended by PO 1.1 and 6.3 of the Zone, the steep topography of the land and existing native vegetation limit the opportunity for primary production. This will not undermine the intent of the Zone, particularly given that the floor area of the accommodation is consistent with DPF 6.3(b) and the proposal will not result in more than one tourist accommodation facility on the site as required by DPF 6.3(c).

PO 8.1 of the Zone is also satisfied as the proposal will involve the adaptive reuse of an existing building.

The proposed tourist accommodation will also cater to the needs of visitors and contribute positively to the local economy. DO 1 and PO 1.1 (Tourist Development) are therefore satisfied.

For the above reasons, the proposed development is of an appropriate scale and intensity that would conserve the natural and rural character of the area while also making a positive contribution to the local tourism economy by catering to the needs of visitors. On balance, the DO 1 and PO 1.1 and 6.3 of the Productive Rural Landscape Zone and DO 1 and PO 1.1 of the General Policies (Tourism Development) are reasonably satisfied.

Overlays

Hazards (Bushfire- High Risk) Overlay

Desired Outcomes	
DO1	Development, including land division is sited and designed to minimise the threat and impact of bushfires on life and property with regard to the following risks: a) potential for uncontrolled bushfire events taking into account the increased frequency and intensity of bushfires as a result of climate change b) high levels and exposure to ember attack c) impact from burning debris d) radiant heat e) likelihood and direct exposure to flames from a fire front.
DO2	Activities that increase the number of people living and working in the area or where evacuation would be difficult is sited away from areas of unacceptable bushfire risk.
DO3	To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 2.1, 3.1, 4.1, 4.2, 4.3, 6.1 and 6.2	
DPFs: 4.1, 6.1 and 6.2	

The application has been referred to the South Australian Country Fire Service (CFS) as the subject land is located within a High Bushfire Risk Area and comprises the use of a building for habitable purposes. The CFS is supportive of the proposal subject to several conditions of consent relating to water supply, vehicle access and the maintenance of an Asset Protection Zone. These conditions of consent do not pose any complications for the development.

The subject building is located in the area that is clear of any hazardous vegetation and is constructed of materials that meet the relevant Building Code standards with respect to building fire safety. It is also noted that an existing 100,000L above-ground tank located between Building A and the existing dwelling will be used for fire-fighting purposes. The proposal is consistent with PO 1.1, 2.1, 4.2 and 4.3 of the Overlay.

The CFS is also satisfied that a fire-fighting vehicle will be able to enter and exit the site in a forward motion via the existing access point on Stock Road and the internal driveway. PO 6.1 and 6.2 are satisfied.

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Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay

Desired Outcomes	
DO1	Safeguard Greater Adelaide's public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from secondary reservoirs or diversion weir catchments from the Mount Lofty Ranges.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 1.2, 2.5, 3.2, 3.3 and 4.1	
DPFs: 1.2, and 2.5	

DO 1 of the Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay is seeking the protection of public water supply in the Watershed area.

The application has been referred to the Environment Protection Authority (EPA) as the proposal involves an activity that will generate wastewater, which has the potential to pollute the catchment (i.e. an activity of environmental significance). The EPA is satisfied with the proposed wastewater system, noting also that Council Environmental Health Department has approved a wastewater application. Wastewater application W106/23 has been approved to connect the existing buildings on site to one wastewater system in line with DPF 2.1(d) of this overlay.

Given the suitability of the wastewater system and the sensitive nature of the proposed use (i.e., akin to a dwelling), the proposal will not result in any negative impacts on the water quality within the catchment area. The proposal is therefore consistent with DO 1 and the relevant POs of the Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay.

Native Vegetation Overlay

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

This proposal does not include the removal of any native vegetation as the subject building is existing and will continue to utilise an existing driveway. The applicant has also provided a Native Vegetation Declaration advising that the proposal will not impact on vegetation. The proposal is therefore consistent with DO 1 and PO 1.1.

Water Resources Overlay

Desired Outcomes	
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.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 1.2, 1.5 and 1.7	
DPFs: 1.5	

There is a watercourse that traverses the site between the new dwelling and the southern boundary. This watercourse is well removed from the proposed tourist accommodation and will not be affected in any way.

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The proposal includes a stormwater soakage trench and an upgraded wastewater system that are located at least 185 metres from the watercourse, thus having no adverse impact.

The proposal is consistent with the Water Resources Overlay.

General Development Policies

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 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 c) 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: 6.1 and 8.1 DPFs: 6.1 and 8.1	

As the proposal does not include any external alterations to the existing building, the external appearance of the building will not change.

A new/upgraded wastewater system is to be provided for the tourist accommodation that will connect into the existing dwelling and cottage and include an irrigation area near the recently constructed dwelling. The new system has been approved by Council's Environmental Health Department and the EPA and will not conflict with any existing private open space, driveways or car parking areas. PO/DPF 6.1 (Design) is satisfied.

As the proposal will utilise an existing building and associated driveway and car parking areas, there is no need for any earthworks. PO/DPF 8.1 (Design) is satisfied.

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: DPFs:	

DO1 (Interface between Land Uses) seek to ensure that new development is operated in a manner that adequately protects the amenity of the locality.

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The representors are concerned that their amenity will be adversely impacted by the development due to increased traffic and associated dust and noise, a loss of privacy and the potential for the long-term occupation of the accommodation.

The proposed tourist accommodation will have a capacity for no more than five guests and the applicant has confirmed that it will be offered on a temporary / short term basis of no more than 110 days per year. The proposed accommodation is akin to a residential land use and the noise generation from such a small number of guests would be negligible. It is acknowledged that the proposal will generate additional traffic to the site, however it is likely to result in two or three additional vehicles accessing the site if at full capacity, which makes the proposed development a low traffic generator. The small amount and infrequent nature of the additional traffic, the provision of an all-weather surface for the driveways and the siting of the accommodation well away from property boundaries will ensure the amenity and enjoyment of existing properties in the locality will not be detrimentally impacted.

Similarly, the privacy of the representors (and that of other nearby properties) will not be impacted as the existing building is single storey and is setback 30 metres from the nearest boundary that is to the east. It is noted also that the building has existed for many years and was formerly the main residence, thus the status quo will be maintained. PO 10.1 and 10.2 (Design) are satisfied.

Accordingly, it is considered that the proposal would not adversely impact upon the amenity of nearby sensitive uses by way of noise, light spill, traffic or loss of outlook and privacy. DO 1 (Interface between Land Uses) and PO 2.1 and 3.2 (Tourist Development) are reasonably satisfied.

Transport, Access and Parking

Desired Outcomes	
DO1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.4, 3.1, 3.5, 4.1, 5.1, 6.1 and 6.2	
DPFs: 1.4, 3.1, 3.5, 5.1 and 6.1	

The proposal will utilise an existing vehicle access on Stock Road. An existing driveway extends from Stock Road to the tourist accommodation building where there is one covered parking space under the main roof and room for at least one uncovered space adjacent to the building.

The representors are concerned that the existing access point will not cater for safe access due to increased traffic movements from the tourist accommodation. Given the width of the access point and small amount of additional traffic generation, the existing access point will continue to provide safe and convenient access in accordance with PO 2.1, 3.1, 3.3 and 3.4 (Transport, Access and Parking).

Table 1 - General Off-Street Car Parking Requirements prescribes a parking rate of 1 space per tourist accommodation unit. The existing car parking provision for the proposed accommodation satisfies PO/DPF 5.1 (Traffic, Access and Parking).

Accordingly, the low levels of traffic generated by the development and the adequate provision of on-site car parking will ensure the proposal would not lead to conditions detrimental to the free flow and safety of vehicular traffic on the surrounding road network. The relevant provisions of the General Section (Transport, Access and Parking) have been satisfied.

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CONSIDERATION OF SERIOUSLY AT VARIANCE

Having considered the proposal against the relevant provisions of the Planning and Design Code version 2023.6 - 27 April 2023, the proposal is not considered to be seriously at variance with the provisions of the Planning and Design Code for the following reasons:

- Tourist accommodation is an envisaged land use in the Productive Rural Landscape.
- The small-scale and low intensive nature of the proposed tourist accommodation will not undermine existing or desirable uses in the Zone.
- The proposal will involve the adaptive reuse of an existing building.
- The proposed tourist accommodation will cater to the needs of visitors and contribute positively to the local economy.
- It has been reasonably demonstrated that the proposal would not adversely impact upon the amenity of nearby sensitive uses.
- The development includes safe and convenient access and adequate car parking.

CONCLUSION

The subject land is a rural living allotment that is situated within Productive Rural Landscape Zone.

The retention of an existing dwelling for use as tourist accommodation is an envisaged form of development from a land use perspective, particularly given the small-scale and low intensive nature of the proposed accommodation. Although the tourist accommodation is not associated with any primary production, this will not undermine the intent of the Zone as the land has limited productive value due to the relatively small allotment size, steep topography and existing native vegetation.

The proposed tourist accommodation will also cater to the needs of visitors and contribute positively to the local economy without undermining the land use intent of the zone or the area's natural and rural character.

It has been demonstrated that adequate provisions are made for vehicle access and car parking, wastewater management and bushfire safety, and that impacts on the amenity of surrounding properties would not be significant.

Accordingly, the proposal would reasonably achieve the Desired and Performance Outcomes for the Productive Rural Landscape Zone, the relevant Overlays and General Provisions of the Code and warrants the granting of Planning Consent subject to conditions.

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 23015113 by Michele Ronan for a change of use from dwelling to tourist accommodation and variation to Development Approval 18/481/473 to remove Condition 4 at 151 Stock Road Mylor is GRANTED Planning Consent subject to the following conditions:**

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CONDITIONS

Planning Consent

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.**
- 2) The applicant, owner and/or other person(s) making use of the subject land shall maintain the site in good condition at all times, including all buildings and structures, car parking areas, driveways and landscaping, and ensure that all activities on the site are in accordance with the approved documentation to the reasonable satisfaction of Council.**
- 3) The use of the tourist accommodation approved herein approved shall be restricted to tourist accommodation only with no permanent residential use being permitted at any time.**
- 4) The accommodation shall be occupied for no more than 110 days per calendar year with a log of all visitors to the accommodation to be kept and made available to Council upon request.**
- 5) The tourist accommodation approved herein and any associated activities shall be managed and conducted at all times in a manner as to cause no undue nuisance or adverse effect to any neighbouring landowners or to other land uses within the locality.**
- 6) All external lighting associated with the depot use shall be restricted to that necessity for security purposes only and shall be directed away from residential development and, shielded if necessary to prevent light spill causing nuisance to the occupiers of nearby residential properties.**
- 7) All stormwater infrastructure shall be installed within 3 months of Development Approval being granted. All roof run-off generated by the development hereby approved shall be managed on-site to the satisfaction of Council using design techniques such as:**
 - Rainwater tanks**
 - Grassed swales**
 - Stone filled trenches**
 - Small infiltration basins**

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

Conditions imposed by the Environment Protection Authority under Section 122 of the Act

- 8) The on-site wastewater system must be installed in accordance with the Site and Soil Assessment Report prepared by Seed Enterprises, dated 6 October 2023, which includes the following:**
 - a) Installation of an Ozzi Kleen RP10A+ system;**
 - b) Construction of a 312m² irrigation area, to be located more than 50m from the nearest watercourse, dam or bore, more than 1.2m from the seasonal groundwater table, on a slope less than 20% and not in the 10% AEP flood zone;**
 - c) Vegetating the irrigation area with rye grass and regularly mowing the grass to ensure optimal growth rates and therefore nutrient uptake; and**
 - d) Bunding to direct surface runoff away from the irrigation area and creating a bund downhill to prevent any run-off, from over-irrigation, moving off site.**

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

9) The 'Planning and Design Code' Hazards (Bushfire – High Risk) Overlay (Performance Outcome 3.2) details the mandatory requirements for extensions to buildings, outbuildings and other ancillary structures are sited and constructed using materials to minimise the threat of fire spread to residential and tourist accommodation (including boarding houses, hostels, dormitory style accommodation, student accommodation and workers' accommodation) in the event of bushfire.

- Outbuildings and other ancillary structures shall be sited no closer than 6m from the habitable building, unless built to relevant building standards for associated structures in Bushfire Prone Areas. This includes future structures which may or may not require planning and/or building consent including (but not limited to) garden sheds, cubby houses and animal shelters.

10) ACCESS TO HABITABLE BUILDING

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

SA CFS has no objection to utilising the existing access driveway as detailed on drawing named SITE PLAN dated at last revision 19/09/2023 and upgraded, where necessary, to comply with the following conditions:

- The driveway shall be connected to a formed, all-weather public road with the transition area between the road and driveway having a gradient of not more than 7 degrees (1-in-8).
- Access to the building site shall be of all-weather construction, with a minimum formed road surface width of 3 metres and must allow forward entry and exit for large fire-fighting vehicles, to within 60m of the furthest point of the building. Where the gradient of the driveway is steeper than 12 degrees (1-in-4.5) the minimum formed road surface shall be 4 metres.
- The all-weather road shall allow fire-fighting vehicles to safely enter and exit the allotment in a forward direction by incorporating either –
 1. A loop road around the building, OR
 2. A turning area with a minimum radius of 12.5 metres, OR
 3. A 'T' or 'Y' shaped turning area with a minimum formed length of 11 metres (for each 'leg') and minimum internal radii of 9.5 metres OR
 4. A 'U' shaped 'drive-through' option.
- Private access shall have minimum internal radii of 9.5 metres on all bends.
- Private access shall provide overhead clearances of not less than 4.0m horizontally and vertically between the driveway surface and overhanging branches or other obstructions, including buildings and/or structures.
- Vegetation to be established along the access road shall be carefully selected and designed in accordance with the following:
 1. No understorey vegetation shall be established either side of the access road (understorey is defined as plants and bushes up to 2 metres in height).
 2. Grasses shall be reduced to a maximum height of 10cm for a distance of 3 metres (or to the property boundary, whichever comes first).
 3. Mature trees with a single stem habit, are permitted within this fuel reduced zone, providing they are maintained to achieve a minimum vehicular clearance of not less than 4 metres in width and a vertical height clearance of 4 metres.

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- The all-weather road shall incorporate passing bays. The combined width of the passing bay and access track shall be 6 metres, and a minimum formed length of 17 metres. The passing bays should be constructed at 200 metre intervals along the road or driveway.
- The gradient of the access road shall not exceed 16 degrees (1-in-3.5) at any point along the driveway. In steep terrain exceeding 10 degrees (1-in-5.5) the surface should be sealed.
- The cross fall of the driveway shall be not more than 6 degrees (1-in-9.5) at any point along the driveway. In steep terrain roads shall be widened and appropriate guard rails and visibility markers should be installed on sides where a steep downslope is present.
- The all weather road is to be constructed such that it is protected from water erosion of the traffic surface. The road surface shall be profiled to manage storm water run off to appropriate drains, at one or both sides of the traffic surface. The accumulated volumes of water shall be directed via:
 1. Open drains; or
 2. Culverts and pipes under the traffic surface, and / or away from same, without causing further soil erosion, silting of adjacent areas or water courses or instability of any embankment or cutting.

11) WATER SUPPLY & ACCESS (to dedicated water supply)

Ministerial Building Standard MBS008 “Designated bushfire prone areas - additional requirements” 2020, as published under the Planning, Development and Infrastructure Act 2016, provides the technical details of the dedicated water supply for bushfire fighting for the bushfire zone. The dedicated bushfire fighting water supply shall also incorporate the installation of a pumping system, pipe work and fire-fighting hose(s) in accordance with MBS008.

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

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

SA CFS has no objection to the location of the existing dedicated water supply as detailed on drawing named SITE PLAN dated at last revision 19/09/2023, providing the outlet is positioned remotely to comply with the following conditions:

- The water supply outlet shall be easily accessible and clearly identifiable from the access way and is no greater than 60m path of travel to the furthestmost point of the building, to enable fire services to reach all parts of the building with no more than two lengths of hose from the hardstand area.
- The dedicated water supply and its location should be identified with suitable signage (i.e. blue sign with white lettering “FIRE WATER”).
- Access to the dedicated water supply shall be of all-weather construction, with a minimum formed road surface width of 3 metres.
- Provision shall be made adjacent the water supply for a nominally level hardstand area (capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes) that is a distance equal to or less than 6 metres from the water supply outlet.
- SA CFS appliance’s inlet is rear mounted; therefore the outlet/water storage shall be positioned so that the SA CFS appliance can easily connect to it rear facing.
- A gravity fed water supply outlet may be remotely located from the above ground tank to provide adequate access.
- All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.

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- All water supply pipes for draughting purposes shall be capable of withstanding the required pressure for draughting.
- The minimum water supply required may be combined with domestic use, providing the outlet for domestic use is located above the dedicated fire water supply (in order for it to remain as a dedicated supply).

12) MAINTAIN AN ASSET PROTECTION ZONE (APZ) - VEGETATION MANAGEMENT

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

An APZ shall be implemented and maintained in line with the vegetation management conditions below

- Vegetation management shall be established and maintained within 20 metres of the habitable building (or to the property boundaries – whichever comes first) as follows:
 1. The number of trees and understorey plants existing and to be established within the APZ shall be reduced and maintained such that when considered overall a maximum coverage of 30% is attained, and so that the leaf area of shrubs is not continuous. Careful selection of the vegetation will permit the 'clumping' of shrubs where desirable, for diversity, and privacy and yet achieve the 'overall maximum coverage of 30%'.
 2. Reduction of vegetation shall be in accordance with SA Native Vegetation Act 1991 and SA Native Vegetation Regulations 2017.
 3. Trees and shrubs shall not be planted closer to the building(s) than the distance equivalent to their mature height.
 4. Trees and shrubs must not overhang the roofline of the building, touch walls, windows or other elements of the building.
 5. Shrubs must not be planted under trees and must be separated by at least 1.5 times their mature height from the trees' lowest branches.
 6. Grasses within the zone shall be reduced to a maximum height of 10cm during the Fire Danger Season. 7. No understorey vegetation shall be established within 2 metres of the habitable building (understorey is defined as plants and bushes up to 2 metres in height).
 7. Flammable objects such as plants, mulches and fences must not be located adjacent to vulnerable parts of the building such as windows, decks and eaves.
 8. The APZ shall be maintained to be free of accumulated dead vegetation.
- A single row of trees or shrubs are permitted closer to the building than their mature height for screening purposes, providing they are not connected to other hazardous vegetation, are not within close proximity of timber building elements, windows and doors and do not touch or overhang any part of the building. Screening plants should have low flammability characteristics, be kept in optimum health, pruned regularly and any dead vegetation removed.

ADVISORY NOTES

General Notes

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

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- 2) Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
- 3) This Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.
- 4) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).

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

- 5) The applicant/owner/operator are reminded of its general environmental duty, as required by section 25 of the Environment Protection Act 1993, to take all reasonable and practicable measures to ensure that activities on the site and associated with the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm.
- 6) More information about the Environment Protection Authority and the Environment Protection Act and policies can be found at: www.epa.sa.gov.au

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

7) BUILDING CONSIDERATIONS

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

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

A site Bushfire Attack Level (BAL) assessment was conducted in accordance with the NCC and Australian Standard™3959 (AS3959) “Construction of Buildings in Bushfire Prone Areas”.

Category of Bushfire Attack Level: BAL 19

This BAL rating is conditional upon the establishment and maintenance of a 20 metre Asset Protection Zone, in accordance with the Asset Protection Zone – Vegetation Management condition of consent placed on the planning consent with the same application reference.

This result is considered relevant at the date of assessment with respect to the elevations detailed on proposed Site Plan, dated 19/09/2023 and shall not be considered as SA CFS endorsement of any subsequent development.

OFFICER MAKING RECOMMENDATION

Name: Melanie Scott
Title: Senior Statutory Planner

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DEVELOPMENT NO.:	22042859
APPLICANT:	Van Nguyen
ADDRESS:	3 SPRING GULLY RD ROSTREVOR SA 5073
NATURE OF DEVELOPMENT:	Three storey detached dwelling, deck, swimming pool and associated safety barriers, and retaining walls
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Hills Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Affordable Housing • Hazards (Bushfire - Urban Interface) • Hazards (Flooding - Evidence Required) • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy • Water Resources <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height (Metres) (Maximum building height is 8m) • Maximum Building Height (Levels) (Maximum building height is 2 levels) • Gradient Minimum Frontage (Detached) (Minimum frontage for detached dwellings where the site gradient is less than 1-in-8 is 20m; 1-in-8 to 1-in-4 is 20m; greater than 1-in-4 is 20m) • Gradient Minimum Frontage (Semi-detached) (Minimum frontage for semi-detached dwellings where the site gradient is less than 1-in-8 is 18m; 1-in-8 to 1-in-4 is 18m; greater than 1-in-4 is 18m) • Gradient Minimum Site Area (Detached) (Minimum site area for detached dwellings where the site gradient is less than 1-in-8 is 1000sqm; 1-in-8 to 1-in-4 is 1000sqm; greater than 1-in-4 is 1000sqm) • Gradient Minimum Site Area (Semi-detached) (Minimum site area for semi-detached dwellings where the site gradient is less than 1-in-8 is 850sqm; 1-in-8 to 1-in-4 is 850sqm; greater than 1-in-4 is 850sqm)
LODGEMENT DATE:	19 Jan 2023
RELEVANT AUTHORITY:	Assessment Panel
PLANNING & DESIGN CODE VERSION:	2022.24 – 22 December 2022
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Darren Smith – Statutory Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Engineering Arboriculture

CONTENTS:

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

DETAILED DESCRIPTION OF PROPOSAL:

The proposal is for the construction of a three storey detached dwelling with a deck, swimming pool and safety barriers and associated earthworks, retaining walls and landscaping.

The proposed dwelling is designed with a modern architectural style and form. The facades are highly articulated with feature gables, horizontal and vertical fenestration and a main gable roof. A ground level terrace extends over a semi-basement garage. The external material palette includes a mix of feature stone, brick wall cladding in earthy colour tones, terra cotta roof tiles, aluminium frame windows and doors.

The dwelling has a basement level that is cut into the site and retained on both sides, with two main living levels above. The maximum height of the dwelling above the existing ground level is approximately 9 metres.

The front of the dwelling is setback between 15 and 20 metres from the road boundary due to the angled configuration of the dwelling and the front boundary. The sides of the dwelling are setback at least 2 to 4 metres at the ground and upper levels while the rear of the dwelling is setback between 4 to 8 metres from the rear boundary.

Retaining walls are to be provided along sections of the side boundaries and internally at the front to stabilise the cut and fill associated with the basement garage and to the rear to provide a ground level terrace. The internal retaining walls will be up to 4 metres in height.

The proposal also includes a lap swimming pool that integrates with the front of the dwelling.

The proposal had originally sought for a dwelling larger than what is currently being sought, noting that upon receiving the representations after the public notification period the applicant has revised their proposal. Within the revised proposal the applicant sought for the dwelling to be sunken into the ground in an attempt to lessen the visual impact generated by the previous iterations size, height, and presence from the street frontage.

BACKGROUND:

APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
01/882/473	Alterations and additions to detached dwelling
98/1084/473	Alterations and additions to detached dwelling - LAPSED
98/256/473	Garage

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SUBJECT LAND & LOCALITY:

Location reference: 3 SPRING GULLY ROAD ROSTREVOR SA 5073

Title ref.: CT 5322/771 **Plan Parcel:** D44714 AL10 **Council:** ADELAIDE HILLS COUNCIL

Site Description:

The subject land comprises a single allotment located at 3 Spring Gully Road, Rostrevor.

The land is mostly a rectangle shape with a frontage width of 30.7 metres, a depth of up to 34.4 metres and a total site area of 989m². It is noted that there are no encumbrances or Land Management Agreements affecting the land. There is one easement that runs along the length of the western boundary.

The site is currently vacant except form some sporadic vegetation.

The site is naturally sloping with a rise of approximately 10 metres from the road to the rear south-eastern corner of the site.

There is one mature tree on the site, which is considered to constitute a significant tree, and some dense shrubbery adjacent to the road frontage.

Locality

The locality is entirely residential in land use and built form character. Existing residential development comprises both single and two storey detached dwellings on typically large allotments of 1000m² or more.

The local area is characterised by mixed building styles and large buildings of generous proportions. New modern infill development with large-scale buildings and retaining walls are evident within the locality.

Street boundary setbacks vary considerably due to the sloping topography of the land and irregular allotment pattern.

The elevated land with distant views of the city and existing trees and gardens are notable features of the locality.

The locality has a pleasant living environment that is of high amenity.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
 - Fences and walls
 - Swimming pool, spa pool or associated safety features: Code Assessed - Performance Assessed
 - Other - Residential - Deck: Code Assessed - Performance Assessed
 - Detached dwelling: Code Assessed - Performance Assessed
 - Retaining wall: Code Assessed - Performance Assessed
 - New housing

- **OVERALL APPLICATION CATEGORY:**
 - Code Assessed - Performance Assessed

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- **REASON**

P&D Code; All elements are to be treated as Performance Assessed development

PUBLIC NOTIFICATION

- **REASON**

The proposal has a building height in excess of 8 metres – Table 5 of the Hills Neighbourhood Zone.

Public Notification period – 26 October to 15 November 2023

- **LIST OF REPRESENTATIONS**

Eight (8) representations were received during the notification period with five opposing the proposed development and three in support but with some concerns. Three (3) representors opposing the development have requested to be heard by the Panel.

Representor Name	Representor's Property Address	Wishes to be heard (Y/N)	Nominated Speaker (if relevant)
Carmel Simpson	8 Spring Gully Rd ROSTREVOR	No	N/A
Dorothy Driver	PO Box 3045 NEWTON	Yes	Self
Janet Webb	4 Spring Gully Road ROSTREVOR	No	N/A
Heath Perry	5 Spring Gully Road ROSTREVOR	Yes	Self
Jsun Teck Wong	7 Spring Gully Rd ROSTREVOR	No	N/A
Mark and Tracy Schneider	9 Spring Gully Road ROSTREVOR	No	N/A
Li Hui Lim	7 Spring Gully Rd ROSTREVOR	No	N/A
Samantha Constantinou	1 Spring Gully Road ROSTREVOR	Yes	Self

- **SUMMARY**

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

- Excessive building height
- Loss of privacy
- Impact on neighbourhood character
- Loss of views
- Overshadowing impacts
- Loss of vegetation

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

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AGENCY REFERRALS

No agency referrals were required.

INTERNAL REFERRALS

- **Engineering**

Council's Technical Officer has reviewed the proposed stormwater management plan and notes that they have no objections to the documents provided noting:

1. 258m² of roof stormwater is to be directed to a minimum 5921L detention tank with a restricted discharge of 1.54 L/sec via a 25mm orifice.
2. 329m² of surface stormwater is to be directed to a minimum 9800L detention tank with a restricted discharge of 1.07 L/sec via a dual pump system.
3. Stormwater discharge is to Council verge, scour protection is required at the discharge point to prevent erosion.

- **Arboriculture**

Council's arboriculture officer supports the findings detailed within the arboriculture report. The report is comprehensive and provides adequate assessment and consideration to both the proposed development actions and surrounding environmental conditions. Please stipulate that a project Arborist be engaged by the applicant to ensure compliance of tree protection plan (as listed in the report) is implemented, maintained and reported upon.

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**.

Zone:

Hills Neighbourhood Zone

Desired Outcomes	
DO1	Development provides a complementary transition to adjacent natural and rural landscapes. Low density housing minimises disturbance to natural landforms and existing vegetation to mitigate the visible extent of buildings, earthworks and retaining walls.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 3.1, 4.1, 5.1, 7.1, 8.1, 9.1, 10.1, 10.2, 11.1 and 11.2	
DPFs: 1.1, 3.1, 4.1, 5.1, 7.1, 8.1, 9.1, 10.1, 10.2	

The proposal comprises the construction of a new three storey detached dwelling on a vacant parcel of land.

The subject land is situated within the Hills Neighbourhood Zone of the Code. DO 1 and PO 1.1 of the Zone seek low-density housing that minimises disturbance to the natural landform and is compatible with the local character. It is noted that the proposal includes a large-scale building and significant earthworks, particularly at the front of the site to accommodate driveway access, a new basement garage and ground level terraces. While the built form and the associated earthworks will alter the natural landform, the resulting impact would not detract from the local context given that the locality has a suburban character that is derived from buildings of significant scale and exposed retaining walls.

Given the existing character of the locality and suitability of the proposed building design as considered below, the proposal is a form of development that is sufficiently compatible with the local context and therefore satisfies the intent of DO 1 and PO 1.1 of the Hills Neighbourhood Zone.

The proposed dwelling is designed with a modern architectural style and form that features articulated facades with feature gables, horizontal and vertical fenestration and a main gable roof. A ground level terrace extends over a semi-basement garage. The external material palette includes a mix of feature stone, brick and timber wall cladding in earthy colour tones, aluminium frame windows and doors and terra cotta roof tiles.

DO 1, PO 10.1 and 10.2 of the Hills Neighbourhood Zone do not discourage modern building designs, but rather seek to ensure that building designs adopt measures to minimise bulk and scale. These measures may include stepping in the design, the provision of quality vegetation and the setting back of upper levels from front and side boundaries. The proposed dwelling is bold and unique in its design. Rather than stepping the built form with split levels to break-down the building volume and mass, the design focusses on other effective techniques such as:

- Favouring cutting into the land rather than filling, so that the appearance of the dwelling is minimised from the streetscape;
- The upper (third) level being located within the proposed roof form to give the dwelling a two-storey appearance;
- The front and side walls are staggered and well-removed from their respective boundaries to provide the necessary spatial separation; and
- Retaining walls and landscaping that integrate with built form at ground level.

These design techniques are considered to minimise the perceived building mass while providing visual interest without compromising the design intent, which is a unique building of high-quality.

In terms of building height, DPF 4.1 of the zone recommends a maximum height of 8 metres and two building levels. While the front sections of the dwelling are approximately 9 metres in height, most of the dwelling is around 8 metres above natural ground level. The building height is reasonable in this instance given the significant front boundary setbacks and the pitched roof form. The building height is also consistent with other large dwellings within the locality.

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It should also be noted that the basement/garage level and the main level are relatively obvious at first glance, however the upper storey or third level is contained within the roof form, thus giving the building the appearance of a two-storey dwelling. This assists in making the dwelling consistent in appearance with others in the immediate locality.

For the above reasons, the size, scale and modern design of the dwelling is not at odds with the local context, which is characterised by large buildings of generous proportions and varying architectural styles.

It is noted also that the representations have not raised any concerns with the modern appearance of the proposed dwelling. With the third level contained within the roof form, it is considered that their concerns with the building height and scale have been satisfactorily addressed.

The front of the dwelling is setback between 15 and 20 metres from the road boundary due to angled design of the dwelling and the alignment of the front boundary. The front setbacks are consistent with those of the adjacent buildings to the west and east. The siting of the dwelling will maintain the existing streetscape pattern in accordance with the PO/DPF 5.1 of the Zone.

The sides of the dwelling are setback at least 2 to 4 metres at the ground and upper levels. PO/DPF 8.1 of the zone recommends a minimum side boundary setback of at least 1.9 metres to the side boundaries and 3.9 metres to the southern boundary. The side setbacks exceed 1.9 metres and only small sections of the upper storey will be setback less than 3.9 metres from southern boundary with most of the south-facing walls setback 4 metres or more.

The rear of the dwelling is setback a minimum of 4 to 7 metres from the rear boundary and satisfies PO/DPF 9.1 of the zone.

PO 11.3 of the Hills Neighbourhood Zone requires retaining walls to be low and preferably screened by landscaping to minimise their visual impact. DPF 11.3 is seeking a maximum retaining wall height of 1.5 metres or no higher than one metre where more than 1.5 metres of land is being retained.

Retaining walls are to be provided along sections of the side boundaries and internally at the front to stabilise the cut and fill associated with the basement garage and to the rear to provide a ground level terrace. The retaining walls along the southern boundary will have minimal impacts as the adjoining land on this side is higher than the subject land.

The internal retaining walls at the front of site will be up to 4 metres in height. Although the walls are taller than 1.5 metres, their visual impact would be minimised by their setback from the road and positioning well above the road level. The walls are also designed to integrate with the dwelling at ground level.

On balance, the extent of the proposed earthworks and the height retaining walls and fencing would satisfy the intent of PO 11.3 and the Desired Outcome of Hills Neighbourhood Zone.

Overlays

Affordable Housing Overlay

Desired Outcomes	
DO1	Affordable housing is integrated with residential and mixed use development.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs:	
DPFs:	

The proposal does not include any affordable housing and therefore this overlay is not deemed to be relevant to the assessment of the subject application.

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Regulated and Significant Tree Overlay

Desired Outcomes	
DO1	Conservation of regulated and significant trees to provide aesthetic and environmental benefits and mitigate tree loss
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.2, 2.1	
DPFs: 1.2, 2.1	

The proposed dwelling is sought to be constructed within close proximity to an existing significant sized Eucalyptus Microcarpa (*Grey Box*). Initially the proposal sought to remove the subject tree on site however the applicant has since produced an arboricultural report which has determined that with proper construction methods and consideration that the subject tree will not be impacted by the proposed dwelling or any of the ancillary building works sought as a part of this application. Compliance with PO 1.2 of the overlay is therefore deemed to have been achieved.

PO 2.1 of the overlay seeks for regulated and significant trees and their root system to not be unduly compromised by excavation or the filling of land. Within the provided arboricultural report the project arborist has provided a number of recommendations to be undertaken during construction to ensure that the tree will not be impacted by the proposed works.

Stormwater Management Overlay

Desired Outcomes	
DO1	Development incorporates water sensitive urban design techniques to capture and re-use stormwater.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1	
DPFs: 1.1	

The proposed development includes a stormwater drainage system for the on-site management of stormwater runoff from the dwellings and paved surfaces.

The stormwater system includes a 5921L and 9800L rainwater tank that will be plumbed to the dwelling with overflow to be discharged to the street water table. The rainwater tank capacity satisfies DPF 1.1 of the Stormwater Management Overlay and Council's Engineer is satisfied that the proposed development will not adversely impact on the existing local stormwater system.

The proposal also mitigates against potential floodwaters as the finished floor levels are at least 300mm above the highest point of the top of kerb of the adjacent street. PO 1.1 of the Hazards (Flooding - Evidence Required) Overlay has been satisfied.

Urban Tree Canopy Overlay

Desired Outcomes	
DO1	Residential development preserves and enhances urban tree canopy through the planting of new trees and retention of existing mature trees where practicable.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1	
DPFs: 1.1	

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The applicant has provided a landscape plan that includes several small trees, shrubs, hedges and lawn areas. As recommended by PO/DPF 22.1 Design in Urban Areas, the amount of soft landscaping will exceed 20% of the site and will enhance the overall appearance and amenity of the development and minimise heat loads.

The number and size of the proposed tree plantings satisfies DPF 1.1 of the Urban Tree Canopy Overlay.

Water Resources Overlay

Desired Outcomes	
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.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 1.2, 1.5 and 1.7	
DPFs: 1.5	

There are no watercourses that traverses the site. The proposal is consistent with the Water Resources Overlay.

General Development Policies

Design in Urban Areas

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 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 c) 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: 6.1, 8.1, 8.2, 8.3, 8.4, 8.5, 10.1, 10.2, 17.1, 17.2, 18.1, 20.1, 20.2, 20.3, 21.1, 21.2 and 22.1	
DPFs: 6.1, 8.1, 8.2, 10.1, 10.2, 17.1, 17.2, 18.1, 20.1, 20.2, 21.2, 21.2 and 22.1	

The proposed garage will not dominate the dwelling façade or detract from the streetscape as it is set below the existing ground level and angled away from the road frontage. PO 20.1 of Design in Urban Areas is satisfied.

It is also noted that the front façade includes windows and doors to both the ground and upper floors to facilitate passive surveillance of the adjacent public realm and the front entrances address the street and provide a legible entry point. These design features satisfy PO 17.2 and 20.2.

The proposal plans indicate that all side and rear upper storey windows will have either raised sills or fixed obscure glass to a height of at least 1.5 metres above the finished floor. A feature timber slat screen will also be provided to western elevation deck to filter oblique views. These privacy measures will adequately protect the privacy of neighbouring properties in accordance with PO 10.1 of the General Development Policies (Design in Urban Areas).

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The dwelling will be provided with more than 450m² private open space. The amount of private open space satisfies the requirements of the Table 1 of the General Policies (Design in Urban Areas) and is directly accessible to living areas as required by PO 21.2. Suitable private open space for entertaining, clothes drying and other domestic functions is therefore provided for occupants of the dwelling.

The applicant has provided a landscape plan that includes several small trees, shrubs, hedges and lawn areas. As recommended by PO/DPF 22.1 Design in Urban Areas, the amount of soft landscaping will exceed 20% of the site and will enhance the overall appearance and amenity of the development and minimise heat loads.

The number and size of the proposed tree plantings satisfies DPF 1.1 of the Urban Tree Canopy Overlay.

It is noted there is one Significant tree on the site that has been proposed to be retained and will be protected during the construction process. A report has been prepared by a qualified arborist to demonstrate that the significant tree will be able to thrive beyond the construction phase of the dwelling and associated works. There are no Regulated or Significant trees on adjoining land that may be impacted by the proposed development.

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: 3.1, 3.2 and 3.3 DPFs: 3.1 and 3.2	

Given the two-storey scale of the development, it is expected that some shadow will be cast over adjoining land, particularly the vacant land immediately to the south at 20 Weemala Crescent.

As the shadow diagrams illustrate, the amount overshadowing is not expected to be significant given the separation to the southern boundary and that the proposed dwelling will sit much lower than the adjoining property. Overall, the adjoining properties would experience a relatively small amount of overshadowing that would not adversely impact on their amenity. PO 3.1 and 3.2 of the General Development Policies (Interface between Land Uses) are satisfied.

Transport, Access and Parking

Desired Outcomes	
DO1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.4, 3.1, 3.5, 4.1, 5.1, 6.1 and 6.2 DPFs: 1.4, 3.1, 3.5, 5.1 and 6.1	

A new crossover and driveway access will be provided that will follow a similar alignment to the existing driveway. The design was deemed acceptable in terms of demonstrating safe and convenient access. The proposal therefore satisfies PO 23.3 and 23.4 of General Development Policies (Design in Urban Areas).

When assessed against Table 1 – General Off-Street Car Parking Requirements, there is a requirement for at least two car parking spaces per dwelling, with one space to be covered. The dwelling is provided with two garage spaces, which is acceptable.

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CONSIDERATION OF SERIOUSLY AT VARIANCE

Having considered the proposal against the relevant provisions of the Planning and Design Code version 2022.24 – 22 December 2022, the proposal is not considered to be seriously at variance with the provisions of the Planning and Design Code for the following reasons:

- The proposed dwelling is an envisaged land use in the Hills Neighbourhood Zone.
- the proposed built form is sufficiently compatible with the local context.
- It has been reasonably demonstrated that the proposal would not adversely impact upon the amenity of nearby sensitive uses.
- The development includes safe and convenient access and adequate car parking.

CONCLUSION

Having considered the proposal against the relevant provisions of the Planning and Design Code, the proposal is not seriously at variance with the Planning and Design Code.

The proposed dwelling is a desirable form of development within the Hills Neighbourhood Zone that is of a size and intensity that is consistent with the existing local context.

The size, scale and modern design of the dwelling is also consistent with the local context, which is characterised by large buildings of generous proportions and varying architectural styles.

It has been demonstrated that adequate provision is made for private open space, landscaping and on-site car parking and that any increase in traffic movements would not adversely impact upon traffic or pedestrian safety on the adjacent road network.

Accordingly, the proposal would achieve the Performance Outcomes for the Hills Neighbourhood Zone and warrants the granting of Plan Consent subject to conditions.

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 22042859 by Van Nguyen for a three storey detached dwelling, deck, swimming pool and associated safety barriers, and retaining walls at 3 Spring Gully Road Rostrevor 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.**

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- 2) All roof run-off 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.
- 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) New vehicle access point(s) and/or cross-overs shall be located a minimum of 500mm from any existing or proposed verge features (i.e. crossing places, trees, stormwater connections, lighting or stobie poles).
- 5) The Western elevation upper level windows of the dwelling shall be glazed with fixed obscure glass to a minimum height of 1.5 metres above finished floor level. The glazing of these windows shall be installed prior to occupation and be maintained in good condition at all times.
- 6) The deck of the dwelling shall be fitted with fixed screening as shown on the Western, Northern and Southern elevation to a minimum height of 1.7 metres above the deck floor level. The screening shall be installed prior to occupation and be maintained in good condition at all times.
- 7) All exposed excavations and fill as shown on site plan shall be:
 - rounded off and battered to match and blend with the natural contours of the land;
 - covered with approximately 100mm of topsoil;
 - seeded to avoid erosion and visual concerns ; and
 - screened with trees, shrubs and ground covers.

All works must be completed prior to occupation of the approved development to the reasonable satisfaction of Council.

- 8) 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.
- 9) The works in relation to the tree(s), outlined in the Arborist's Report prepared by Treesolve Arboricultural Consultancy and submitted as part of this application as a strategy for management of the tree(s) are to be undertaken simultaneously with any building works on the site. A project Arborist shall supervise any works within Tree Protection Zones to ensure compliance with the submitted arborist report.

ADVISORY NOTES

General Notes

- 1) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
- 2) Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

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- 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 advised that any proposal to clear, remove limbs or trim native vegetation on the land, unless the proposed clearance is subject to an exemption under the Regulations of the Native Vegetation Act 1991, requires the approval of the Native Vegetation Council. For further information please refer to the Native Vegetation Council website.

Any queries regarding the clearance of native vegetation should be directed to the Native Vegetation Council on 8303 9777.

OFFICER MAKING RECOMMENDATION

Name: Darren Smith
Title: Statutory Planner

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DEVELOPMENT NO.:	23037924
APPLICANT:	Woodforde JV Stage 3A Pty Ltd
ADDRESS:	LOT 228 MACINTOSH CR WOODFORDE SA 5072
NATURE OF DEVELOPMENT:	Variation to Development Application 21/327/473: reduce the height of the residential flat building, reduce the number of dwellings within the residential flat building, reduce the number of parking spaces for vehicles and bicycles, alteration to the external design and internal layout, alteration to the swimming pool layout and car parking layout, adjust the siting of the building and remove the gym, kiosk and office
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Housing Diversity Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Affordable Housing • Hazards (Flooding - Evidence Required) • Stormwater Management • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height (Metres) (Maximum building height is 9m) • Maximum Building Height (Levels) (Maximum building height is 2 levels)
LODGEMENT DATE:	15 Jan 2024
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2023.19 - 21 December 2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Doug Samardzija Senior Statutory Planner
REFERRALS STATUTORY:	None

CONTENTS:

ATTACHMENT 1:	Application Documents	ATTACHMENT 6:	Previously approved plans and DNF
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 7:	Relevant P & D Code Policies
ATTACHMENT 3:	Zoning Map		
ATTACHMENT 4:	Representations		
ATTACHMENT 5:	Response to Representations		

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DETAILED DESCRIPTION OF PROPOSAL:

The proposal seeks to vary the original application 21/327/473 which was for a five storey residential flat building comprising 57 dwellings in the form of apartments, associated car parking, communal facilities and landscaping. This application seeks to amend the original proposal by reducing the height of the residential flat building, reducing the number of dwellings within the residential flat building, reduce the number of parking spaces for vehicles and bicycles, alteration to the external design and internal layout, alteration to the swimming pool layout and car parking layout, adjust the siting of the building and remove the gym, kiosk and office.

A detailed breakdown of the variation proposal is provided below:

- The height of the building has been reduced from 5 levels to 4 levels with the overall height reducing from 17.9m to 16.1m.
- The number of dwellings has been reduced from 57 to 53. Of those, 13 are proposed to be 2-bedroom dwellings and 40 to be single bedroom dwellings.
- Off street car parking numbers have been reduced from 58 to 54 parking spaces.
- Bicycle parking numbers have also been reduced from 52 to 22 spaces.
- Siting of the building has been marginally altered affecting the setback from the front boundary, rear boundary and western boundary with the main focus being in relation to the front boundary. The building was originally setback 2m from the front allotment boundary at the ground level terrace area and 3.8m to the main face of the building. It is now proposed to have a singular setback of 2.96m to all parts of the building.
- The floor layout has been amended.
- Swimming pool has been reconfigured and reduced in size.
- The ancillary gym, kiosk and office has been removed from the proposal.

BACKGROUND:

As part of the master plan this area was originally identified for five Torrens title allotments ranging in size from 300m² to 360m² whilst the original super lot was proposed further west of the subject site. Through different variations of the plan of division the super lot site was changed to be in the location nominated for the development whilst the original was changed into singular allotments as depicted in the final plan of division 29/11/2019. The site is now one of the two nominated sites set aside for higher density residential development within the estate as originally envisaged with the master plan.

Original application 21/327/473 for a five storey residential flat building comprising 57 dwellings in the form of apartments, associated car parking, communal facilities and landscaping was considered and approved by CAP on 11 August 2021. Original approval plans and a DNF are included in the documentation as attachment 6.

SUBJECT LAND & LOCALITY:

Location reference: LOT 228 MACINTOSH CR WOODFORDE SA 5072

Title ref.: CT 6271/483

Plan Parcel: D126862 AL228

Council: ADELAIDE HILLS COUNCIL

Site Description:

The subject land of this proposal is approved and created lot 228 within Stage 3A of the Hamilton Hill land division. This approved allotment is 3108m² with an original fall from north/east to south/west. The levels provided in the accompanying drawings depict the existing levels following the site being excavated as part of the bulk earthworks.

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The allotment has a direct frontage and access from the recently created Macintosh Crescent with direct views towards the Council reserve immediately across the road from the subject land.

Locality:

The subject land is within Stage 3A and opposite the Lewis Yarlupurka o’Brien Reserve to the south of the subject land. Further south of the subject land and across the Council reserve is the existing five story apartment building (Kelso Apartments) approved as part of Development Application 17/272/473. Immediately to the east and north and abutting the subject land is a further residential allotment approved as part of the Hamilton Hill estate for single and two storey detached dwellings, most of which have been built or are currently under construction.

The greater locality is very expansive. To the north of the estate along Kintyre Road is the Yertabirriti Womma Sports Oval, Rostrevor College, two large SA Water storage tanks and an Early Learning Centre. To the north-east (east of Heather Avenue) is a low density residential area, which generally consists of detached dwellings on allotments of approximately 1000m². To the east of the estate is a very large rural living allotment and to the south-east the Council owned Windmill Reserve.

To the south of the estate on the opposite side of Norton Summit Road is the Council owned Horse Paddock Reserve and detached dwellings within Teringie. These dwellings are positioned on allotments of approximately 2000m² in area, with the exception of a medium density residential community title subdivision to the south-east (at the corner of the Norton Summit Road and Glen Stuart Road).

To the western side of the estate (opposite side of Glen Stuart Road) are low to medium density residential uses within the City of Campbelltown.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

PER ELEMENT:

Other - Residential - Variation to DA 21/327/473: Code Assessed - Performance Assessed

Residential flat building: Code Assessed - Performance Assessed

- **OVERALL APPLICATION CATEGORY:**

Code Assessed - Performance Assessed

- **REASON**

The proposal fails to satisfy Table 5 Column B exemptions relating to residential flat buildings. More specifically the proposal fails to satisfy the height requirements stipulated in DTS/DPF 3.1.

PUBLIC NOTIFICATION

- **REASON**

The proposal includes extensive change to the original approval, and it doesn’t satisfy Table 5 Column B exemptions.

Public Notification period – 05 February 2024 to 23 February 2024

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- **LIST OF REPRESENTATIONS**

Representor Name	Representor's Property Address	Wishes to be heard (Y/N)	Nominated Speaker (if relevant)
Lucy Denneen	33 Macintosh Crescent, Woodforde	No	

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

- External appearance
- Balconies and overlooking
- Car parking
- Traffic increase
- Swimming pool in close proximity to boundary and noise impacts

- **SUMMARY**

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

None

INTERNAL REFERRALS

Engineering Department: Looked at the access arrangements and waste collection advising that all private waste collection associated with developments are to be accommodated within the property boundaries for safety reasons.

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.

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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**.

Housing Diversity Neighbourhood Zone

Desired Outcomes	
DO1	Medium density housing supports a range of needs and lifestyles, located within easy reach of a diversity of services and facilities.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 3.1, 4.1, 7.1 and 8.1	
DPFs: 1.1, 3.1, 4.1, 7.1 and 8.1	

PO 1.1 seeks a diverse range of medium density housing and accommodation supporting an active, convenient and walkable neighbourhood. Whilst the proposed development is considered to be more of a high density living it none the less provides a diverse range of housing as envisaged in the zone. PO 3.1 seeks that building heights are consistent with that expressed in the DPF or generally low rise or, complement the height of nearby buildings. The corresponding DPF envisages buildings of up to 2 storeys and 9m in height. As a comparison under the previous policies in the Residential Zone - Glen Stuart Policy Area in the revoked Adelaide Hills Council Development Plan buildings of up to 3 storeys in height were envisaged. On balance when the proposal is considered in comparison with the original proposal, the original exceeded the envisaged height by 2 storey, the variation now which seeks to reduce the overall height from five to four storeys will result in the proposal also exceeding the building height by two levels when assessed against the current policies. As such, whilst the proposal fails to satisfy the envisaged quantitative requirements for the zone, the level of departure from the policies remains the same as that of the original proposal.

A large portion of the building is proposed to be cut approximately 4.9m into the slope along the north/east section. As such the building as viewed from the north/eastern portion of Kintyre Road will appear 2 or 3 storey in nature. Views from Kintyre Road when approaching the site from the west will vary with some views being of the full four storey building, whilst other views will be obscured by the existing large concrete water tank and gum trees fronting the road. Internal to the site the building will present as four storey in nature however this is not considered to be detrimental to the character of the locality. When considered on balance, whilst the proposal fails to satisfy the quantitative provisions in the zone as envisaged in the DPFs, when considering the location of the building, the level of excavation, the extent of development surrounding it and the separation distance from the boundaries, it is considered that the height departure is not going to unreasonably impact the locality. Additionally, the proposal seeks to reduce the height from that originally approved rather than increase it.

The building is well separated from the adjoining allotment to the rear with a 20m setback proposed to the main face of the building which is an increase from a 14m setback originally proposed. The building setback from the western boundary is being slightly reduced from 28m to 25m however it is still of substantial distance from neighbouring property. Setback to the eastern allotment boundary is remaining at 3m as originally approved. Setback from the front allotment boundary is being increased at ground level from 2m to 2.96m but is being decreased for the upper levels from 3.8m to 2.96m. Except for a small departure with the eastern boundary setback all other setbacks are consistent with and exceed the quantitative requirements specified for the Zone. Considering the reduction in the building height that the overall impact on neighbouring properties is considered to be reduced by the varied proposal.

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Overlays

Affordable Housing Overlay

Desired Outcomes	
DO1	Affordable housing is integrated with residential and mixed use development.
DO2	Affordable housing caters for a variety of household structures.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1 1.2, 1.3, 2.1, 3.2 and 4.1	
DPFs: 1.1, 1.2, 1.3, 2.1, 3.2 and 4.1	

The planning report accompanying the application indicates that all 40 of the 1-bedroom apartments are going to be offered as affordable housing which will go towards the required 15% target or 63 dwellings that are required to be put towards affordable housing target as mandated by the State Government for Hamilton Hill. As such, the variation ensures that the requirement for affordable housing is still satisfied despite the overall reduction in the number of dwellings.

The proposal however fails to satisfy PO 1.3 which seeks that affordable housing is distributed throughout the Policy Area to avoid over-concentration of similar types of housing in a particular area. This was no different to the original proposal however, it was deemed acceptable given that the 23 dwellings so far offered for the affordable housing market are within the existing apartment complex and are all 1-bedroom apartments. The original apartment building is however in a different stage of development and is also separated by a large road reserve.

Given that the policies relating to affordable housing have not changed from the Development Plan to the new Planning and Design Code and considering that there is no change in relation to what is being offered towards affordable housing, the proposed change to the proposal is still considered to be acceptable.

Airport Building Heights (Regulated) Overlay

Desired Outcomes	
DO1	Management of potential impacts of buildings and generated emissions to maintain operational and safety requirements of registered and certified commercial and military airfields, airports, airstrips and helicopter landing sites.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1 and 1.2	
DPFs: 1.1 and 1.2	

Only a small north/western portion of the allotment is affected by this overlay with specific requirements relating to all structures over 30 metres in height. Given that this building is outside the overlay and below 30 metres in height this Overlay is not considered to have any relevance.

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Hazards (Flooding-Evidence Required) Overlay

Desired Outcomes	
DO1	Development adopts a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment from potential flood risk through the appropriate siting and design of development.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1 DPFs: 1.1	

The allotment is part of the overall Hamilton Hill development. All matters relating to flooding and stormwater management have been addressed as part of the overall civil works for the development. The site is not identified as being flood prone, there is no evidence of any flooding occurring on site and as such no further investigation is required.

Stormwater Management Overlay

Desired Outcomes	
DO1	Development incorporates water sensitive urban design techniques to capture and re-use stormwater.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1 DPFs: 1.1	

As was the case with the original proposal, the stormwater network for the overall Hamilton Hill development has been designed with measures to treat and detain stormwater. In addition, the project engineer has confirmed that the stormwater infrastructure within Stage 3A has been designed in anticipation to cater for the proposed development and this confirmation was accepted by Council's Engineering.

Notwithstanding this and whilst there is an overall stormwater network design for the estate more details were required in relation to the original proposal to ensure that discharge of stormwater does not cause localised flooding in high rainfall events. This was dealt with by condition 14 which required that the final stormwater management plan be provided prior to building consent being granted. There is no change in relation to this and condition 14 has now been transferred across into a reserve matter.

Urban Tree Canopy Overlay

Desired Outcomes	
DO1	Residential development preserves and enhances urban tree canopy through the planting of new trees and retention of existing mature trees where practicable.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1 DPFs: 1.1	

The original proposal included a row of six large mature trees along the rear boundary of the allotment, and this is not changing because of the proposed variations. The proposal is therefore considered to satisfy the requirements of the Overlay.

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General Development Policies

Clearance from Overhead Powerlines

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

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

Design in Urban Areas

Desired Outcome	
DO 1	<p>Development is:</p> <ul style="list-style-type: none"> a) contextual – by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate areas. b) dural – fit for purpose, adaptable and long lasting. c) inclusive – by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm for occupants and visitors. d) sustainable – by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Carparking PO 7.1, PO 33.1 & DPF 33.1, PO 33.2 & DPF 33.2, PO 33.3 & DPF 33.3	
Earthworks & Sloping Land PO 8.1 & DPF 8.1, PO 8.4, PO 8.5	
Waste PO 11.1, PO 11.2, PO 11.3, PO 11.4	
External Appearance PO 12.1, PO 12.2, PO 12.3, PO 12.5 & DPF 12.5, PO 12.6, DPF 12.6, PO 12.7 & DPF 12.7, PO 12.8	
Landscaping PO 13.1 & DPF 13.1, PO 13.2 & DPF 13.2	
Overlooking PO 16.1	
Massing PO 20.3	
Residential amenity PO 28.1 & DPF 28.1, PO 28.2 & DPF 28.2, PO 28.3 & DPF 28.3, PO 28.4 & DPF 28.4	
Dwelling configuration	

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PO 29.1 & DPF 29.1, PO 30.1 & DPF 30.1, PO 31.1 & DPF 31.1
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Open space

PO 32.1, PO 32.2 & DPF 32.2, PO 32.3, PO 32.4, PO 32.5
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All of the car parking is contained within or to the rear of the building and will not be visible from the streetscape as was the case with the original proposal ensuring it satisfies PO 7.1. As was the case with the original proposal, the traffic report prepared with the application looked at the car parking layout, movement of vehicles as well as waste collection. The report concluded that the layout and the turning paths in and out of the car park are in accordance with the standards and therefore acceptable. During the land division design and civil works, it was ensured that road infrastructure is in place to satisfy the density requirements with the apartment buildings being part of the overall master plan for the Hamilton Hill development. The provision of a single access point to the car parking area away from street trees and other roadside infrastructure ensures safety and minimises amenity impacts resulting from multiple crossovers. The proposal therefore satisfies POs 33.1, 33.2 and 33.3.

The extent of the earthworks is not changing to any significant degree because of the proposed variation. The original ground level of the site had a fall from north/east to south/west but was excavated as part of the land division bulk earthworks and the north/east section of the building, which will predominantly contain car parking, is proposed to be approximately 5.5m below the natural ground level, an increase of 600mm from the original proposal. At the same time the south/east section of the building is going to be 1.5m below the natural ground level. The north-west portion of the building which is working with the contour of the land will have the FFL 1.9m above the ground level at its highest point.

Location of the waste storage area has been integrated internally within the building ensuring that this is not visible from public view. In relation to waste collection, this is to be undertaken through a private collection service using rear loading trucks to access the site. The traffic report also encourages installation of parking controls adjacent to the proposed driveway to accommodate the waste collection vehicles during collection. This will be a matter for the developer to discuss with Council after construction. There is no change in relation to this from the original proposal.

The external appearance of the building is considered to adequately address the relevant policies. The use of different colours, materials and integration of balconies within the contemporary design has ensured that the overall bulk and scale of the building is minimised. Whilst the amended design does include less articulations than the original proposal, the amended design with the exception of the eastern facing wall still utilises levels of articulation with balconies and the use of different durable external colours and materials. Whilst the overall bulk and scale is greater than that of most of the dwelling in the locality, the design, the external colours and finishes will match in with existing designs and colour pallets on the estate and ensure that the proposal adequately blends in with the character of the locality and the streetscape.

POs 13.1 and 13.2 both envisage landscaping to contribute to the tree canopy, provide shade and soften the appearance of buildings. Documentation submitted shows the extent of landscaping proposed along the front of the building and along the back of the property. The extent of landscaping is similar to that originally proposed, with the exception of the loss of some landscaping around the communal area where the swimming pool is located. Whilst additional landscaping would have been a more ideal outcome, it is accepted that the extent of landscaping is limited due to the site constraints. Whilst the extent of landscaping proposed is not going to do much to soften the appearance of the building from the streetscape, the extent of vegetation that is proposed to be planted to the rear will achieve this but will also serve a dual purpose given that they will also provide screening for the adjoining property to the rear and minimise overlooking from the rear facing balconies.

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Whilst the overall bulk and scale of the building is not consistent with what the zone envisages given that it exceeds 9m and 2 storeys in height the land division for the estate has foreseen high density developments of this nature with one similar style apartment building already approved and built as part of stage 2 of the Hamilton Hill estate. The overall bulk and scale is further reduced through the use of different colours and materials and articulation provided in the design as discussed above. The proposal therefore generally satisfies the intent of PO 20.3.

The internal configuration of the building will ensure that each of the dwellings is appropriately designed and sited to be suitable for the intended use, ensure it is provided with adequate storage, to ensure it is provided with an appropriate amount of amenity by being separated from communal recreation areas, common access areas and vehicle parking whilst the balconies have been designed to ensure they are of appropriate size to accommodate outdoor seating. Overall, the internal design and layout satisfies the relevant POs as well as the required quantitative requirements specified in the relevant DPFs.

The only potential overlooking is still towards the properties along the rear boundary from rear facing balconies. To address overlooking concerns originally the applicant offered to plant mature trees along the rear boundary which have also been reinforced by a condition seeking planting of mature non-deciduous trees which include a mixture of *Tristaniopsis laurina* 'Luscious' (Kanooka Gum) and *Corymbia citriodora* 'Scentuous' (Lemon Scented Gum) along the rear boundary prior to occupation of the apartments. This aspect of the application is not changing with the mature trees still shown on the plans. It is however important to point out that any potential overlooking towards the rear has also been further reduced with the setback from the rear boundary having increased from 14m to 20m.

The location and the size of the communal open space around the swimming pool area is staying the same as originally proposed. Whilst the kiosk has been removed and the swimming pool reduced in size, this in itself does not impact on the private open space area. The proposal therefore satisfies POs 32.1, 32.2, 32.3, 32.4 and 32.5.

Infrastructure and Renewable Energy Facilities

Desired Outcome	
DO 1	Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Water Supply PO 11.2 & DPF 11.2	

The development will be serviced by mains water supply as sought by Performance Outcome 11.2. This module is silent on electricity and wastewater management, regardless the development will also be serviced by mains electricity and sewer.

Interface between Land Uses

Desired Outcome	
DO 1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Overshadowing PO 3.1 & DPF 3.1, PO 3.2 & DPF 3.2, PO 3.3	

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The shadow diagrams provided illustrate that the two dwellings on allotments immediately to the east of the subject land will be overshadowed between the hours of 12pm and 3pm during the winter solstice with the majority of the impact on the immediate neighbour, that being said they will still be provided with at least 3 hours of direct sunlight. It is clear that based on the drawings that the private open space of this allotment will continue to receive access to sunlight for at least 6 hours of the day. Currently the adjoining dwelling does not contain solar panels and there could be future limitations on any solar panels on the adjoining property given the northerly orientation. Notwithstanding this the proposal is sufficiently consistent with POs 3.1 and 3.2. Additionally, when compared to the shadow diagrams from the previous application it is evident that the extent of overshadowing has reduced. Whilst the extent of overshadowing over the dwelling has remained similar, the extent of overshadowing of private open spaces areas has reduced as a result in the reducing in height.

Site Contamination

Desired Outcome	
DO 1	Ensure land is suitable for the proposed use in circumstances where it is, or may have been, subject to site contamination.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Site contamination PO 1.1 & DPF 1.1	

Matters relating to site contamination have not changed since the original application. A Site Contamination Auditor Report was prepared in relation to Stages 3A and 3C of the Hamilton Hill Development. The report concluded that allotments within Stage 3A are proposed for sensitive use – residential with minimal opportunities for soil access; including dwellings with fully and permanently paved yard space such as high-rise buildings and apartments, are not permitted to have a basement. Given that the proposed development does not include a basement it is considered to accord with the recommendation in the report. At the time of the original application further confirmation was sought from the site contamination auditor in relation to the timing of the investigation considering that the subject land has been excavated and is not at the natural ground level. The Site Contamination Auditor has confirmed that the levels as shown are current and the ground gas assessment was undertaken from November 2019 through portion of 2020, therefore the existing levels were considered as part of the audit overall assessment. This aspect has not changed with the variation application.

Transport, Access and Parking

Desired Outcome	
DO 1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Access PO 3.1 & DPF 3.1, PO 3.5 & DPF 3.5	
Parking PO 5.1 & DPF 5.1	

As mentioned earlier in the report, the provision of a single access point to the car parking area away from street trees and other roadside infrastructure ensures safety and minimises amenity impacts resulting from multiple crossovers.

The original proposal required a total of 74 car parking spaces including the visitor parking which resulted in a shortfall of 16 spaces. In comparison the shortfall that was accepted with the original Kelso apartment building was 15 spaces. Council's Engineering Department did not have any concerns with the shortfall considering the number of bicycle

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spaces provided as part of the development and considering that Macintosh Crescent is able to account for the shortfall in the on-site car parking spaces.

In comparison the amended proposal under the Code, more specifically *Table 1 - General Off-Street Car Parking Requirements in Part 4 - General Development Policies - Transport, Access and Parking* requires that a total of 71 off street parking spaces are provided including the visitor parking spaces. Given that the proposal is now providing a total of 54 off street parking spaces this would result in a shortfall of 17 off street parking spaces an increasing in 1 from the original proposal.

The traffic report prepared however argues that whilst there is a shortfall in parking under *Table 1 - General Off-Street Car Parking Requirements in Part 4 - General Development Policies - Transport, Access and Parking*, PO 5.1 allows for support in reduced on-site rates dependent on the availability of on-street parking. The report concludes that up to 30 spaces are available on both side of Macintosh Crescent along the frontage of the site which would provide for visitor parking. Considering that the overall extent of change is only 1 car parking spaces and given the availability of on-street car parking which is able to accommodate the shortfall the proposal is still considered to satisfy the car parking requirements.

The traffic report prepared states that the Code doesn't provide the rate for bicycle parking outside Designated Areas. However, as a guide, when apply the Designated Area parking requirements, 1 space for every 4 dwellings for residents plus 1 for every 10 dwellings for visitors is required. Based on these requirements a total of 14 spaces for residents is required and 5 for visitors. Based on this whilst the numbers of spaces has been reduced by 30, the 22 spaces provided is considered adequate.

CONSIDERATION OF SERIOUSLY AT VARIANCE

The proposal is not considered to be seriously at variance with the provisions of the P & D Code with residential flat building listed as an envisaged form of land use in the Housing Diversity Neighbourhood Zone. Whilst the proposed development fails to satisfy some of the quantitative measures in the zone relating to the bulk and scale given that it is above 9m and 2 storeys in height, the proposal is still considered to be appropriate given its location, its overall bulk and scale when viewed outside Hamilton Hill development and its minimal impacts on the locality and surrounding development. Additionally, whilst the proposal might be more of a high-density design it none the less satisfied part of PO 1.1 that envisages a diverse range of housing be it in more of a medium density form. The proposal also satisfies all of the setback requirements with the exception of a minor departure relating to the setback from the eastern boundary.

The policies in the most pertinent overlays being the Affordable Housing Overlay, Airport Building Height (Regulated) Overlay, Hazards (Flooding-Evidence required) Overlay, Stormwater Management Overlay, Urban Tree Canopy Overlay are satisfied. In short, appropriate affordable housing numbers are provide, stormwater management is adequate and urban tree canopy requirements are satisfied.

The relevant policies in the general policies section of the Code have also been satisfied. Whilst there are some slight departures from applicable DPFs, these departures have been considered minor.

CONCLUSION

The proposal is for a residential flat building comprising 53 dwellings in the form of 1- and 2-bedroom apartments with all of the 1 bedroom apartments proposed as affordable housing. The development provides associated car parking and communal areas in the form of a swimming pool to be used exclusively by the occupants of the dwellings. The subject site is considered particularly suitable for a residential flat building development given it abuts the large Council reserve, is set well back from and, not in direct view from Glen Stuart Road whilst being relatively well screened from Kintyre Road. The proposal does fail to satisfy some of the quantitative requirements, mainly in relation to the building

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height and the minimum on-site car parking requirements. Despite failure to meet these quantitative outcomes, qualitatively the proposal is considered to be suitable for the locality. Whilst the shortfall in parking has increased by one space, overall it is considered acceptable given that the shortfall is accounted for with the available on street parking along Macintosh Crescent.

The bulk and scale of the building has been reduced through incorporation of balconies, the use of a mixture of colours and materials, landscaping. Additionally, the overall bulk is further reduced by lowering the height of the building from the original proposal by reducing the number of levels from 5 to 4. The design of the building adequately addresses the streetscape and the adjacent reserve, whilst the car parking area is relatively well screened from view. The development is also proposed on an excavated rather than a filled site and is proposed to be nestled amongst the existing development, including the adjacent large SA Water concrete tank. It is also flanked by new developments which include large two storey dwellings fronting Kintyre Road and Macintosh Crescent.

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 23037924 by Woodforde JV Stage 3A Pty Ltd for Variation to Development Application 21/327/473: reduce the height of the residential flat building, reduce the number of dwellings within the residential flat building, reduce the number of parking spaces for vehicles and bicycles, alteration to the external design and internal layout, alteration to the swimming pool layout and car parking layout, adjust the siting of the building and remove the gym, kiosk and office at Lot 228 MacIntosh Crescent, Woodforde is GRANTED Planning Consent subject to the following reserved matters and conditions:**

RESERVED MATTERS:

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

- 1) A detailed landscaping plan shall be prepared by a suitably qualified professional and submitted with further details regarding plant species and plant locations including additional screening to the front of the building. Plant species detailed in the landscaping plan shall be selected from the Council's Native Habitat Landscaping and Gardening Guide or Native Habitat Gardening Guide for Low Flammability Gardens. The guides can be downloaded from Council's website: Native Gardens at Home • Adelaide Hills Council (ahc.sa.gov.au).**
- 2) All hydrological and hydraulic stormwater calculations shall be provided together with the final stormwater management drainage plan to the reasonable satisfaction of Council.**
- 3) A Construction Environment Management Plan (CEMP) shall be prepared in accordance with current industry standards and submitted to Council. The industry standards include the EPA publications "Handbook for Pollution Avoidance on Commercial and Residential Building Sites – Second Edition" and, where applicable, "Environmental Management of On-site Remediation" – to minimise environmental harm and disturbance during construction. The plan shall be implemented prior to the commencement of construction.**

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NOTE: Further conditions may be imposed on the Planning Consent in respect of the above matters.

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

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 in accordance with the Materials and Finishes Plan prepared by Enzo Caroscio Architecture dated 15/12/2023.**
- 3) Tree(s) must be planted and/or retained in accordance with DTS/DPF 1.1 of the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). New trees must be planted within 12 months of occupation of the dwelling(s) and maintained.**
- 4) Except where varied by this authorisation, all other conditions, plans and details relating to Development Authorisation 21/327/473 continue to apply to this amended authorisation.**

ADVISORY NOTES

General Notes

- 1) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.**
- 2) Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.**
- 3) This Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.**
- 4) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).**

OFFICER MAKING RECOMMENDATION

Name: Doug Samardzija
Title: Senior Statutory Planner

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DEVELOPMENT NO.:	23037375
APPLICANT:	Jessica Sharkie
ADDRESS:	13 NARCOONAH RD BIRDWOOD SA 5234
NATURE OF DEVELOPMENT:	Tourist accommodation comprising three (3) freestanding, self-contained pods
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Productive Rural Landscape <p>Overlays:</p> <ul style="list-style-type: none"> • Environment and Food Production Area • Hazards (Bushfire - Medium Risk) • Hazards (Flooding - Evidence Required) • Limited Land Division • Mount Lofty Ranges Water Supply Catchment (Area 2) • Native Vegetation • Prescribed Water Resources Area • Traffic Generating Development • Urban Transport Routes • Water Resources
LODGEMENT DATE:	20 Dec 2023
RELEVANT AUTHORITY:	Assessment Panel
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) - Version 2023.18 7/12/2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	No
RECOMMENDING OFFICER:	Melanie Scott Senior Statutory Planner
REFERRALS STATUTORY:	Environment Protection Authority
REFERRALS NON-STATUTORY:	Environmental Health Unit

CONTENTS:

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

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DETAILED DESCRIPTION OF PROPOSAL:

The application is seeking the construction of three (3) tourist accommodation pods.

The following is a more detailed overview of the proposal:

- Three (3) tourist accommodation pods are to be provided in the centre of the site. The pods are of a prefabricated design, comprising a simple form with a flat roof and light weight construction being selected wooden appearance cladding within a black, metal frame.
- The pods have a floor area of 13.4m² and a roof height of 2.5 metres. The pods have an open living, sleeping and kitchen area with a separate bathroom. A maximum of two guests will be accommodated in each pod.
- An existing vehicle access from Narcoonah Road will be utilised linking with the site's internal road network. This road network will be modified slightly to provide access to the proposed pods for occupants/guests and fire-fighting vehicles. A private patio area will be provided for each pod with barbeque facilities during appropriate seasons in the year.
- The pods will be connected to the existing water supply system and a new onsite aerobic waste control system.

BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
18/07/1988	1-510	Verandah
20/10/1993	193058	Dwelling

SUBJECT LAND & LOCALITY:

Location reference: 13 NARCOONAH ROAD BIRDWOOD SA 5234

Title ref.: CT 5171/654

Plan Parcel: F106473 AL5

Site Description:

The subject land comprises a rural allotment located at Lot 13 Narcoonah Road, Birdwood.

The land is a rectangle shape with frontage to Narcoonah Road, which is an unsealed road that is accessed from Randell Road to the east. The road frontage is 206 metres wide, and the allotment has a depth of 417m metres and a total site area of approximately 10.12 hectares. The land comprises a single allotment that is formally described as Allotment 5 in Filed Plan 106473, Certificate of Title Volume 5171 Folio 654. There are no registered interests on the land title such as easements, encumbrances or Land Management Agreements.

The land contains a dwelling and several ancillary buildings. The land is primarily used for residential purposes with small-scale cropping and grazing activities.

There is one vehicle access point at the northern end of the site with an internal driveway that extends to the middle of the site.

The land is relatively flat and has a significant number of existing native trees, which are in addition to 900 plus trees that have been recently planted along the boundaries to the south and north and around an existing dam.

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Locality

The locality has a distinctive rural character with mostly small-scale grazing activities and rural living.

Allotments are typically 10 to 15 hectares in area or more with allotments patterns that are quite haphazard in size and shape.

The town of Birdwood is approximately 2 kilometres to the southwest of the subject land.

Buildings are typically small-scale and inconspicuous.

The open and gently undulating land topography, scattered areas of native vegetation and expansive rural views are notable features of the locality.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Tourist accommodation: Code Assessed - Performance Assessed

- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed

- **REASON**
P&D Code

PUBLIC NOTIFICATION

Public notification was not required. The tourist accommodation land use satisfies PO/DTS/DPF 6.3 and 6.4 of the zone, therefore notification was not required to adjoining landowners.

AGENCY REFERRALS

- **EPA**
No objection, with conditions.

INTERNAL REFERRALS

- **Environmental Health Department:**
Council's Environmental Health Department has approved a wastewater application - 23/W249/473.

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**.

Zone

Productive Rural Landscape Zone

Desired Outcomes	
DO1	A diverse range of land uses at an appropriate scale and intensity that capitalise on the region's proximity to the metropolitan area and the tourist and lifestyle opportunities this presents while also conserving the natural and rural character, identity, biodiversity and sensitive environmental areas and scenic qualities of the landscape.
DO2	A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the sale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes its regional identity.
DO3	Create local conditions that support new and continuing investment while seeking to promote co-existence with adjoining activities and mitigate land use conflicts.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 2.1, 2.2, 6.3, 6.4 and 11.1	
DPFs: 1.1, 2.1, 2.2, 6.3 and 6.4	

The subject land is a rural allotment of approximately 10 hectares and is used for small-scale primary production that includes activities such as hay growing and livestock grazing/husbandry. The proposal is seeking to use the land for small-scale tourist accommodation in association with the existing rural living and primary production activities. The existing dwelling is occupied by the operators of the tourist accommodation and may include some ancillary activities, such as administration, check-in / check-out, waste management and linen provision. The proposed tourist accommodation will comprise of three small pods that each contain one bedroom with a capacity for only two guests.

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The subject land is situated within the Productive Rural Landscape Zone of the Code. DO 1 and DO 2 of the Productive Rural Landscape Zone are seeking a diverse range of land uses that promote primary production activities and associated value adding uses, such as tourism development. DPF 1.1 identifies 'tourist accommodation' as an envisaged land use within the Zone.

The proposed accommodation pods are very small-scale with a floor area of only 13m² and sensitively designed and sited with minimal earthworks and significant spatial separation to complement the rural character and avoid conflicts with existing land uses, as sought by PO/DPF 2.1, 6.4 and 11.1 of the Zone. The proposed accommodation is also consistent with PO 6.3 as it associated with existing primary production on the land.

The proposed tourist accommodation will also cater to the needs of visitors and contribute positively to the local economy. DO 1 and PO 1.1 (Tourist Development) are therefore satisfied.

PO 6.4 of the Zone requires tourist accommodation buildings to be designed and sited to minimise visual impacts on the surrounding environment. Buildings should be low scale with non-reflective materials, have substantial setbacks from boundaries and adjacent public roads, and preferably located below ridgelines. The visual impacts would not be significant given that:

- The pods have a modest floor area of 13.4m² each and a low roof height of 2.5 metres;
- External materials are non-reflective and finished in dark/earthy colours;
- A small amount of earthworks is required resulting in minimal disruption to the natural landform. The land will be levelled out in a way that is sympathetic to the natural slope of the land;
- The pods will be a relatively minor visual element within the surrounding landscape given the significant setback distances to the road and property boundaries; and
- Existing vegetation will be retained.

For the above reasons, the proposed development is of an appropriate scale and intensity that would conserve the natural and rural character of the area while also making a positive contribution to the local tourism economy by catering to the needs of visitors. On balance, the DO 1 and PO 1.1 and 6.3 of the Productive Rural Landscape Zone and DO 1 and PO 1.1 of the General Policies (Tourism Development) are reasonably satisfied.

Overlays

Hazards (Bushfire- Medium Risk) Overlay

Desired Outcomes	
DO2	To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 2.2, 5.1 and 5.3	
DPFs: 2.2 and 5.1	

The subject land is with the Hazards (Bushfire – Medium Risk) Overlay.

As required by the Overlay, the proposal includes the following bushfire safety measures:

- A water supply of at least 5000 litres will be provided for the dwelling and for the pods for firefighting in accordance with *Ministerial Building Standard MBS 008 - Designated bushfire prone areas - additional requirements*. In relation to water supply, there is a bore, several water holding tanks and a dam to adequately service the development;

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- As noted in the application documentation, the accommodation will not be open on days deemed as Catastrophic bushfire risk and bushfire advice/survival planning information will be provided as part of the booking process;
- Buildings are not sited near any potentially hazardous vegetation;
- The vehicles access and internal driveway is designed with a formed all-weather surface and a with gradient, dimension and turning areas that facilitate safe and convenient access for fire fighting vehicles (as per DPF 5.1) and
- Clear and unobstructed pedestrian pathways.

The bushfire risks have been adequately considered by the applicant with measures put in place that satisfy the requirements of the Hazards (Bushfire – Medium Risk) Overlay.

Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay

Desired Outcomes	
DO1	Safeguard Greater Adelaide's public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from secondary reservoirs or diversion weir catchments from the Mount Lofty Ranges.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 1.2, 2.5, 3.2, 3.3 and 4.1	
DPFs: 1.2, and 2.5	

DO 1 of the Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay is seeking the protection of public water supply in the Watershed area.

The application has been referred to the Environment Protection Authority (EPA) as the proposal involves an activity that will generate wastewater, which has the potential to pollute the catchment (i.e. an activity of environmental significance). The EPA is satisfied with the proposed wastewater system, noting also that Council Environmental Health Department has approved a wastewater application.

Given the suitability of the wastewater system and the sensitive nature of the proposed use (i.e., akin to a dwelling), the proposal will not result in any negative impacts on the water quality within the catchment area. The proposal is therefore consistent with DO 1 and the relevant POs of the Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay.

Native Vegetation Overlay

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

This proposal does not include the removal of any native vegetation. In fact, the owners have planted over 900 species, which will have significant amenity and biodiversity benefits for the site.

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The applicant has also provided a Native Vegetation Declaration advising that the proposal will not impact on vegetation. The proposal is therefore consistent with DO 1 and PO 1.1.

Urban Transport Routes Overlay

Desired Outcomes	
DO1	Safe and efficient operation of Urban Transport Routes for all road users.
DO2	Provision of safe and efficient access to and from Urban Transport Routes.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 2.1, 3.1 and 5.1	
DPFs: 1.1, 2.1, 3.1 and 5.1	

The proposal will utilise an existing access point on Narcoona Road. The access is well removed from Randell Road and Torrens Valley Road, which are both Urban Transport Routes, and will generate a small amount of additional traffic.

The proposal will not impact on the safety and efficiency of Urban Transport Routes.

Water Resources Overlay

Desired Outcomes	
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.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 1.2, 1.5 and 1.7	
DPFs: 1.5	

There are no watercourse affecting the subject land and the proposal includes a suitably design wastewater system that has been approved by Council's Environmental Health Department and the EPA.

The proposal is therefore consistent with the Water Resources Overlay.

General Development Policies

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 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 c) 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: 6.1 and 8.1	
DPFs: 6.1 and 8.1	

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The proposal includes three accommodation pods located centrally to the site along with a principal residence located to the western/central end of the allotment. The pods are clustered together and are setback at least 130 metres from Narcoonah Road and between 80 and 100 metres from the nearest boundary.

It has been demonstrated that the size, scale and design of the proposed dwelling and tourist accommodation would respond appropriately to the character and amenity of the area.

A new wastewater system is to be provided for the tourist accommodation pods that includes an irrigation area near the internal driveway. The new system has been approved by Council's Environmental Health Department and the EPA and will not conflict with any existing private open space, driveways or car parking areas. PO/DPF 6.1 (Design) is satisfied.

Apart from some minor alterations to the existing driveway and a small amount of earthworks to provide a bench surface for the pods, there will be limited disturbance to the natural ground levels. PO/DPF 8.1 (Design) is satisfied.

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:	
DPFs:	

DO1 and PO 1.2 (Interface between Land Uses) seek to ensure that new development is operated in a manner that adequately protects the amenity of the locality.

The proposed pods have only one bedroom with capacity for two guests (maximum of 6 guests at any one time on site). The proposed tourist accommodation is akin to a residential land use and the noise generation from such a small number of guests would be negligible. It is acknowledged that the proposal will generate additional traffic to the site, however the tourist accommodation will result in a maximum of three vehicles accessing the site when at full capacity, which makes the proposed development a low traffic generator. The small amount and infrequent nature of the additional traffic, the provision of an all-weather surface for the driveways and the siting of the pods well away from property boundaries will ensure the amenity and enjoyment of existing properties in the locality will not be detrimentally impacted.

Similarly, the privacy of the adjacent landowners (and that of other nearby properties) will not be impacted as the pods are setback at least 80 metres from the nearest boundary, which means that views of neighbouring land would be 'distant' and not direct.

Accordingly, it is considered that the proposal would not adversely impact upon the amenity of nearby sensitive uses by way of noise, light spill, traffic or loss of outlook and privacy. DO 1 (Interface between Land Uses) and PO 2.1 and 3.2 (Tourist Development) are reasonably satisfied.

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Transport, Access and Parking

Desired Outcomes	
DO1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.4, 3.1, 3.5, 4.1, 5.1, 6.1 and 6.2	
DPFs: 1.4, 3.1, 3.5, 5.1 and 6.1	

The proposal will utilise an existing vehicle access on Narcoonah Road.

The access point will serve an existing internal driveway that will also be modified to provide access to the proposed cabins and dwelling for occupants/guests and fire-fighting vehicles.

Table 1 - General Off-Street Car Parking Requirements prescribes a parking rate of 1 space per tourist accommodation unit. Although not identified on the proposal plans, there is adequate area adjacent to each pod or near the main residence for car parking. PO/DPF 5.1 (Traffic, Access and Parking) is reasonably satisfied.

Accordingly, the low levels of traffic generated by the development and the adequate provision of on-site car parking will ensure the proposal would not lead to conditions detrimental to the free flow and safety of vehicular traffic on the surrounding road network. The relevant provisions of the General Section (Transport, Access and Parking) have been satisfied.

CONSIDERATION OF SERIOUSLY AT VARIANCE

Having considered the proposal against the relevant provisions of the Planning and Design Code version 2023.6 - 27 April 2023, the proposal is not considered to be seriously at variance with the provisions of the Planning and Design Code for the following reasons:

- Tourist accommodation is an envisaged land use in the Productive Rural Landscape.
- The small-scale and low intensive nature of the proposed tourist accommodation will not undermine existing or desirable uses in the Zone.
- The proposed tourist accommodation will cater to the needs of visitors and contribute positively to the local economy.
- It has been reasonably demonstrated that the proposal would not adversely impact upon the amenity of nearby sensitive uses.
- The development includes safe and convenient access and adequate car parking.

CONCLUSION

The subject land is a rural living allotment that is situated within Productive Rural Landscape Zone.

The proposed tourist accommodation is an envisaged form of development from a land use perspective, particularly given the small-scale and low intensive nature of the proposed pods. The proposed pods are sensitively designed and sited with minimal earthworks and significant spatial separation to complement the rural character and avoid conflicts with existing land uses.

The tourist accommodation will also cater to the needs of visitors and contribute positively to the local economy without undermining the land use intent of the zone or the area's natural and rural character.

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It has been demonstrated that adequate provisions are made for vehicle access and car parking, wastewater management and bushfire safety, and that impacts on the amenity of surrounding properties would not be significant.

Accordingly, the proposal would reasonably achieve the Desired and Performance Outcomes for the Productive Rural Landscape Zone, the relevant Overlays and General Provisions of the Code and warrants the granting of Planning Consent subject to conditions.

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 23037375 by Jessica Sharkie for tourist accommodation comprising three (3) freestanding, self-contained pods at 13 Narcoonah Road Birdwood SA 5234 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 applicant, owner and/or other person(s) making use of the subject land shall maintain the site in good condition at all times, including all buildings and structures, car parking areas, driveways and landscaping, and ensure that all activities on the site are in accordance with the approved documentation to the reasonable satisfaction of Council.**
- 3) The use of the buildings herein approved shall be restricted to tourist accommodation only with no permanent residential use being permitted at any time with a maximum stay of 90 consecutive days. A log of all visitors to the accommodation to be kept and made available to Council upon request.**
- 4) The tourist accommodation approved herein and any associated activities shall be managed and conducted at all times in a manner as to cause no undue nuisance or adverse effect to any neighbouring landowners or to other land uses within the locality.**
- 5) All external lighting associated with the depot use shall be restricted to that necessity for security purposes only and shall be directed away from residential development and, shielded if necessary to prevent light spill causing nuisance to the occupiers of nearby residential properties.**
- 6) All stormwater infrastructure shall be installed within 3 months of Development Approval being granted. All roof run-off generated by the development hereby approved shall be managed on-site to the satisfaction of Council using design techniques such as:**
 - Rainwater tanks**
 - Grassed swales**
 - Stone filled trenches**
 - Small infiltration basins**

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

Conditions imposed by the Environment Protection Authority under Section 122 of the Act

- 7) The on-site wastewater system must be established in accordance with the *Site and soil report for three short-term tourist accommodation pods* (Reference Number; BD111223; 11 December 2023) was prepared by Kamran Mangi, Consulting Engineer.

ADVISORY NOTES

General Notes

- 1) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
- 2) Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
- 3) This Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.
- 4) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).

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

- 5) The applicant/owner/operator are reminded of its general environmental duty, as required by section 25 of the Environment Protection Act 1993, to take all reasonable and practicable measures to ensure that activities on the site and associated with the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm.
- 6) More information about the Environment Protection Authority and the Environment Protection Act and policies can be found at: www.epa.sa.gov.au

OFFICER MAKING RECOMMENDATION

Name: Melanie Scott
Title: Senior Statutory Planner