

**CAP MEETING – 13 NOVEMBER 2024**

**ITEM 8.1**

<b>DEVELOPMENT NO.:</b>	24027220
<b>APPLICANT:</b>	Michael Velonakis
<b>ADDRESS:</b>	31 Crescent Drive, Norton Summit
<b>NATURE OF DEVELOPMENT:</b>	Variation to Development Authorisation 21027228 - addition of two (2) balconies to building for tourist accommodation and studio workshop
<b>ZONING INFORMATION:</b>	<p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>Productive Rural Landscape</li> </ul> <p><b>Subzones:</b></p> <ul style="list-style-type: none"> <li>N/A</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>Environment and Food Production Area</li> <li>Hazards (Bushfire - High Risk)</li> <li>Hazards (Flooding - Evidence Required)</li> <li>Heritage Adjacency</li> <li>Limited Land Division</li> <li>Native Vegetation</li> <li>Prescribed Wells Area</li> <li>Traffic Generating Development</li> <li>Urban Transport Routes</li> </ul> <p><b>Technical Numeric Variations (TNVs):</b></p> <ul style="list-style-type: none"> <li>N/A</li> </ul>
<b>LODGEMENT DATE:</b>	13 September 2024
<b>RELEVANT AUTHORITY:</b>	Assessment Panel at Adelaide Hills Council
<b>PLANNING &amp; DESIGN CODE VERSION:</b>	2024.17
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed – Performance Assessed
<b>NOTIFICATION:</b>	No
<b>RECOMMENDING OFFICER:</b>	Sebastien Paraskevopoulos
<b>REFERRALS STATUTORY:</b>	Nil
<b>REFERRALS NON-STATUTORY:</b>	Nil

**CONTENTS:**

**ATTACHMENT 1:** Application Documents

**ATTACHMENT 3:** Zoning Map

**ATTACHMENT 2:** Subject Land Map

**ATTACHMENT 4:** Relevant P & D Code Policies

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#### DETAILED DESCRIPTION OF PROPOSAL:

The application seeks to modify the approved tourist accommodation and studio workshop building to include two balconies. This building is currently under construction.

The balconies are proposed to the northern and eastern aspects of the building and would both be accessible from the family room on the upper level. The northern balcony has a floor area of 18.66m<sup>2</sup> and the southeastern balcony has a floor area of 15.73m<sup>2</sup>, while each would be a maximum of 2.8m above the ground floor level of the building.

Other minor changes include the addition of a door and window to the northern upper level of the building, to facilitate access and improve the vantage to the north balcony. Similarly, an additional door is proposed to access the east balcony.

All other aspects of the building would remain as previously approved. This includes the site location and setbacks, floor plan (no increase to internal habitable area) and external finishes, and extends to the operational details conditioned.

#### BACKGROUND:

The land has been subject to three approved developments since 2017. The retaining walls and associated earthworks approved in Development Application 18/1035/473 provided a level site for the subject building. Stage two of Development Application 15/517/473 was altered by the most recent application following the installation of the foundations and slab. The building for tourist accommodation and studio workshop approved in Development Application 21027228 is currently under construction.

In 2016 the address of the subject land was changed from 6 Crescent Drive to 31 Crescent Drive.

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
5 December 2023	21027228	Partial change of use of existing dwelling to include tourist accommodation and construction of building for tourist accommodation and studio workshop
2 April 2020	18/1035/473	Retaining walls (maximum height 3m) and combined fence and retaining wall (3.6m) & associated earthworks
LAPSED	18/338/473	Verandah (freestanding) over existing swimming pool
6 October 2017	15/517/473	Staged development – Stage One - dwelling alterations & additions & deck (maximum height 2.5m), Stage Two - demolition of shed & construction of studio/workshop with associated earthworks

#### SUBJECT LAND & LOCALITY:

**Location reference:** 31 Crescent Drive, Norton Summit SA 5136

**Title ref.:** CT: 6196/807 **Plan Parcel:** Lot 10 Sec: P1079 DP:115375

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#### Site Description:

The allotment is regularly shaped with a total site area of 3643m<sup>2</sup>. It is one of six allotments in the locality which share street frontages to both Crescent Drive and Lobethal Road.

In addition to the building currently under construction, the land also features the main dwelling, and an associated swimming pool, deck and verandah. These existing elements are located centrally between the front and rear property boundaries but favour the west side boundary.

The topography of the land descends from Crescent Drive to Lobethal Road (south to north), at a gradient of approximately 1:5. The floor level of the existing dwelling is 4.6m below the lower floor level of the building under construction.

The land is served by one existing vehicle access point, located off Crescent Drive near the south-most corner of the allotment.

The land is not connected to SA Water or Sewer Mains and has an approved on-site waste system. The land is not subject to any easements or rights of way.

#### Locality

The property is located between Lobethal Road to the north, and Crescent Drive to the south, within the Productive Rural Landscape Zone.

This area is characterised by moderate to large rural living allotments with several large horticulture properties located throughout. These include a vineyard to the north of the subject land and the State Heritage listed Grove Hill estate to the south, which is South Australia's oldest orchard in continuous operation.

Norton Summit Primary School is situated further up Crescent Drive to the east, while a range of non-residential uses (including a church, hotel, medical clinic, post office, CFS station, and the Adelaide Hills Council Summit Community Centre) are located to the north-east, clustered around the five-way intersection of Norton Summit Road, Old Norton Summit Road, Lobethal Road, Debneys Road, and Colonial Drive.

#### CONSENT TYPE REQUIRED:

Planning Consent

#### CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**  
Balcony/Deck: Code Assessed – Performance Assessed
- **OVERALL APPLICATION CATEGORY:**  
Code Assessed – Performance Assessed
- **REASON**  
The Planning and Design Code provides no 'Accepted' or 'Deemed to Satisfy' pathway for the above element –nor is it categorised as 'Restricted' under Table 4 of the zone. Therefore, as per sections 105 (b) and 107 of the *Planning Development & Infrastructure Act 2016*, the development is categorised as Code Assessed – Performance Assessed.

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#### PUBLIC NOTIFICATION

- No
- **REASON**  
Balconies (decks) are exempt from public notification as per table 5 item 2 (f) of the Productive Rural Landscape Zone. No Column B exceptions are listed.

#### PLANNING ASSESSMENT

##### *Desired outcomes*

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

##### *Performance outcomes*

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

##### *Designated performance features*

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

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

#### Productive Rural Landscape Zone

Desired Outcomes	
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	The creation of 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	
PO 2.2 & DPF 2.2	

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The subject building was approved under version 2021.14 of the Planning and Design Code. In version 2024.17, the Desired Outcomes remain the same, and the proposed balconies are not considered to alter the approved building's performance against them nor conflict in their own right.

PO 2.2, which directs the siting of buildings with regarding to gradient and earthworks, is not relevant to this assessment. The building is already under construction in the approved location, with the proposed balcony additions not altering earthworks.

### Overlays

#### Environment and Food Production Area Overlay

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

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

#### Hazards (Bushfire - High Risk) 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 Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1; PO 2.1; PO 3.1; PO 3.2 & DPF 3.2	

As part of the original assessment of the building itself, referral to the Country Fire Service was undertaken. The Country Fire Service had no objections to the proposal. Conditions relating to firefighting vehicle manoeuvring, water supply and access, and asset protection zones were stipulated.

As an element, balconies do not trigger referral to the CFS. As a variation to the approved building and use, they are not substantial, and do not change the essential nature of the development. The balconies would not increase the potential for fire outbreak as a result of the spontaneous combustion of materials, spark generation or through the magnification or reflection of light. Their inclusion does not alter the building in a way which would increase the potential for trapping burning debris against or underneath the building or structure. The relevant Performance Outcomes are not conflicted by the proposal.

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#### Hazards (Flooding - Evidence Required)

Desired Outcomes	
DO 1	Development adopts a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment from potential flood risk through the appropriate siting and design of development.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
N/A	

Owing to the topography of Norton Summit, there is no flood mapping in proximity of the subject land or the greater locality.

#### Heritage Adjacency

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

The subject land adjoins 412 Old Norton Summit Road, which contains the State Heritage listed Grove Hill estate. This listing includes several buildings, described by the SA Heritage Places Database as '*Dwelling ('Grove Hill'), including Coach House, Stables, 3 Hole Privy, Gatehouse, Fruit Store, Cider Cellars and Hothouses*'.

The site area of the approved building is over 500m from the nearest building on the adjoining land and separated by Crescent Drive. The proposed variations are not considered to impact the heritage context of the adjacent land.

#### Limited Land Division Overlay

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

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

#### Native Vegetation

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

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No native vegetation would be impacted by the variation, and the applicant made their declaration upon submission of the application, which complies with DTS/DPF1.1

#### Prescribed Wells Area Overlay

Desired Outcomes	
DO 1	Sustainable water use in prescribed wells areas.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
N/A	

The proposal would not result in the taking of additional water for which a licence would be required under the *Landscape South Australia Act 2019*, which aligns with PO 1.1.

#### Urban Transport Routes

Desired Outcomes	
DO 1	Safe and efficient operation of Urban Transport Routes for all road users.
DO 2	Provision of safe and efficient access to and from Urban Transport Routes.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
N/A	

The proposal does not include any new vehicle access points, nor the alteration or re-location of the existing access used to service the development. State-owned Lobethal Road will not be altered or directly impacted by the proposal.

#### General Development Policies

##### Clearance from Overhead Powerlines

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

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

#### Design

Desired Outcomes	
DO 1	Development is: (a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributing to the character of the immediate area (b) durable - fit for purpose, adaptable and long lasting (c) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access and promoting the provision of quality spaces integrated with the public

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	<p>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</p> <p>(d) sustainable - by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.</p>
<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>	
PO 8.1 & DPF 8.1; PO 33.1 & DPF 33.1; PO 33.2 & DPF 33.2; PO 33.3 & DPF 33.3;	

The development does not propose any excavation or filling of land or other works which would disturb the natural topography. PO 8.1 is therefore not applicable.

The balconies do not increase the building footprint or the internal habitable area of the approved building. They retain the existing setbacks, and are an adequate distance from the subject land’s north, east, and south boundaries of which they view. On this basis, the balconies comply with PO 33.1.

The balconies do not present direct overlooking of habitable rooms or private open space of neighbouring 37 Crescent Drive (the allotment abutting east). The Planning and Design Code defines *direct overlooking* as limited to an area that falls within a horizontal distance of 15 metres measured from any point of the overlooking deck, balcony or terrace. See illustration below:

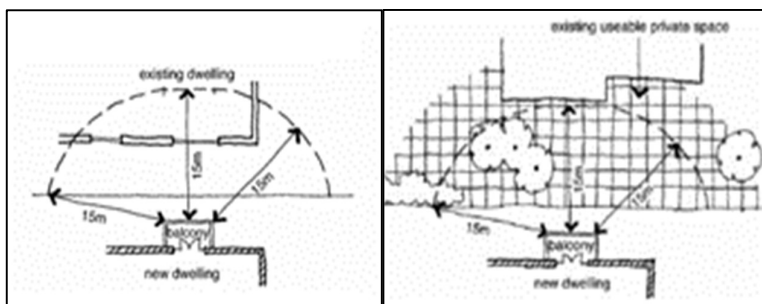


Figure 1: Extract from Planning and Design Code illustrating direct overlooking from deck, balcony, or terrace

The proposal therefore is not obliged to include any methods of screening and is considered to meet PO 33.2.

The variation to include the balconies does not alter the maximum number of guests able to use the building as tourists, and as such the development would remain compliant with Table 1 – General Off-Street Car Parking Requirements of the Planning & Design Code. This satisfies PO 33.3

**Infrastructure and Renewable Energy Facilities**

<b>Desired Outcomes</b>	
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.
<b>Performance Outcome (PO) and Designated Performance Feature (DPF) criteria</b>	
PO 11.1 & DPF 11.1; PO 12.1 & DPF 12.1; PO 12.2 & DPF 12.2	

The proposed building works would not encroach upon the approved septic system, satisfying PO 12.2.



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

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

Balconies are a common form of ancillary development, and together with decks are found throughout the Productive Rural Landscape Zone and the greater Council district. The balconies proposed in this application are of a modest scale which do not increase the footprint or height of the approved building, nor do they present any direct overlooking which ought to be mitigated. The proposal accords with all relevant polices from the Zone, Overlay, and General Development Polices sections.

#### **CONCLUSION**

The proposal is for a variation to Development Authorisation 21027228, to add two balconies to the building approved for tourist accommodation and studio workshop. The subject land is located within the Productive Rural Landscape Zone, in a locality of large rural living allotments with several large horticulture properties located throughout.

The application does not propose to vary any of the operational details which were conditioned as part of the original Development Authorisation. The proposed variations would not change the essential nature of the approved building and are not substantial by the fact the building's original approved footprint, internal habitable area, and wall and building heights are retained.

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

#### **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 24011855 Demetrios Diamanti for a Variation to Development Authorisation 21027228 - addition of two (2) balconies to building for tourist accommodation and studio workshop at 31 Crescent Drive, Norton Summit 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) Except where varied by this authorisation, all other conditions, plans and details relating to Development Authorisation 21027228 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:** Sebastien Paraskevopoulos  
**Title:** Statutory Planner