

CAP MEETNG – 14 AUGUST 2024
ITEM 8.1

DEVELOPMENT NO.:	24011040
APPLICANT:	Rebeka Probert Ryan Probert
ADDRESS:	44 ORANA DR MYLOR SA 5153
NATURE OF DEVELOPMENT:	Ancillary accommodation
ZONING INFORMATION:	Zones: <ul style="list-style-type: none">• Productive Rural Landscape Overlays: <ul style="list-style-type: none">• Environment and Food Production Area• Hazards (Bushfire - High Risk)• Hazards (Flooding - Evidence Required)• Limited Land Division• Mount Lofty Ranges Water Supply Catchment (Area 2)• Native Vegetation• Prescribed Water Resources Area• Scenic Quality• Water Resources
LODGEMENT DATE:	14 May 2024
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.8 09/05/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	No
RECOMMENDING OFFICER:	Doug Samardzija Senior Statutory Planner
REFERRALS STATUTORY:	South Australian Country Fire Service
REFERRALS NON-STATUTORY:	Environmental Health Unit

CONTENTS:

ATTACHMENT 1:	Application Documents	ATTACHMENT 4:	Prescribed Body Responses
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 5:	Relevant P&D Code Policies
ATTACHMENT 3:	Zoning Map		

CAP MEETNG – 14 AUGUST 2024
ITEM 8.1

DETAILED DESCRIPTION OF PROPOSAL:

The application proposes the construction of a 6.80m x 9.60m single storey ancillary accommodation to be located forward of the building line of the dwelling and in the same location as the former dwelling on site. The former dwelling was converted to an outbuilding as part of the more recent dwelling application. The internal layout of the proposal includes a single living room and bedroom with an adjoining bathroom and associated toilet.

The proposed ancillary accommodation has a total area of 65.28m² including an attached 9.60m x 2.00m verandah. The proposal includes a ceiling height of 2.71m as measured from the finished floor level as well as a maximum roof height of 3.62m as measured from the natural ground level.

The proposal is to be set back 29.00m from the southern (front) boundary, and 77.00m from the eastern (side) boundary as well as approximately 112.26m and 204.24m from the western (side) and northern (rear) boundaries respectively with a north-northeastern orientation, facing the rear of the allotment.

The walls of the proposal are to be finished using Weathertex Weathergroove in Natural with windows, doors and downpipes to be finished using Colorbond Monument. The roof is to be clad in Colorbond corrugated iron in the colour Monument.

BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
22 September 2020	20/783/473	Domestic outbuilding & associated earthworks
25 June 2021	21008223	Horse keeping (increase to a maximum of 4 horses), agricultural building and water tank (22,500L)
19 August 2022	21/60/473 21016181 (Transitional Application)	Single Storey detached dwelling, two water tanks x (22,500L) & associated earthworks & change of use of existing dwelling to domestic outbuilding
29 March 2022	22010380	Swimming pool and safety fence
On Hold	23016803	Tourist Accommodation

SUBJECT LAND & LOCALITY:

Location reference: 44 ORANA DR MYLOR SA 5153

Title ref.: CT 6244/58

Plan Parcel: H105500 SE882

Council: ADELAIDE HILLS COUNCIL

CAP MEETNG – 14 AUGUST 2024
ITEM 8.1

Site Description:

The subject land is a regular shaped allotment covering approximately 4.83 ha with a single frontage to Orana Drive which is an unsealed road with the width of the allotment being 198.00m the depth being 242.00m.

Commented [DA1]: Review wording - is this the side boundary or the rear boundary you are referring to

The allotment is predominately cleared of vegetation, with a mix of exotic and native species clustered towards the front boundary and along the northern and western boundaries. The subject land features a slope with an approximate gradient of 1:6.72, ascending from north to south.

The land contains an existing dwelling, four outbuildings and a horse arena. The dwelling and two of the outbuildings are clustered towards the front of the allotment, with the remaining outbuilding located adjacent the horse arena, approximately 128.61m from the front boundary.

Locality

The locality consists predominantly of rural living allotments located in the Productive Rural Landscape Zone. These allotments range in shape and size from approximately 6.87 ha to 0.40 ha, with the subject land being one of the largest allotments in the locality.

The locality does not include any state or local heritage places.

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

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
New housing
Ancillary accommodation: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code - All elements are to be treated as Performance Assessed development

PUBLIC NOTIFICATION

- No
- **REASON**
Excluded from Public Notification in accordance with *Table 5 – Procedural Matters* of the Productive Rural Landscape Zone.

CAP MEETNG – 14 AUGUST 2024
ITEM 8.1

AGENCY REFERRALS

- **South Australian Country Fire Service**

The CFS have advised that they have no objections and have recommended a list of standard conditions pertaining to access, water supply and vegetation management (refer to recommended conditions 4 to 7). The site has also been given a bushfire attack level (BAL) rating of 19 for building rules consent purposes. Refer to **Attachment 4- Prescribed Body Responses**.

INTERNAL REFERRALS

- **Environmental Health Unit** – Wastewater application 473/W141/24 was approved by Council’s Health Department for connection of the ancillary accommodation into the same waste system as the dwelling to ensure compliance with the ancillary accommodation definition.

PLANNING ASSESSMENT

Desired outcomes

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

Performance outcomes

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

Designated performance features

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

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in **Attachment 5 – Relevant P&D Code Policies**.

Productive Rural Landscape Zone

Desired Outcomes	
DO 1	A diverse range of land uses at an appropriate scale and intensity that capitalise on the region's proximity to the metropolitan area and the tourist and lifestyle opportunities this presents while also conserving the natural and rural character, identity, biodiversity and sensitive environmental areas and scenic qualities of the landscape.
DO 2	A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the sale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes its regional identity.
DO 3	Create local conditions that support new and continuing investment while seeking to promote co-existence with adjoining activities and mitigate land use conflicts

CAP MEETNG – 14 AUGUST 2024

ITEM 8.1

The Productive Rural Landscape Zone doesn't provide any specific guidance on ancillary accommodation. With that being said, given that residential use is envisaged in the zone and the proposed ancillary accommodation is associated with existing residential use, the proposal is not considered to be contrary to the intent of the zone. The Desired Outcomes of the Productive Rural Landscape Zone seek to support a range of land uses which benefit from the region's proximity to metropolitan Adelaide as well as promote and enhance the productive opportunities present in the region.

In the recent Supreme Court case *Geber Super Pty Ltd v The Barossa Assessment Panel [2023] SASC 154* the judgment concluded that Desired Outcomes assist in the interpretation of Performance Outcomes; but they are not policies in their own right. Rather, they set a general policy agenda which informs the Performance Outcomes. Given that the zone lacks any significant Performance Outcomes relevant to the proposed development it is the view of planning staff that the zone in this instance has little work to do apart from outlining that the ancillary accommodation is associated with an existing and envisaged land use.

Additionally, the intensification of the residential land use on this allotment is not expected to detract from the existing horse keeping that is undertaken nor would it reduce future capacity for primary production to take place on this allotment. The building is proposed to be clustered amongst other building on land used for residential purposes and it is not reasonably expected that this portion of land could be used for primary production without the clearance of existing buildings on the site.

Overlays

The Planning and Design Code does not draw upon any assessment provisions for ancillary accommodation from the following Overlays: *Environment and Food Production Area* and *Limited Land Division*. As such, they are not included among the Overlays below.

Hazards (Bushfire - High Risk) Overlay

Desired Outcomes	
DO 1	Development, including land division is sited and designed to minimise the threat and impact of bushfires on life and property with regard to the following risks: (a) potential for uncontrolled bushfire events taking into account the increased frequency and intensity of bushfires as a result of climate change (b) high levels and exposure to ember attack (c) impact from burning debris (d) radiant heat (e) likelihood and direct exposure to flames from a fire front.
DO 2	Activities that increase the number of people living and working in the area or where evacuation would be difficult is sited away from areas of unacceptable bushfire risk.
DO 3	To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO 1.1 & DPF 1.1, PO 2.1 & DPF 2.1, PO 3.1 & DPF 3.1, PO 3.2 & DPF 3.2, PO 4.1 & DPF 4.1, PO 4.2 & DPF 4.2, PO 4.3 & DPF 4.3, PO 6.1 & DPF 6.1, PO 6.2 & DPF 6.2, PO 6.3 & DPF 6.3	

In accordance with the Procedural Matters of the Hazards (Bushfire - High Risk) Overlay, a referral to the South Australian Country Fire Service (SA CFS) was required.

CAP MEETNG – 14 AUGUST 2024

ITEM 8.1

The SA CFS has assessed this application and have no objections to the proposed ancillary accommodation. Conditions 4-7 have been directed as part of this referral and include an advisory note outlining the BAL rating of the development.

The proposed ancillary accommodation is to be supported by a designated 10,000L water storage tank for fire-fighting purposes in accordance with the provisions of the Ministerial Building Standards 008.

Vegetation surrounding the building will be managed so that an Asset Protection Zone is established where no more than 30% of site is covered in vegetation.

The SA CFS have directed a condition which requires a clear and unobstructed pathway be constructed of no more than 60m in length to allow for access to the building in the event of a bushfire (refer **Condition 4**).

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	
PO 1.1 & DPF 1.1	

There is currently no flood mapping available for the subject land or the surrounding locality. Additionally, the slope of the allotment is expected to minimise the risk of pooling of flood waters around the ancillary accommodation, instead allowing for the flow of water to the north-eastern corner of the allotment.

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	
PO 1.1 & DPF 1.1, PO 2.1 and DPF 2.1, PO 2.4 & DPF 2.4, PO 2.5 & DPF 2.5, PO 3.1 & DPF 3.1, PO 3.2 & DPF 3.2, PO 3.3 & DPF 3.3, PO 3.4 & DPF 3.4, PO 3.9 & DPF 3.9, PO 4.1 & DPF 4.1	

As a connection to either mains sewer or community waste management scheme is not available at this site, the proposal is to be connected to an existing on-site waste management and drainage field located on site. One of the conditions of the proposal satisfying the definition of ancillary accommodation is that it be connected to all of the same services of the dwelling, including the on-site waste system and this is reinforced by condition 2 of the recommendation. The proposed connection will comply with the requirements of the *South Australian Public Health Act 2011* and has been granted approval by the Adelaide Hills Council's Environmental Health Unit. Waste management through this system is expected to have a neutral impact on the quality of water draining from the site in accordance with PO 1.1.

Stormwater captured by this development is to be directed to existing rainwater tanks as to minimise impacts to the natural drainage of stormwater from this allotment.

CAP MEETNG – 14 AUGUST 2024
ITEM 8.1

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	
PO 1.1 & DPF 1.1, PO 1.2 & DPF 1.2, PO 1.4 & DPF 1.4	

The proposed ancillary accommodation is not located in proximity to any native vegetation and the applicant has accompanied the application with a relevant declaration stating that the proposed development will not or would not, involve the clearance of Native Vegetation under the Native Vegetation Act 1991, therefore the proposal is considered to satisfy the provisions of the Native Vegetation Overlay.

Scenic Quality Overlay

Desired Outcomes	
DO1	Development complements natural and rural character, and areas of scenic value.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO 1.1 & DPF 1.1, PO 2.1 & DPF 2.1, PO 3.1 & DPF 3.1, PO 4.1 & DPF 4.1	

The proposed ancillary accommodation has been sited and designed to minimise impacts on the scenic value of the allotment and existing natural and rural character. The structure is considered to be low in scale with a maximum roof height of 3.62m and will be finished in dark non-reflective colours. Additionally, it is not reasonably expected that the ancillary accommodation will be visible from the primary street. It will replace an existing outbuilding on the allotment, maintaining the existing visible building mass and cluster of buildings on the allotment. Therefore, the proposal is considered to satisfy the provisions of the Scenic Quality 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.
DO2	Maintain the conveyance function and natural flow paths of watercourses to assist in the management of flood waters and stormwater runoff.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO 1.1 & DPF 1.1, PO 1.2 and DPF 1.2, PO 1.5 & DPF 1.5, PO 1.6 & DPF 1.6, PO 1.7 & DPF 1.7, PO 1.8 & DPF 1.8	

The subject land of the proposed ancillary accommodation adjoins two allotments with existing dams, however, these bodies of water are located approximately 137.10m and 71.18m from the site of the proposed structure. Given this distance, it is not expected that the construction or long-term use of this building will modify the existing natural state of these resources. Therefore, the proposal is considered to satisfy the provisions of the Water Resources Overlay.

CAP MEETNG – 14 AUGUST 2024
ITEM 8.1

General Development Policies

Clearance from Overhead Powerlines

Desired Outcomes	
DO1	Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO 1.1 & DPF 1.1	

The application has been accompanied by a relevant declaration stating the proposal would not be contrary to the regulations prescribed for the purposes of section 86 of the Electricity Act 1996. Therefore, the proposal is considered to satisfy the Clearance from Overhead Powerlines provisions.

Design

Desired Outcomes	
DO1	Development is: <ul style="list-style-type: none">(1) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate area(2) durable - fit for purpose, adaptable and long lasting(3) 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(4) 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	
PO 8.1 & DPF 8.1, PO 13.1 & DPF 13.1, PO 13.2 & DPF 13.2	

All the earthworks undertaken to facilitate development are considered to be incidental and minor in nature given that the structure is proposed on same pad as the current outbuilding, satisfying PO 8.1.

It is noted that the proposed ancillary accommodation would exceed the quantitative provisions of DPF 13.1 with a setback from the primary street forward of the building line of the dwelling and total area of 65.28m² however, this is not expected to detract from the streetscape or appearance of buildings on the allotment. It is considered that the proposed ancillary accommodation has been sited to maintain the existing visual mass of buildings on the site through the demolition of an existing outbuilding which it will replace. Additionally, it is considered that the visual appearance of the building has been designed to be minimised when viewed from the primary street, including a low maximum roof height of 3.62m and low light-reflective colour scheme as well as a front boundary setback of 29.00m. Given this, the building is not expected to be visually prominent when viewed from the primary street or surrounding allotments nor would it obscure the appearance of buildings on this site. Therefore, the proposal is considered to satisfy PO 13.1 and the Design General Development Policies.

DPF 13.1 also has a specific requirement in relation to ancillary accommodation in Productive Rural Landscape Zone and setbacks from existing dwelling. The policies envisage that ancillary accommodation be located with 20m of a dwelling.

CAP MEETNG – 14 AUGUST 2024

ITEM 8.1

Whilst the proposed development fails to satisfy this requirement given it has been proposed 29m from the dwelling, the 9m departure is considered to be minimal especially given that the structure is proposed in the same location as the previous outbuilding and will therefore utilise the existing bench area and reduce the need for earthworks. From a streetscape perspective it will also be an improvement given that the existing structure will be reduced and replacement with a modern building of a small profile.

Infrastructure and Renewable Energy Facilities

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

The proposed ancillary accommodation is to be connected to an existing on-site waste management system located on site. The proposed connection will comply with the requirements of the *South Australian Public Health Act 2011* and has been granted approval by the Adelaide Hills Council's Environmental Health Unit.

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	
PO 10.1 & DPF 10.1	

Access to the proposed ancillary accommodation will be achieved through an existing crossover on Orana Drive and an on-site vehicle turn around will allow for entry and exit to the site in a forward direction.

Two designated off-street vehicle parks have been made available to support the accommodation.

Therefore, it is considered that the proposal satisfies the intent of the Transport, Access and Parking General Development Policies.

CONSIDERATION OF SERIOUSLY AT VARIANCE

The proposal is not considered to be seriously at variance with the provisions of the P & D Code. Whilst the Productive Rural Landscape Zone is silent in relation to ancillary accommodation and doesn't specifically list it as an envisaged use, it also doesn't have specific policies which restrict this type of development. In fact, DPF 13.1 part (L) in the Design section of the Code has a specific provision in relation to location of ancillary accommodation relative to a dwelling on sites in a Productive Rural Landscape Zone, which would indirectly indicate that such use is envisaged. In the Design section of the Code policies relating to ancillary residential buildings envisage buildings that sited and designed to not detract from the streetscape or appearance of buildings on the site or neighbouring properties. The proposal being ancillary accommodation with a total area of 65.28m², 2.71m ceiling height and a maximum overall height of 3.62m and a generous setback from all property boundaries, satisfies the building profile and setback requirements.

CAP MEETING – 14 AUGUST 2024

ITEM 8.1

The proposal also satisfies all of the policies within the applicable Overlays and in particular the ones relating to Hazards (Bushfire-High Risk) Overlay and Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay.

CONCLUSION

The proposal is for ancillary accommodation on a rural residential allotment in the Productive Rural Landscape Zone at 44 Orana Drive, Mylor.

Ancillary accommodation is considered to be appropriate for the zone where sited and designed to complement the existing dwelling and maintain the existing character and amenity of the locality.

The built form includes complementary design features which integrate the proposal into the existing landscape maintain the existing cluster of buildings on the site. This includes substantial setbacks from surrounding allotments and the primary as to mitigate amenity loss adjoining sensitive receivers and road users.

The scale of the proposed ancillary accommodation is not expected to introduce undue traffic or congestion to surrounding roads nor is it expected to change the existing nature of the rural residential allotment.

Wastewater generated by the proposed ancillary accommodation is to be directed to the existing on-site waste management system.

This proposal is not considered to be seriously at variance with the of the provisions of the Planning and Design Code and is considered to comply with the intent of these provisions.

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 24011040 by Rebeka Probert and Ryan Probert for ancillary accommodation at 44 Orana Drive, Mylor 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 ancillary accommodation must be connected to the same on-site wastewater system as the dwelling.
- 3) Only one electricity meter and one water meter may be installed on the land to service both the dwelling and ancillary accommodation.
- 4) All roof runoff generated by the development hereby approved shall be directed to the rainwater tank with the overflow managed on-site to the satisfaction of Council within one month of the roof cladding being installed. Stormwater overflow management shall be designed so as to not permit trespass into the effluent disposal area.

CAP MEETING – 14 AUGUST 2024
ITEM 8.1

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

5) SITING (ANCILLARY STRUCTURES)

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, animal shelters and cubby houses.

6) 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.

- A clear and unobstructed vehicle or pedestrian pathway shall be provided; no greater than 60 metres in length between the most distant part of the habitable building and the nearest part of the formed public access way.

7) 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.

Please note that where the water supply is an above-ground water tank, the tank (including any support structure) should be constructed of non-combustible material, such as concrete or metal.

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 proposed location for the dedicated water supply as detailed on drawing named SITE PLAN dated at last revision 21/03/2024, providing the outlet is positioned 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.

CAP MEETNG – 14 AUGUST 2024

ITEM 8.1

- The dedicated water supply and its location should be identified with suitable signage (i.e. blue sign with white lettering “FIRE WATER”).
- Access to the dedicated water supply shall be of all-weather construction, with a minimum formed road surface width of 3 metres.
- Provision shall be made adjacent the water supply for a nominally level hardstand area (capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes) that is a distance equal to or less than 6 metres from the water supply outlet.
- SA CFS appliance’s inlet is rear mounted; therefore the outlet/water storage shall be positioned so that the SA CFS appliance can easily connect to it rear facing.
- A gravity fed water supply outlet may be remotely located from the above ground tank to provide adequate access.
- All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.
- All water supply pipes for draughting purposes shall be capable of withstanding the required pressure for draughting.
- 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).
- Where access to the habitable building is not required due to proximity to the public road, but the hardstand adjacent the outlet is located within the boundary of the allotment, the access to the outlet shall:
 1. be connected to a formed, all-weather public road; and
 2. have a gradient of not more than 16 degrees (1-in-3.5) at any point; and
 3. provide overhead clearance of not less than 4.0m horizontally and vertically between the driveway surface and overhanging branches or other obstructions, including building and/or structures; and
 4. the transition area between the road and the driveway shall have a gradient of not more than 7 degrees (1-in-8).

8) 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.

SA CFS has no objection to the location and extent of the asset protection zone as detailed on drawing named SITE PLAN dated at last revision 21/03/2024, providing it complies with the following conditions:

- 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.

CAP MEETNG – 14 AUGUST 2024

ITEM 8.1

5. Shrubs must not be planted under trees or 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).
8. 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.
9. The APZ shall be maintained to be free of accumulated dead vegetation.

ADVISORY NOTES

Planning Consent

- 1) You as an Applicant may have a right of appeal if this notification is:
 - a refusal
 - conditions of consent

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

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

- 2) This Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.
- 3) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).
- 4) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
- 5) This consent is strictly limited to works on the subject land. This consent does not permit any alteration to road verge. Works including tree pruning/removal, earthworks, kerbing, storage of material or any alteration to the verge or a reserve requires a separate approval under Section 221 of the *Local Government Act 1999*. For more information regarding this process please visit: <https://www.ahc.sa.gov.au/development/roads-and-construction/authorisation-to-alter-a-public-road>

CAP MEETING – 14 AUGUST 2024
ITEM 8.1

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

6) 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 Site Plan dated 21/03/2024 and shall not be considered as SA CFS endorsement of any subsequent development.

OFFICER MAKING RECOMMENDATION

Name: Doug Samardzija
Title: Senior Statutory Planner

COUNCIL ASSESSMENT PANEL MEETING

14 August 2024

AGENDA

ITEM – 13.1

Originating Officer: Deryn Atkinson, Assessment Manager

Subject: Review of Council Assessment Panel (CAP) Operating and Meeting Procedures

For: Decision

SUMMARY

The Council Assessment Panel (CAP) was established by the Council on 26 September 2017 under Section 83 of the *Planning, Development and Infrastructure Act 2016* (PDI Act).

The *Planning, Development and Infrastructure (General) Regulations 2017* (the Regulations) prescribe basic meeting procedures for Council Assessment Panels (CAPs). These meeting procedures are limited to the following matters:

- Instances where a CAP may exclude the public from attendance (i.e. go into confidence)
- The recording of minutes and access to agendas and minutes by members of the public
- The determination of a meeting quorum
- Voting rights
- The validity of CAP proceedings in the event of a vacancy in membership or a defect in the appointment of a member.

Further meeting procedures are determined by the CAP in accordance with Regulation 18 of the Regulations. The current Operating and Meeting Procedures were last adopted by CAP on 14 September 2022.

The Operating and Meeting Procedures are required to be reviewed at a minimum every two years or when a new CAP is appointed. CAP members were reappointed from 1 June 2024 with a new Deputy Independent member.

The update to the draft revised Operating and Meeting Procedures include:

- deletion of reference to Category 2 representations and other Development Act references where they no longer have relevance.
- Addition of a point on consensus decision making.
- Addition of a point clarifying the decision of CAP will not include recording of votes for/against and that only reasons for refusal will be recorded in the minutes.
- A new clause in relation to Deputy Members attending CAP meetings.
- Grammatical and numbering changes.

RECOMMENDATION

- 1. That the Council Assessment Panel revokes the Operating and Meeting Procedures dated 14 September 2022 and adopts the revised Operating and Meeting Procedures dated 14 August 2024 as detailed in Attachment 1 of this report.**
 - 2. Delegation is provided to the Assessment Manager to make any legislative, formatting or nomenclature changes to the Operating and Meeting Procedures.**
-

1. GOVERNANCE

➤ Legal Implications

The Council is required to have an Assessment Panel in place which is comprised of four independent members and up to one Council Elected Member.

Pursuant to Section 83(1) (f) of the PDI Act the operating procedures of the CAP must be in accordance with any requirements prescribed by the Regulations. Regulations 13 to 18 address matters including public access to meetings, minutes, documents, quorum and voting. Regulation 18 permits the CAP to adopt other procedures not prescribed as it considers necessary.

2. REVIEW REQUIREMENT

The Operating and Meeting Procedures are required to be reviewed at a minimum every two years or when a new CAP is appointed. CAP members were reappointed from 1 June 2024 with a new Deputy Independent member.

3. AMENDMENTS TO CAP OPERATING AND MEETING PROCEDURES

The current Operating and Meeting Procedures are based upon the LGA Model Meeting Procedures with additional procedures adopted by CAP members previously on 14 September 2022.

The update to the draft revised Operating and Meeting Procedures include:

- deletion of reference to Category 2 representations and other Development Act references where they no longer have relevance.
- Addition of a new point on consensus decision making (point 7.3).
- Addition of a point clarifying the decision of CAP will not include recording of votes for/against and that only reasons for refusal will be recorded in the minutes (8.3.6.2 and 8.3.6.3).
- A new clause in relation to Deputy Members attending CAP meetings (new section 3).
- Renumbering and minor grammatical changes.

4. FURTHER MATTERS FOR CONSIDERATION

- CAP meeting days and times –this is currently the second Wednesday of the month at 6.30pm. CAP members should determine whether this is still the preference of members, noting that Council meetings are general held on Tuesdays or Mondays and the Deputy Independent Member has a commitment elsewhere on the first Thursday of each month.

Staff recommend that the draft revised Operating and Meeting Procedures in **Attachment 1** are adopted to replace the Operating and Meeting Procedures dated 14 September 2022. The marked-up version of Operating and Meeting Procedures is provided in **Attachment 2** to assist the Panel in their review.

5. ATTACHMENTS

- (1) Clean Copy of draft revised CAP Operating and Meeting Procedures
- (2) Marked up Revised Draft CAP Operating and Meeting Procedures

COUNCIL ASSESSMENT PANEL MEETING
14 August 2024
AGENDA
BUSINESS ITEM – 13.2

Originating Officer: Deryn Atkinson Assessment Manager

Subject: Policy for Council Assessment Panel Review of Decisions of the Assessment Manager

For: Decision

SUMMARY

The Council Assessment Panel (CAP) was established by the Council on 26 September 2017 pursuant to Section 83 of the PDI Act.

An Applicant is provided with the right to seek a review of a decision of an Assessment Manager (including delegates) in accordance with Section 202 (Rights of Review and Appeal) of the *Planning, Development and Infrastructure Act 2016* (the Act). This includes a decision on any prescribed matter in relation to the assessment of a planning application.

Section 203(2)(a) of the Act states that CAP may adopt a procedure for the consideration of such review requests as it thinks fit. The current Policy for CAP Review of Decisions of the Assessment Manager (the Policy) was modelled on the template prepared by the Local Government Association (LGA) and adopted by CAP on 10 June 2020.

The Policy is due for periodic review, and it is timely to undertake this review simultaneously with the review of the CAP Operating and Meeting Procedures. The Policy outlines the process to be followed by an applicant when lodging a request for review to CAP, and how the matter will be considered by the CAP.

CAP have not considered an application against the Policy since it was adopted.

The update to the draft revised Council Assessment Panel Review of Decisions of the Assessment Manager Policy includes:

- Adjustment to the wording under Review Hearing to clarify the applicant who has submitted a review application will be provided with opportunity to appear and make submissions in person in accordance with changes to Regulation 116 (2) of the *Planning, Development and Infrastructure (General) Regulations*
- Minor grammatical and numbering changes and updating the Policy format.

Staff are recommending that the CAP adopt the draft Policy as detailed in **Attachment 1** of this report.

RECOMMENDATION

1. That the Council Assessment Panel revokes the Policy for Council Assessment Panel Review of Decisions of the Assessment Manager dated 10 June 2020 and adopts the revised Policy for Council Assessment Panel Review of Decisions of the Assessment Manager dated 14 August 2024 as detailed in Attachment 1 of this report.
 2. Delegation is provided to the Assessment Manager to make any legislative, formatting or nomenclature changes to the Operating and Meeting Procedures.
-

1. GOVERNANCE

➤ Legal Implications

The *Planning, Development and Infrastructure Act 2016* (the Act) was assented to by the Governor on 21 April 2016.

On 1 October 2017 the operation of the Council Assessment Panel (CAP) pursuant to Sections 82 and 83 of the Act commenced and the *Planning, Development and Infrastructure (General) Regulations 2017* [the Regulations] came into operation.

Section 202 (Rights of Review & Appeal) of the Act allows an applicant who has received a determination from a relevant authority, including the CAP or Assessment Manager, regarding a Development Application, the right to seek a review of the decision.

Where such a decision has been made by the Assessment Manager (or, his or her delegate), Section 202 (1)(b)(i)(A) permits the applicant to make application for review of a decision regarding a Prescribed Matter to the CAP.

Section 203(2)(a) of the Act states that CAP may adopt a procedure for the consideration of such review requests as it thinks fit. CAP adopted the current Policy on 10 June 2020.

Regulations change to Regulation 116 (2) require that applicant who has submitted a review application must be given an opportunity to appear and make submissions in person at the CAP review hearing.

The Policy applies in addition to the statutory requirements for the review by the Council Assessment Panel of a decision of an Assessment Manager as set out in Part 16, Division 1 of the Act.

2. POLICY FOR COUNCIL ASSESSMENT PANEL REVIEW OF DECISIONS OF THE ASSESSMENT MANAGER

Under the Act an applicant to apply to CAP rather than the ERD Court in the first instance to review a decision of an Assessment Manager or his or her delegate in accordance with Section 202 (Rights of Review & Appeal). Such decisions include any decision by the Assessment Manager in relation to a “prescribed matter”, namely any assessment, request, decision, refusal, direction or act that is relevant to any aspect of the determination of a development application.

CAP adopted a Policy for the consideration of applications for review of a decision of the Assessment Manager as required by Section 203(2)(a) of the Act on 10 June 2020.

The Policy outlines the process to be followed by an applicant when lodging a request for review to CAP, and how the CAP will consider the matter.

CAP have not considered an application against the Policy since its adoption.

The Policy is due for periodic review, and it is timely to undertake this review simultaneously with the review of the CAP Operating and Meeting Procedures.

The update to the draft revised Council Assessment Panel Review of Decisions of the Assessment Manager Policy includes:

- Adjustment to the wording under Review Hearing to clarify the applicant who has submitted a review application will be provided with opportunity to appear and make submissions in person in accordance with changes to Regulation 116 (2) of the *Planning, Development and Infrastructure (General) Regulations*
- Minor grammatical and numbering changes and
- Updating the Policy format.

The draft revised Policy is contained in **Attachment 1** and, the tracked change version is contained in **Attachment 2**.