

CAP MEETING – 11 December 2024

ITEM 8.1

DEVELOPMENT NO.:	23022828
APPLICANT:	Mark Kwiatkowski Jamie Smith
ADDRESS:	86 Gillman Rd OAKBANK SA 5243
NATURE OF DEVELOPMENT:	Change of land use to include private depot for parking of 3x trucks exceeding 3 tonne tare weight & construction of retaining walls
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 Are • Water Resources
LODGEMENT DATE:	10 Aug 2023
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	2023.11
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes - 12 August 20204 to 30 August 2024
RECOMMENDING OFFICER:	Doug Samardzija Senior Statutory Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Council Engineering

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DETAILED DESCRIPTION OF PROPOSAL:

This proposal is for a change of use of an existing outbuilding and an area immediately surrounding the building to a private depot for parking & storage of vehicles and associated equipment. The key features of this proposal are:

- Change of use of approximately 100m² of an existing 450m² outbuilding for a depot for storage of vehicles and equipment mainly associated with the truck used for horse keeping purposes;
- Change the use of approximately 935m² of outdoor area immediately surrounding the building to be used as part of the depot including vehicle parking and equipment storage;
- Storage of 3 trucks in total with two trucks used for civil works and one truck used for horse keeping purposes. The trucks range in size between 8 and 12 tonnes and 16 and 24 tonnes when fully loaded;
- Small scale storage of machinery and equipment in the outdoor area associated with the depot;
- Widening of an existing access point;
- A total of 3 employees will enter the site with vehicle parking to occur on the hardstand area immediately surrounding the building;
- No signage is proposed;
- Operating hours are 6:30am to 5pm Monday to Friday and vehicle start up no earlier than 6:30am;
- Concrete block retaining walls to a height of 1.8m installed in the section of the area nominated for the depot. The retaining walls will be acting as a bay to store mulch associated with maintenance of the site.

BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
27 November 75	2593	Dwelling
22 May 1978	5-36	Extension to residential dwelling
22 July 1988	563/5-191/88	Shed (general purpose use)
11 September 2020	473/635/20	Verandah attached to farm building & water storage tank (22,555L)
02 February 2024 (Planning only)	22039847	change of use to include horse keeping (15 horses) and addition to existing outbuilding (stables) and the parking of a large animal transport associated with the horse keeping.

SUBJECT LAND & LOCALITY:

Location reference: 86 Gillman Rd, Oakbank, SA 5243

Title ref.: CT 5802/404 **Plan Parcel:** F215380AL99 **Council:** Adelaide Hills Council

Site Description:

The subject land is an irregular shaped allotment of 3.84 hectares currently used for rural living purposes. The allotment has direct frontage to Gillman Road as well as an unmade section of Wenzel Road. The property is accessed from an existing access point and compacted gravel driveway from Gillman Road.

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The allotment has a frontage of approximately 244m and average depth of 166m. The front portion of the allotment remains relatively undeveloped whilst the rear portion of the allotment contains a single storey dwelling, large outbuilding, other small associated domestic structures. Other site features include horse stables and exercise yard associated with the DA 22039847, internal driveways, a water course and scattered vegetation.

Locality

The locality is characterised by a mixture of allotments sizes and land uses all located in a Productive Rural Landscape Zone. To the west and south of the subject land are predominantly large rural land holdings used for a variety of primary production related activities and further west is the Township of Oakbank. Immediately north and east of the subject land are a group of allotments similar in size and configuration to the subject land used predominantly for rural living purposes.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
 - Heavy Vehicle Parking: Code Assessed - Performance Assessed
 - Private Depot: Code Assessed - Performance Assessed
 - Retaining wall: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
 - Code Assessed - Performance Assessed
- **REASON**
 - P&D Code

PUBLIC NOTIFICATION

Yes

- **REASON**
 - The proposal is not listed in Table 5 as a form of development that is exempt from notification and is not the type of development that can be considered minor in nature.

Public Notification period – 12 August 20204 to 30 August 2024

- **LIST OF REPRESENTATIONS**

One (1) representation was received representing five (5) different adjacent property owners during the notification period opposing the proposed development. One speaker has been nominated to speak at the Panel meeting representing all five property owners.

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Representor Name	Representor's Property Address	Wishes to be heard (Y/N)	Nominated Speaker (if relevant)
Michale and Maureen Gannon	83 Gillman Road, Oakbank	Yes	Peter Meline
David and Joanne Garner	63 Gillman Road, Oakbank	Yes	Peter Meline
Matthew and Lucy Lawson	60 Gillman Road, Oakbank	Yes	Peter Meline
Luciano Agustino and Natalie Stanco	68 Gillman Road, Oakbank	Yes	Peter Meline
Elizabeth Keogh	42 Gillman Road, Oakbank	Yes	Peter Meline

• SUMMARY

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

- The proposal is not consistent with the requirements of Productive Rural Landscape Zone and primary production use.
- Noise issues
- Vehicle movements
- Visual impacts
- Road safety and access issues
- Business operating beyond what is specified in the application

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

None

INTERNAL REFERRALS

- **Engineering Department** – Council's Technical Officer reviewed the existing access arrangement and requested that the following changes be made:
 - a) Crossover is to be widened by 2.4m – 3m on the left-hand side when exiting driveway to accommodate truck swept paths due to the narrow carriageway of Gillman Road.
 - b) Stormwater pipe is to be extended under the crossover to accommodate roadside stormwater flows.
 - c) Newly widened crossover is not to restrict existing roadside stormwater flows.

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**.

Zones:

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, 4.1, 4.2 and 4.3	
DPFs: 1.1, 2.1, 4.1 and 4.3	

The Performance Outcomes (POs) and Designated Performance Features (DPFs) of the Zone are relatively silent on this type of development and as such generally do not provide specific guidance to the assessment of this application. That being said, some of the above POs and DPFs selected are in reference to developments of a similar nature and as such could be relied upon to determine the appropriateness of this proposal.

Desired Outcomes (DO) 1 and 2 of the Zone promotes a diverse range of land uses which are predominantly linked with primary production activities and associated value adding uses which maintain the natural and rural character whilst promoting regional identity.

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This is further reinforced by PO 1.1 which seeks retention of rural land for a range of primary production and horticultural activities associated value adding of primary produce whilst restricting proliferation of land uses which may be sensitive to those activities. The proposed application for a change of use of a portion of the allotment of approximately 935m² including a portion of the existing outbuilding to a private depot for parking of trucks and vehicles/equipment used for civil works occurring on site and one associated with horse keeping. The latter use has been given planning consent and the stable additions are currently being assessed for building rules consent as part of a separate Development Application 22039847. The proposal is not considered to be consistent with the Desired Outcomes of the Zone nor is it consistent with the first part of the PO 1.1 seeking primary production and value adding use. That being said, the primary production uses as well as some value adding activities also include the use of large machinery as well as large trucks not too dissimilar with the trucks associated with the proposed use and as such the use and parking of trucks is considered to be part of the rural landscape.

Despite the above, the proposal is still considered to be acceptable because it is proposed to occur in a small section of an existing outbuilding and open land surrounding it. The proposal is being limited to a maximum of 3 trucks in total with two trucks used for civil works and one truck used for horse keeping purposes. The trucks range between 8 and 12 tonnes in sizes and 16 and 24 tonnes when fully loaded. Whilst the land is not currently used for primary production, the proposed activity does not prejudice the land from being used for other purposes envisaged in the zone such as horse keeping or residential uses, currently occurring on site, nor would it impact future small scale primary production. Additionally, this proposal is consistent with second part of PO 1.1 as it is not contributing to proliferation of sensitive land uses which could be impacted by adjoining primary production activities. Corresponding DPF 1.1 has a list of land uses which it deems as appropriate for the zone and amongst the list is a warehouse and transport distribution. Both uses have very similar characteristics to the proposed development dependent on their scale as they would both rely on the use of large vehicles, including trucks, as a means of transporting the goods and may include associated parking.

Desired Outcome 3 supports development with new and continued investment while promoting co-existence with adjoining activities and minimising conflict. POs 4.1, 4.2 and 4.3 which are considered to be most relevant in reference to the proposed use. The provisions seek the establishment or expansion of industry, warehousing, storage and transport distribution activities which provide opportunities for diversification and value adding to primary production. The provisions seek such activities to be of a scale appropriate for the allotment whilst also maintaining character, rural function and landscape amenity. As mentioned earlier in the report, these POs are not directly linked with the proposed use given that the zoning is silent on these types of developments. That being said, some of the impacts associated with envisaged uses such as noise and heavy vehicle movements are not that dissimilar with the proposed activity. As such, whilst the proposed use is not directly linked with primary production related activities, it is considered acceptable given the small-scale nature of the activity, and setbacks from adjoining sensitive receivers. In the combined representation for five neighbouring properties, it was submitted that the noise impacts were one of the concerns. Of the five representors, one of the properties is a dwelling immediately across the road approximately 170m away from the nominated depot area whilst all the other sensitive receivers are located approximately 350m away or further. The acoustic report prepared as part of the application identified that the noise impacts associated with the proposed use when measured in relation to the sensitive receivers are within the daytime and night- time criterion of the *Environment Protection (Commercial and Industrial Noise) Policy 2023*.

The activity is also confined to the existing building and its immediate surrounding area located in the south/west corner of the allotment. The area is well screened from the public realm whilst the views from neighbouring properties are both distant and also screened by existing vegetation found along the boundaries as well as within the property. As such whilst the use is not in association with primary production related activity it is none the less of a scale which will maintain the rural function, character and landscape amenity of the locality.

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The use is also consistent with DO 3 because it supports new and continued investment whilst being of a scale which can co-exist with adjoining activities and mitigate land use conflicts. The total number of employees entering the site is going to be three with vehicle parking to occur in the nominated outdoor area proposed to be used for the depot. And the outdoor area nominated to be used as a depot will also serve as vehicle parking area for the employees.

The retaining walls that have been proposed with this application are concrete blocks to a height of 1.8m. The blocks are proposed in the outdoor area as illustrated on the plans and will act as a bay area where the mulch associated with maintenance of the site for horse keeping is going to be stored.

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 existing outbuilding is in the area that is clear of any hazardous vegetation on the subject land as well as the surrounding allotments and has been constructed of materials which meet the relevant building code standards. Further modification under the Building Code may be required because of the change in use from outbuilding to a depot in order to bring the building to the required building code standards if it requires new building classification. As such this proposal is consistent with POs 1.1 and 2.2.

The existing access point is being maintained and modified at the intersection with Gillman Road, widening it to satisfy Council's Engineering requirements. Internally to the site there are no changes proposed to the existing driveway with ample space available on site for large vehicles including CFS trucks to enter and exit in forward direction. Proposal is therefore consistent with POs 5.1 and 5.3.

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	

Desired Outcome 1 of the Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay seeks to ensure that the protection of public water supply in the Watershed area which is done by ensuring activities that have potential to generate wastewater, or which could pollute the stormwater system are undertaken in a manner that prevents this. All the vehicles and equipment associated with the proposed development are either going to be stored in the building or on the compacted gravel standing area immediately surrounding the building as identified on the site plan. The applicant has advised that vehicles and machinery are not serviced on site and wash-downs are completed off site when required. A condition is recommended in relation to servicing and washing of machinery should the development be granted consent (refer condition 4).

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All stormwater from the hardstand area will be directed to a stormwater system with a gross pollutant trap before further discharge on the allotment and this is reinforced in recommended condition 9. This proposal is therefore not going to result in any negative impacts on the water quality or the catchment area. It is therefore considered to be consistent with the relevant POs in 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 removal of any native vegetation, and all the activities associated with the depot use are confined to an area immediately around the existing farm building. 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.

Prescribed Water Resources Area Overlay

Desired Outcomes	
DO1	Sustainable water use in prescribed water resources areas maintains the health and natural flow paths of surface water, watercourses and wells.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: N/A DPFs: N/A	

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

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	

The subject land doesn't contain any water courses nor are there any water courses on neighbouring properties within close vicinity of the proposed development with the closest water body being a dam on the neighbouring property to the west. That being said, the site plan provided indicates that the area of development including the gross pollutant trap which will treat any stormwater runoff prior to discharge on the land. Given the separation distance and the proposed treatment, the proposal will not have any impacts on water courses or other water bodies.

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General Development Policies

Clearance from Overhead Powerlines

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

This application does not include any new building work as such there are no issues as far as building within proximity to powerlines. The applicant has also provided a declaration stating that the proposal would not be contrary to the regulations prescribed for the purposes of section 86 of the Electricity Act 1996. As such this proposal is consistent with DO 1 as well as PO 1.1.

Design

Desired Outcomes	
DO1	Development is: a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate area b) durable - fit for purpose, adaptable and long lasting 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: 1.5, 5.1, 7.2, 7.6, 7.7, 31.1, 31.2, 32.1 DPFs: 1.1	

As mentioned earlier in the report, the area nominated to be used as a depot is located in the south/west portion of the allotment. It is set 45m away from the closest boundary with the unmade section of Wenzel Road and approximately 120m away from the closest sensitive receiver at the closest point of the site. The building as well as the associated outdoor area to be used for storage of equipment as well as some machinery is only marginally visible from public realm and is also well screened from adjoining residential properties. Some views, mainly of the trucks, are available from the immediate neighbouring property to the east, and properties to the north but this would only be of passing trucks along Gillman Road. As such this proposal is consistent with POs 1.5, 7.2 and 7.6 because it will not result in any negative visual impacts from the outdoor storage and vehicle parking when viewed from adjoining sensitive receivers as well as public realm. The views of passing trucks along Gillman Road at infrequent rates is not considered unreasonable or out of character for a rural setting.

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Stormwater management will be undertaken in a way that ensures it does not negatively impact on the quality and quantity of surface water and ground water. Stormwater from the standing area will be directed to a drainage sump which will then be directed into the gross pollutant trap prior to being managed on site. This will ensure that stormwater management is undertaken in a way which is consistent with POs 5.1, 31.1 and 31.2. In terms of issues associated with washdowns and other potential contaminating activities, the applicant has advised that all washdowns of vehicles if required would not occur on site. Like washdowns, the applicant has advised that vehicles will not be serviced on site. Condition 4 has been attached to further reinforce this. As such the proposal is consistent with PO 32.1. The standing area is going to be used predominantly for pick up and drop off and storage of some minor equipment and tools used in association with the works. It is going to be constructed using a mixture of compacted rubble and a concreted pad which will not only limit dust but allow for better stormwater management. This ensures that the proposal is consistent with PO 7.7.

Interface between Land Uses

Desired Outcomes	
DO1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.2, 2.1, 4.1, 4.2 and 6.1	
DPFs: 2.1 and 4.1	

Interface between land uses is primarily focused on minimising the impacts of development on sensitive land receivers or for the sensitive land receivers to be designed in a way to protect them land uses desired for the zone. The acoustic report does consider the impacts on the sensitive receivers with the immediate neighbouring dwelling to the northeast being the closest sensitive receiver.

As such, based on the measurements taken in the acoustic report to the closest immediate sensitive receiver on an adjoining allotment being a dwelling at 83 Gillman Road, Oakbank which is immediately to the northeast of the site of development, the proposed activity was considered to be within the required noise levels. The report considered truck start-up, idle and movement from site at around 6:30am, it considered truck movement into the site and shut down at around 5pm with occasional movements anticipated after 5pm. Based on the nominated hours, the assessment was undertaken using both the day and night criteria from the *Environment Protection (Commercial and Industrial Noise) Policy 2023*. The measurements determined that the noise levels associated with the activity fall within the daytime and night-time criterion during which time the activity will occur. The report also concluded that no acoustic treatment measures was required. The proposal is therefore considered to accord with POs 1.2, 4.1 and 4.2.

PO 2.1 seeks that non-residential development does not unreasonably impact the amenity of the sensitive receivers through the hours of operation by having regard to the nature of development, measures to mitigate off-site impacts and the extent to which development is desired in the zone. The applicant has indicated that truck movements generally occur a maximum of three (3) times a week between 6:30am to 5pm and on odd occasion until 6pm with the additional use occurring only for maintenance of the subject land. These hours of operation are considered to be acceptable and generally consistent with standard day time operating hours. As mentioned above, the submitted acoustic report did consider the noise impacts prior to 7am on small occasions and considered from 6:30am with vehicles starting up at that time and returning at around 5pm and has determined that the noise levels are within the daytime and night-time criterion of the *Environment Protection (Noise) Policy 2007*. Considering that the applicant has indicated the operating hours commence at 7am condition 5 has been recommended limiting the days and hours to Monday to Friday between 6.30am and 5.30pm. Maximum number of employees anticipated for the proposed use is three, entering the site in the morning and leaving in the afternoon.

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Whilst this specific use is not listed in the Zone as desired it is also not specifically excluded and can be argued that its impacts would be very similar to some of the uses that are specifically listed such as a warehouse or a transport distribution. As such this proposal is consistent with PO 2.1 when taking into account the hours of operation, the number of vehicles and the impacts of the activity and the likeness of the activity to some other uses specifically listed as envisaged for the zone.

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: 1.1, 1.2, 1.3, 2.1, 3.1, 3.4, 3.5, 3.8, 5.1, 6.2 and 6.6	
DPFs: 2.1, 3.1, 3.5, 5.1, 6.1 and 6.6	

As mentioned earlier in the report, small changes are required to the existing access to widen in due to the narrow nature of Gillman Road. This change will provide for a better and safer vehicle access way to and from the site and is reinforced by recommended condition 7. The proposal is therefore considered to be consistent with POs 1.1, 2.1, 3.1, 3.4, 3.5 and 3.8.

All the loading and unloading will occur on site within the nominated area nominated. This area is also used for other vehicles parking when the two anticipated staff members come to the property in the morning to pick up the trucks and machinery. The proposal is therefore consistent with POs 1.3, 5.1, 6.2 and 6.5.

CONSIDERATION OF SERIOUSLY AT VARIANCE

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

As mentioned in the body of the report, the zoning as well as the Code in general is relatively silent on this specific type of use and as such there are limited guiding policies. That being said there are a number of policies which reference uses similar in nature to the proposed activity in terms of nature of equipment used and vehicle movements, namely a warehouse or transport distribution. When assessed against these policies it was determined that the proposed development was not considered seriously at variance with the requirements of the Code.

The impacts associated with the proposed development are not too dissimilar with the uses specifically envisaged. In consideration of the small scale of the proposal, the use of an existing building and surrounds, the setbacks of the use from sensitive uses, the preservation of landscape amenity and no signage, it is considered that the development could co-exist with adjoining activities. Ancillary truck use and parking is part of the existing rural landscape, and the proposed use is considered to have some similarity to these ancillary activities of primary production and rural industry and other envisaged uses.

Whilst there were applicable Overlays, they too didn't have too many guiding principles to help with the proposed land use. The most pertinent being the Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay was satisfied with the applicant demonstrating appropriate stormwater management techniques to ensure that the water catchment area is maintained.

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CONCLUSION

The proposal is for a change of use to include a private depot for the parking & storage of vehicles and associated equipment on an allotment used primarily for rural living purposes with an added horse keeping . The property is in a Productive Rural Landscape Zone and surrounded by allotments used for rural living and primary production related purposes.

The key issues associated with the proposed use and as raised in the representations were the appropriateness of the use in the zone and the impacts on the amenity with the use of the trucks and the noise associated with such use. An acoustic report was prepared which looked at the noise impacts during day-time and night-time criterion of the *Environment Protection (Commercial and Industrial Noise) Policy 2023* and it was established that the noise generated was within the required criterion. Both the hours of operation and the number of vehicle movements are modest and unlikely to significantly impact on the amenity of the locality. In terms of the use, whilst the proposal is not associated with primary production use or promoting valuing adding activity it is none-the-less considered a use that is not going to impact on the remainder of the allotment being used for primary production or on the adjoining primary production uses.

The existing access point was reviewed and deemed acceptable by Council's Engineering Department subject to a small level of modification and alteration.

The proposal whilst not being specifically listed or envisaged in the zone is also not specifically listed as a form of land use which is restricted and needs to be assessed on its merits. As such, when assessed against the relevant zone policies, overlays and general development policies for developments of a similar nature, the proposal is considered to generally address those criteria. As such, the proposal warrants planning consent being granted.

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 23022828 by Mark Kwiatkowski for change of land use to include private depot for parking of 3x trucks exceeding 3 tonne tare weight & construction of retaining walls at 86 Gillman Road, Oakbank 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) A maximum of three (3) trucks associated with the approved use shall be kept on site at any one time, with two trucks associated with the depot and one associated with horse keeping.**
- 3) All equipment, machinery and vehicle parking associated with the depot shall only be stored and parked in the building and the nominated hardstand area on the site plan prepared by Quartz Building Design, revision A, dated 02 August 2024. All materials stored within the hardstand area shall be stored in a tidy manner to the reasonable satisfaction of Council**

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- 4) No mechanical maintenance, vehicle refuelling, vehicle servicing or, washing of machinery and equipment associated with the approved use shall occur on site.
- 5) No bulk storage of chemicals, oils or lubricants associated with the approved use is to occur on-site.
- 6) Operating days and hours of the depot shall be Monday to Friday 6:30am to 5:00pm. Movement of trucks and heavy vehicles associated with the depot use shall be limited to these hours of operation.
- 7) Trucks and heavy vehicles must not be started earlier than 6:30am.
- 8) Access to the property shall be upgraded in accordance with the following requirements and maintained at all times to the reasonable satisfaction of Council:
 - Bitumen seal shall be laid for a distance of 10 metres from the Gillman Rd carriageway edge to inside the property boundary. Construction shall include 100mm of compacted rubble base and 40mm AC10 bitumen.
 - Left-hand side access entry must be widened to 3m. Newly widened crossover is not to restrict *or alter* existing roadside stormwater flows
 - Driveway to be constructed in accordance with Council Standard Detail drawing for Piped Entrance for rural verge crossover
- 9) 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.
- 10) All stormwater infrastructure including a gross pollutant trap 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.

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.

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- 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.:	24021301
APPLICANT:	Designing Places
ADDRESS:	4 BRETTIG RD LOBETHAL SA 5241
NATURE OF DEVELOPMENT:	Expansion of existing transport depot into South-East corner of allotment, associated semi-permeable rubble hardstand and stormwater control, retaining walls, combined retaining wall and fencing and culvert
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Employment • Productive Rural Landscape <p>Overlays:</p> <ul style="list-style-type: none"> • Environment and Food Production Area • Hazards (Flooding) • Hazards (Bushfire - Medium Risk) • Limited Land Division • Mount Lofty Ranges Water Supply Catchment (Area 2) • Native Vegetation • Prescribed Water Resources Area • Regulated and Significant Tree • Traffic Generating Development • Urban Transport Routes • Water Resources
LODGEMENT DATE:	23 July 2024
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.13 18/7/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes - 23 August 2024 to 12 September 2024
RECOMMENDING OFFICER:	Blake O'Neil Senior Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Council Biodiversity Council Engineering

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CONTENTS:

ATTACHMENT 1:	Application Documents	ATTACHMENT 4:	Representations
ATTACHMENT 2:	Subject land - Zoning Map	ATTACHMENT 5:	Response to Representations
ATTACHMENT 3:	Representors Map	ATTACHMENT 6:	Relevant P& D Code Policies

DETAILED DESCRIPTION OF PROPOSAL:

The proposal seeks the change in use to South-Eastern corner of the subject site for expansion of the existing heavy vehicle parking associated with the Transport Depot and private Construction Depot approved on the land and construction of a proposed new hardstand area, car park and internal access from the existing hardstand area. Access to the new heavy vehicle parking area will continue to be from existing crossovers to Brettig Road. An existing creek crossing has been upgraded with a new culvert to allow heavy vehicle access from the existing heavy vehicle parking to the proposed location. The headwall of the Culvert is 1.6m in height and is development. The proposal includes a stormwater management system to work in conjunction with the proposed hardstand area.

The new heavy vehicle parking area will consist of five (5) different tiered levels, with four (4) of those levels to be utilised for the parking of the heavy vehicles and the final to be used for vehicle egress within that area. Each of the levels will possess a 1 metre height difference through battering of each of the levels. The hardstand itself will be constructed of a semi-permeable rubble so as to manage stormwater effectively on the site. In addition to the truck parking the application proposes 20 car parking bays for staff located between the truck parking and stormwater system. No lighting is proposed as part of this application.

An associated stormwater management system will be undertaken on site to mitigate potential issues stemming from the proposed hardstand and heavy vehicle parking. The system will be comprised primarily of bunds and swales with a detention basin to be formed of concrete blocks 1m x 1m in size.

The applicant has proposed hours of operation from 4:30am to 8:00pm 6 days per week. No increase to the capacity of the depot is proposed and the existing capacity of 50 heavy vehicles will continue to apply as imposed by condition 7 of Development Authorisation 473/532/19.

A 6m wide tree buffer/planting area to the Eastern allotment boundary is proposed with tree planting to supplement existing plantings.

Additionally, a 1.8m high colourbond fence will be constructed on the southern boundary to mitigate amenity impacts to the south. The total length of the fence is 134.5m with the western portion of 32m constructed above the block wall to a maximum height of 3.35m.

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APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
18 October 2022	473/532/2019 21018506	Change of use to include a transport depot and extend an existing vehicle hardstand, retaining walls, combined fence and retaining wall (maximum height 4.15 metres), 2 x 28,000 litre fuel storage pods, storage building, outbuilding for truck wash equipment, 2 x 20,000 litre water tanks & associated earthworks
10 August 2016	473/205/2016	Storage building, retaining wall and associated earthworks.
7 September 2015	473/340/2015	Non-illuminated advertisements on face of building
29 January 2015	473/29/2015	Variation to development authorisation 473/75/13 for increased truck parking area and include staff parking and storage of plant/equipment in conjunction with existing light industry.
6 June 2014	473/697/2013	Two storey alterations and additions to existing office building including upper level balcony
4 March 2013	473/75/2013	Change of use from grazing to truck and trailer parking
26 October 2011	473/947/2010	Construction of a new workshop & a new farm building & associated
26 October 2011	473/591/2011	Storage shed, extension to vehicle storage shed, removal of significant tree, general industry building.
11 March 2011	473/41/2011	Addition to general industry building
21 December 2010	473/1268/2010	Removal of a significant tree (Eucalyptus camaldulensis - River Red Gum)
1 November 2010	473/1132/2010	Demolition of an existing derelict cottage and an outbuilding
10 August 2009	473/693/2009	Advertising displays x 4
2 May 2008	473/697/2007	Warehouse - shed
17 December 2007	473/1030/2007	Alterations and additions to existing office / warehouse
13 June 2006	473/61/2006	Retaining wall and associated landscaping
24 June 2004	473/880/2003	Signs

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7 June 2004	473/952/2003	Truck Storage
9 August 2002	473/336/2001	Work depot and offices

SUBJECT LAND & LOCALITY:

Location reference: 4 Brettig Road, LOBETHAL SA 5241

Title ref.: CT 5220/438 **Plan Parcel:** F125204 AL3 **Council:** ADELAIDE HILLS COUNCIL

Site Description:

The subject site is a large regular shaped allotment that exists on the edge of the Lobethal township currently utilised for commercial/industrial purposes. The allotment possesses three (3) sealed crossovers to Brettig Road and also possesses a frontage to Kenton Valley Road. The site exists within both the *Productive Rural Landscape Zone* and the *Employment Zone*. The site has a total area of 125097.66 square metres (12.5 hectares) with a maximum depth of 359 metres and a maximum width of 349 metres.

The site is currently being utilised as a Transport Depot and private Construction Depot with a number of ancillary structures also placed on the allotment. The majority of the built form on the site is towards the north western side of the allotment with the only built form currently on the southern portion being a large building (Truck Wash) in association with the existing truck depot use that authorised a large number of vehicles and trailers being stored within this area.

As mentioned, the site exists within two (2) separate zones with the Western side of the allotment existing within the *Employment zone* and the Eastern side of the site existing within the *Productive Rural Landscape zone*. Noting that the proposed works included within this application will wholly be undertaken within the *Productive Rural Landscape Zone*.

A 4m wide easement to the Electricity Trust of South Australia extends from the Brettig Road boundary to the southern boundary. A 20m wide easement to the Electricity Trust of South Australia extends west from the 4m easement to the western boundary. The proposal is to be constructed in the 4m wide easement with a stobie pole located between first and second truck parking bay. The plans provide clearing of a 3m wide area from the base of the stobie pole.

The site sits higher than the road level of Kenton Valley Road and slopes down quite considerably from the Northern part of the allotment to the Southern portion of the site and a crossfall from the east to west of 17m. The existing structures are at the highest point of the site on previously benched areas with the slope falling away to the benched areas in the Southern portion of the site.

The site possesses small areas of scattered vegetation, whether that be planted or native species, notably running across the Southern allotment boundary and watercourse, however for the most part the site is generally clear of vegetation. Also, a watercourse is situated midway across the development site and then extends between the existing hardstand and proposed area of new hardstand.

Locality:

The locality surrounding the subject site can be characterised by a mixture of different sized allotments, given the multiple zones throughout the immediate locality. To the immediate South of the subject site the allotment is located within the Township Zone and the Productive Rural Landscape Zone. Further to the south the locality is mostly residential allotments within the Township zone where sites range from smaller residential allotments to larger rural residential type allotments.

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This includes a recent land division of 15 residential allotments at 14 Kenton Valley Road Lobethal (16/D37/473) that received clearance on 12 April 2024. All of the allotments within the division have dwellings in development or completed.

The Western locality is mostly within the Employment Zone and possesses examples of industry type development in the form of manufacturing. The Northern and Eastern locality is generally made up of larger rural land holdings within the Productive Rural Landscape Zone with a number undertaking various levels of primary production on their respective sites. There also exists Lobethal Bushland Park within the North Western portion of the locality

Kenton Valley Road is under the ownership of the Department of Infrastructure and Transport and is the main entry to the township of Lobethal from the north. Brettig Road is under the ownership of Adelaide Hills Council, the road surface is bituminized for the first 75m from Kenton Valley Road and has a gravel surface for the remainder.

It is further noted that there are no Local or State Heritage listed properties that exist within proximity to the subject site or within the immediate locality.

The subject land with the zoning that impacts the properties is identified on ***Attachment 2 - Subject Land/Zoning Map***.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**

Change of use - Code Assessed - Performance Assessed

Other - Commercial/Industrial - Proposed truck parking, semi-permeable rubble hardstand and related stormwater control - Code Assessed - Performance Assessed

Retaining wall: Code Assessed - Performance Assessed

Fencing: Code Assessed - Performance Assessed

- **OVERALL APPLICATION CATEGORY:**

Code Assessed - Performance Assessed

- **REASON**

The Planning and Design Code does not provide an 'Accepted' or a 'Deemed to Satisfy' pathway for the above noted element. It is also not listed as being 'Restricted' forms of development under Table 4 of the Productive Rural Landscape zone.

Therefore it is considered that as per Sections 105 (b) and 107 of the PDI Act that the proposal defaults to 'Performance Assessed' development.

PUBLIC NOTIFICATION

- **REASON**

Proposed development is not listed in Table 5 as a form of development exempt from notification in the P & D Code. It is also not a kind of development which the relevant authority was able to consider to be minor in nature and as such it was notified.

The Public notification period for this application was undertaken from 23 August 2024 to 12 September 2024.

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• LIST OF REPRESENTATIONS

Two (2) representations were received during the Public Notification period, one (1) supporting the development with concerns and not wishing to be heard. The other representor opposing the development and wishing to be heard at a potential Council Assessment Panel (CAP) meeting

Representor Name	Representor's Property Address	Wishes to be heard (Y/N)	Nominated Speaker (if relevant)
Leanne Noske	Unit 5/6 Euston Avenue, Highgate	Yes	Self
Mandie Busby (SA Power Networks)	GPO Box 77, Adelaide	No	N/A

• SUMMARY

The issues raised within the received representations can be briefly summarised as follows:

- Potential impacts to the visual amenity of the landscape
- Noise and dust generated by the proposed development
- Use not meeting the intent of the Productive Rural Landscape Zone
- Questions regarding the development within proximity to SA Power Networks infrastructure

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

- Nil

INTERNAL REFERRALS

• Council Biodiversity:

The subject application was referred internally to Council's officer responsible for the management of biodiversity. Within the referral response it was noted that the development would be occurring on a private property and if the proposal was seeking to impact a watercourse it would be subject to approval under the *Landscapes Act, 2019* and may require assessment for a potential water affecting activity permit.

• Council Engineering:

The application was internally referred to Council's technical officer who was asked about the viability of the provided stormwater management plan provided by the applicant. Within their referral comments the technical officer noted that the plan was acceptable subject to comments:

1. The post development 1% AEP peak post development flow rate from the proposed extent of development is not to exceed the pre-development 1% AEP peak flow rate from the proposed extent of development.
2. A basin will be formed to provide detention storage and stormwater quality treatment. A 300 mm high rock check dam will be provided across the basin to create a sediment forebay.
3. The basin will include 110 m² of bio-retention that has an extended detention depth of 150 mm. The bio-retention basin will include 450 mm filter media, 100 mm transition layer and 150 mm drainage layer

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- Subsoil drains are to be provided at a spacing of 3 m and will connect to a 600 x 600 mm grated field inlet pit. A DN375 mm pipe will discharge through the concrete block wall at an invert level of RL436.60 m. A shallow swale will be required to convey stormwater from the DN375 mm outlet pipe to the watercourse.

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	
PO 1.1 & DPF 1.1, PO 2.1 & DPF 2.1, PO 4.1 & DPF 4.1, PO 4.2, PO 4.3 & DPF 4.3	

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The performance outcomes (PO) and designated performance features (DPF) outlined within the Productive Rural Landscape Zone are generally silent on this particular form of development. As such they do not provide specific guidance for the assessment of the subject application.

Noting the above, it is considered that a number of the desired outcomes (DO), performance outcomes and designated performance features reference developments that may have similar potential impacts and have been relied upon to determine a level of appropriateness of the subject application.

DO 1 of the Productive Rural Landscape Zone seeks for a diverse range of land uses at an appropriate scale and intensity that capitalise on the region's proximity to the metropolitan area. The DO also goes on to state that these land uses should conserve the natural and rural character, identity, biodiversity, sensitive environmental areas and the scenic qualities of the landscape. With DO 2 it states that the zone promotes a list of primary production uses with an aim to promote the regional identity of the area.

PO 1.1 of the zone echoes the sentiment of the two desired outcomes by noting that it seeks primary production and value adding uses. It is considered that the proposed heavy vehicle parking would not be consistent with either DO nor would it be meeting the first part of PO 1.1. It is however considered that while PO 1.1 has not been explicitly met it should be noted that the heavy vehicle parking is in association with a lawfully approved use on the site, being a transport depot. It is further considered that the increase in area of heavy vehicle parking while not increasing the quantity of vehicles will not necessarily intensify the existing lawful use of the land, it will merely provide for additional parking space internal to the site.

DO 3 of the Productive Rural Landscape Zone supports development with new and continued investment while promoting co-existence of uses and minimising potential land use conflicts that may occur. In relation to this provision, it is considered that the proposal will support a continued investment stemming from the lawful use of the land. It will also attempt to promote co-existence through siting of the proposal to the South of the site, while still allowing the majority of the Eastern side of the site to be undeveloped, which in turn will allow for a visual break between the developed area.

When considered against PO 2.1 it is noted that the subject site possesses suitable vehicle access by way of being serviced by an all-weather trafficable public road. Noting that no alterations to the road verge are required to accommodate the proposal and the works will be solely occurring within the area of the hardstand space.

Within the Productive Rural Landscape Zone it is noted that the most relevant policies to the subject form of development are PO 4.1, 4.2 and 4.3 which all relate similarly to the notion of industry type uses occurring within the zone - noting specifically that PO 4.2 and 4.4 mention transport distribution explicitly, which for all intents and purposes is the closest form of development to the lawful use of the land. It is therefore considered that despite the policies not mentioning transport depots specifically it does contemplate development types that are likely to have a similar level of impact.

The provisions further seek to limit any potential impacts stemming from the use to sensitive receivers on adjacent sites and to also maintain the rural function of the area. DPF 4.3 sets out quantitative measures in terms of setbacks from allotment boundaries, sensitive receivers, building heights and containing loading/unloading to internally on the sites.

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It is considered that the measures within DPF 4.3 have mostly been met with the exception of DPF 4.3(b) where a setback of 100 metres from a sensitive receiver in separate ownership is sought. In the case of the proposal there is a setback of approximately 76 metres from the closest residential allotment not in the same ownership. It is further considered that a number of these sites are still vacant residential allotments existing within a relatively new subdivision, which should be noted are pre-dated by the use on the subject site.

The applicant has been requested to provide an acoustic report to support their application. The applicant has provided the following justification that this is not required:

- the proposed space is immediately adjacent a currently used hardstand
- the proposed hours of use are no different to the allowable hours on the hardstand immediately adjacent
- the potential noise output will be no greater than what is already existing on the current hardstand
- there is no proposed increase to vehicle numbers already approved on the current hardstand
- the proposed space is further away from sensitive receivers than the existing hardstand

A compromise to not providing an acoustic report is the addition of a 1.8m high colourbond fence on the southern boundary for the extent of the truck parking area at 134m in length. The aim of the fence is to mitigate impacts of vehicle noise and light spill for the sensitive receivers to the south.

In relation to this provision, it is considered that one of the representations received specifically noted the potential for visual impacts stemming from the use, noting their concern around the heavy vehicle parking on a site that they can clearly see. In response to this point the applicant has provided an amended drawing that shows a 6m wide tree buffer/planting area to the Eastern allotment boundary with new trees to supplement existing plantings

Therefore, while the proposal would not be directly linked with a primary production related activities it is thought to be acceptable given the allotment is already being utilised as a transport depot, the proposal merely seeks to add a hardstand area for the parking of vehicles already in association with the existing use on site.

Also noting that the proposed area has been thoughtfully sited in an attempt to cause the least amount of visual impact while still meeting the land use needs. Because of this the proposal is still considered to be acceptable in the context of the subject site. It will be sited immediately adjacent to an existing truck hardstand area that was previously approved on the site.

Employment Zone

Desired Outcomes	
DO1	A diverse range of low-impact light industrial, commercial and business activities that complement the role of other zones accommodating significant industrial, shopping and business activities.
DO2	Distinctive building, landscape and streetscape design to achieve high visual and environmental amenity particularly along arterial roads, zone boundaries and public open spaces.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
N/A	

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It is noted that while the property is located in two (2) separate zones the proposed area of expansion is wholly contained within the *Productive Rural Landscape Zone* and therefore the application has only been briefly considered against the Desired Outcomes included within the *Employment Zone*.

In the case of the proposed change of use, it is considered that in context with the rest of the site the use is broadly complying with DO 1 of the zone in that it seeks to add to a lawful use that is already being undertaken on the rest of the site.

Considering the proposal against DO 2 it is considered to be consistent with this outcome as well in that the area of the addition to the use will not be readily visible from any arterial road or public open space due to the setbacks, topography and siting of the development behind an existing hardstand area. And therefore the proposed will not detrimentally impact upon the provision of high visual and environmental amenity.

Overlays

Environmental and Food Production Areas

Desired Outcomes	
DO1	Protection of valuable rural, landscape, environmental and food production areas from urban encroachment.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
N/A	

This particular overlay relates to ensuring that land division is undertaken in accordance with Section 7 of the *Planning, Development and Infrastructure Act, 2016*. As the proposal is not seeking for division of land it is not applicable.

Hazards (Bushfire- Medium Risk) Overlay

Desired Outcomes	
DO1	Development, including land division responds to the medium level of bushfire risk and potential for ember attack and radiant heat by siting and designing buildings in a manner that mitigates the threat and impact of bushfires on life and property taking into account the increased frequency and intensity of bushfires as a result of climate change.
DO2	To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO 1.1 & DPF 1.1, PO 5.1 & DPF 5.1, PO 5.3 & DPF 5.3	

It is noted that the overlay generally seeks for development to be undertaken in a way that will not result in unreasonable bushfire risk to a property. In the case of the subject application, it is noted that the proposal does not seek for any built form aspect and is solely seeking for the partial change of use and the establishment of a handstand area for heavy vehicle parking.

Therefore, it is considered to be broadly consistent with the intent of DO 1 and DO 2.

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Further noting the development's compliance with PO 1.1 of the overlay in that there will not be a built form aspect to the proposal and will therefore not be impacted by the potential for unacceptable bushfire risks due to the vegetation cover, type and terrain. It is noted that the area of development is clear of vegetation and also will be constructed on terrain that does not make egress impossible.

PO 5.1 of the overlay seeks for roads to be designed to facilitate safe and effective access and evacuation of fire-fighting vehicles, emergency personnel and occupants/visitors to the site. The access track internal to the site was constructed to facilitate the effective egress of heavy vehicles and in turn has been designed to effectively manage the vehicle movements for emergency vehicles, noting its compliance with DPF 5.1 provisions.

Finally noting in relation to PO 5.3 of the overlay that the development will not solely rely on fire tracks as a means of access or evacuation from the site.

Hazards (Flooding) Overlay

Desired Outcomes	
DO1	Impacts on people, property, infrastructure and the environment from high flood risk are minimised by retaining areas free from development, and minimising intensification where development has occurred.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
N/A	

The Hazards (Flooding Overlay) is not located in the area of the Productive Rural Landscape Zone and not within the site of the proposed development. As such the policies of the Hazards (Flooding) overlay do not apply to this application. The extent of the Hazards (Flooding Overlay) can be seen in Attachment 2 Subject Land - Zoning Map.

Limited Land Division Overlay

Desired Outcomes	
DO1	The long term use of land for primary production is maintained by minimising fragmentation through division of land.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
N/A	

It is noted that as a part of the subject application that land division is not one of the elements sought during the assessment. Therefore, it is considered that the policies included within this particular overlay are not relevant to the assessment.

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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	
PO 1.1, PO 1.2 & DPF 1.2, PO 3.2, PO 3.3	

DO 1 of the Mount Lofty Ranges Water Supply Catchment (Area 2) overlay seeks to protect public water supply by ensuring that development that could potentially pollute the stormwater system or have the ability to generate waste water is undertaken in a manner that will not have a negative impact.

PO 1.1 and 1.2 of this particular overlay seek for development to have a neutral or beneficial impact on water quality within the area and to not include land uses that could potentially cause undue impacts.

In the case of the subject proposal it is considered that the heavy vehicle parking itself has potential to impact on the stormwater system through pollutants generated by the vehicles. For that reason a new stormwater management system has been proposed to negate any potential impacts in that regard.

The stormwater that is generated from the parking of the heavy vehicles on the hardstand will be directed to the new system comprising of various swales and earth bunds and then being directed to a 'bioretention' area comprising of grassed areas and filter beds, feeding into a grated inlet pit prior to dispersal from the subject site.

It is noted that the stormwater management system has been reviewed by Council Engineering who has provided their support for the proposed system with comments. Due to this factor it is considered that the proposal is broadly compliant with PO 1.1 and 1.2, further noting it's compliance with POs 3.2 and 3.3.

An existing creek crossing has been upgraded with a new culvert to allow heavy vehicle access from the existing heavy vehicle parking to the proposed location. This has been constructed and is not Development, the height is less than 1m and in discussion with the Landscape Board would not require a referral. They have been informally made aware of the works.

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	

It is noted that the property exists within the Native Vegetation overlay.

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Further noting that as a part of the lodgement process the applicant provided a declaration stating that no native vegetation would be impacted by the proposed development. It is considered that this complies with PO 1.1 of the overlay.

Prescribed Water Resources Area Overlay

Desired Outcomes	
DO1	Sustainable water use in prescribed water resources areas maintains the health and natural flow paths of surface water, watercourses and wells.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO 1.1 and DPF 1.1	

While it is noted that the site exists within a Prescribed Water Resources area overlay it is further considered that the policies encompassed within that overlay are generally not relevant to the proposal.

PO 1.1 of the overlay seeks for development to have a lawful, sustainable and reliable water supply that does not place strain on water resources within the overlay area. Further considering DPF 1.1 where it states that development should not involve the taking of water for which a licence would be required under the *Landscapes South Australia Act, 2019*.

In the case of this proposal it is noted that water will not need to be taken and therefore a licence is not required, complying with DPF 1.1 and subsequently PO 1.1 of the overlay.

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	
N/A	

As a part of the subject application it is considered that there is no regulated or significant trees sought to be removed. The applicant has provided information noting that the proposal will not be causing impacts to regulated or significant trees.

Noting further that this overlay is not applicable within the Productive Rural Landscape Zone. And this aspect of the zoning is more suited to the Employment Zone side of the allotment.

Traffic Generating Development Overlay

Desired Outcomes	
DO1	Safe and efficient operation of Urban Transport Routes and Major Urban Transport Routes for all road users.
DO2	Provision of safe and efficient access to and from urban transport routes and major urban transport routes.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO 1.1, PO 1.2	

The policies included within the Traffic Generating Development overlay generally speak to proposed crossovers where it may have direct access to a State Maintained Road. Despite this, PO 1.1 and 1.2 are still considered as a part of the application, with the DPF policies not considered.

PO 1.1 seeks for development to minimise potential impact on safety, efficiency, and functional performance of the State Maintained Road network. In the case of the subject proposal it is considered that the proposal does not seek to intensify the use of the land, it instead seeks to add an additional hardstand area, this in turn will not impact on the road movements coming into the site.

PO 1.2 seeks for access points to be sited and designed to accommodate the type and volume of traffic likely to be generated by the proposed. Once again noting that the site already possesses a lawful transport depot being undertaken on site it is further considered that as a part of the proposal access points are not sought to be altered, with the only works occurring in the area of the development relating to creation of an additional internal road to service the hardstand area.

It is considered that the proposed development will not have an adverse impact on State Maintained roads and will therefore be broadly compliant with the overall intent and policies of the overlay.

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	
PO 1.1 & DPF 1.1, PO 2.1 & DPF 2.1, PO 3.1 & DPF 3.1	

The provisions within the Urban Transport Routes overlay generally speak to providing access for dwellings within the context of a land division application process but also provide guidance for non-residential type developments and the access arrangements that should be aimed for.

PO 1.1 of the overlay seeks for access to be designed in a way that allows safe entry and exit to minimise traffic flow interference associated with access movements along adjacent State Maintained road networks. With DPF 1.1(c) outlining quantitative measures for instances where access points will service non-residential developments.

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It is considered that the access point/s that service the site are all existing, these access points will not be altered as a part of the subject application. Currently they effectively service the day-to-day operation of the use on the subject site and it is considered as there won't be any alterations to these access points.

Given the size of the subject site and the infrastructure that is already in place for parking, queueing and the like it is considered that the proposal will not require alteration of the internal layout of the site and therefore is broadly consistent with PO 2.1 of the overlay.

PO 3.1 notes that where an access is existing that they are designed to accommodate the type and volume of traffic likely to be generated by the development. In this case it is noted that the site has a previous approval for the land use of a transport depot, within that application the access points were reviewed and received support to accommodate the heavy vehicles that are commonplace on this site. Further considering that the proposal is compliant with PO 3.1 by way of achieving DPF 3.1 (a), (b) and (c).

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	
N/A	

The proposal is within close proximity to a watercourse at the Southern portion of the subject site. Noting that as a part of this application the watercourse will not be altered or affected by the proposed development in any way.

The applicant has provided a stormwater management system that has subsequently been supported by Council Engineering that will mitigate any impacts for potentially polluted groundwater to cause impacts on that watercourse. The stormwater system includes an earth bund and block wall that will both protect the development from intrusion by the creek and prevent untreated runoff from entering the creek.

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	

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This application does not include any new building work as such there are no issues as far as building within proximity to powerlines.

The applicant has also provided a declaration stating that the proposal would not be contrary to the regulations prescribed for the purposes of section 86 of the *Electricity Act 1996*. As such this proposal is consistent with DO 1 as well as PO 1.1.

Design

Desired Outcomes	
DO1	Development is: a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate area b) durable - fit for purpose, adaptable and long lasting 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	
PO 1.5, PO 5.1, PO 7.2, PO 7.6, PO 7.7, PO8.1, PO9.1, PO9.2, PO 31.1, PO 31.2	

The Design section policies are generally referencing built form and residential type developments so there are only a few policies that are applicable to this form of development. Notably these policies relate to the visual impact of car parking areas, and the effective management of stormwater generated on-site.

The area of the subject site that is to be developed is set back some 150 metres from the frontage of the site on Kenton Valley Road. So the views of the development itself will be somewhat skewed from the public realm between the factors of the setback, the existing hardstand in-between the road and the proposed area and the topography of the subject site. A concrete block retaining wall of up to 1.5m in the south western corner of the development site to allow for better use of the land and reduce the slope in this area.

In terms of the views from neighbouring sensitive receivers, it was noted during the public notification period by a representor that there was the potential for the site to impact on the visual amenity of the area, as a result of this the applicant has proposed screening on the Eastern allotment boundary. A 134m screening fence on the southern boundary at 1.8m high on the southern boundary for the extent of the development will mitigate amenity impacts to the south and satisfy PO9.1. Considering these points it is noted that the proposal will be broadly compliant with PO 1.5, 7.6 and 7.7 respectively.

The associated stormwater management system has been designed in a way that will not cause impact on the quality and quantity of surface water and ground water. Stormwater run off generated by the proposed hardstand will be directed to the new system comprising of various swales and earth bunds and then being directed to a 'bioretention' area comprising of grassed areas and filter beds, feeding into a grated inlet pit prior to dispersal from the subject site. Considering this and Councils technical officers support it is noted to comply with PO 5.1, 31.1 and 31.2.

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	
PO 1.2, PO 2.1 & DPF 2.1, PO 4.1 & DPF 4.1, PO 4.2 and PO 6.1	

The policies within the interface between land uses section are primarily focused on minimising the impacts of development on sensitive land receivers or for the sensitive land receivers to be designed in a way to protect the land uses which are desired within certain zones.

The applicant has conducted businesses on the site for over 20 years, with the use expanding over that time and culminating in the lodgement of a formal application for the change in land use to a Transport Depot and the expansion of the hardstand area in this application (473/532/19 and 21018506). It is noted that the application does not seek to intensify the lawful use on the land but merely seeks to create an additional hardstand area for the parking of heavy vehicles and employee vehicles in association with the land use. Noting further that to the immediate West of the proposed site there exists another hardstand area.

The previous application (473/532/19 and 21018506) that included *Change of use to include a transport depot, extend an existing vehicle hardstand and outbuilding for truck wash equipment* provided hours of operation for the Truck Wash portion of the application. The applicant has proposed operating hours of 4:30am to 8:00pm 6 days per week for the heavy vehicle parking as part of this application. The proposed hours represent a restriction as compared to the remainder of the truck parking on the site and is located further from the nearest sensitive receiver. As noted earlier, the applicant was requested to provide an Acoustic Report which was declined with the justification provided being:

- the proposed space is immediately adjacent a currently used hardstand
- the proposed hours of use are no different to the allowable hours, on the hardstand immediately adjacent
- the potential noise output will be no greater than what is already existing on the current hardstand
- there is no proposed increase to vehicle numbers already approved on the current hardstand
- the proposed space is further away from sensitive receivers

A compromise to not providing an acoustic report is the addition of a 1.8m high colourbond fence at 134m in length on the southern boundary for the extent of the truck parking area. The western portion of the fence will be constructed above the block wall to a maximum combined height of 3.35m as viewed from the south. The aim of the fence is to mitigate impacts of vehicle noise and light spill for the sensitive receivers to the south.

The hours of operation are reflected in recommended condition 5.

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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	
PO 1.1, PO 1.2, PO 1.3, PO 3.1 & DPF 3.1, PO 3.4, PO 3.5 & DPF 3.5, PO 3.8, PO 5.1 and DPF 5.1, PO 6.2, PO 6.6 & DPF 6.6, DPF 6.1	

As noted earlier within the report, the proposal does not seek to alter the existing access points to the subject site. The site has 3 crossovers to Brettig Road with the central one providing access to heavy vehicles onto a bituminised portion of the road. From the existing hardstand the applicant has upgraded the crossing of the creek to allow for heavy vehicle access to the location of the development. The crossing provides two pipes of 600mm diameter, a 1.6m headwall and road base fill and satisfies PO3.8. This crossing has been constructed and is retrospective.

Against PO 1.1 and 1.2 of this section it is considered that the proposal will be integrated with the existing transport system as it already possesses lawful access to local roads that feed into a State Maintained road. Further noting that the proposal discourages commercial and service vehicle movements through residential streets by utilising these existing access points. PO 1.3 is also adequately met by the proposal, as it seeks for the construction of a hardstand for heavy vehicles this will result in a separation between passenger vehicle parking areas and areas for commercial heavy vehicles.

PO 3.1 of this section is considered to be met as it obtains access via a lawfully existing access point on Brettig Road. So PO 3.1 is met by way of meeting DPF 3.1(a). Further considering that POs 3.4, 3.5 and 3.8 of this section are all considered to be met by way of the access being existing.

The proposal creates an additional 20 car parking spaces for employees. *Table 1 - General Off-Street Car Parking Requirements* does not provide specific car parking requirements for a hardstand. The proposal has provides additional truck parking with the same quantity of trucks to be on the site. The demand for onsite parking is not considered to have increased as part of this application. Therefore the proposal is meeting PO 5.1 and DPF 5.1

CONSIDERATION OF SERIOUSLY AT VARIANCE

The subject proposal is not considered to be seriously at variance with the provision of the Planning and Design Code, 2021

It is noted that the proposal seeks for a form of development that is not explicitly mentioned within the Productive Rural Landscape Zone. Despite this, there are similar development types referenced within the zone. Against those policies the proposed development is broadly compliant.

The site is a dual zoned property, existing within both the Employment and Productive Rural Landscape Zones. While the proposed development is to be undertaken wholly within the Productive Rural Landscape Zone it is noted that the site has previously been approved as a transport depot with ancillary functions, the proposal merely seeks to add to the existing lawful use on site.

Also noting that the area where the development will be undertaken would not be capable of carrying out a viable primary production use, noting the land's topography, size and proximity to the existing transport depot.

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Access arrangements will not be impacted by the proposal and the site will still be consistent with the overarching policies relating to access within the Urban Transport Routes and Traffic Generating Development overlays.

It is also considered that the proposal will not cause adverse impacts to the water quality within the catchment area. Noting the stormwater management system that has been designed to a certain standard accepted by Council Engineering. Considering this and that the proposed will generate no wastewater the proposal will meet the policies within the Mount Lofty Water Supply Catchment Area Overlay policies.

CONCLUSION

The proposal seeks expansion of heavy vehicle parking via a proposed new hardstand area on the eastern side of the subject site. The land is lawfully used as a transport depot and the proposal will aid in the undertaking of that use by providing additional formal vehicle parking area, stormwater management infrastructure and internal driveways to provide access to the hardstand. 20 additional staff car parking spaces have been provided while the trucks on the site have been limited to 50 in total in keeping with the previous application. The hardstand will be battered between each of the 5 bays up to 1m in height in the northern corner and the 5th bay to the east having batter of 2.4m up to natural ground level.

The stormwater system includes earth bunds, 1 metre high block walls and swales to direct flows to the south western corner of the development site where it will be treated in a bio retention sand and reed bed before being released via a scour to the creek.

While the Productive Rural Landscape Zone is generally silent on this form of development there are references to similar development types, which the proposal is broadly consistent with.

While the Productive Rural Landscape Zone does not explicitly seek for the proliferation of depot type uses it is considered that the site is dual zoned, with the other half of the zone being within the Employment zone. For that reason this application is seen to constitute a continuation of the existing use of the land despite the traversal of the zone boundaries.

The hardstand area has been designed to accommodate a stormwater management system that will provide the site with an effective way of managing the potential polluted run-off generated by the heavy vehicles that will be parked in the area. The Stormwater Management Plan has also been accepted by Council Engineering.

The perceived visual impacts that were originally raised by the representations have adequately been addressed by the applicant by way of additional screening vegetation on the common boundary included in the updated landscaping plan. Additionally, the colourbond fencing on the southern boundary will mitigate amenity impacts for the sensitive receivers to the south. Also noting the setback of heavy vehicle parking to sensitive receivers has been increased and no additional trucks are to be brought onto the site.

When assessed against the relevant zone policies, overlays and general development policies for developments of similar nature, the proposal is considered to generally address those criteria and as such warrants Planning Consent being granted.

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 24021301 by Designing Places for the Expansion of existing transport depot into South-East corner of allotment, associated semi-permeable rubble hardstand and stormwater control, retaining walls, combined retaining wall and fencing and culvert at 4 Brettig Road, Lobethal is GRANTED Planning Consent subject to the following conditions

CONDITIONS

Planning Consent

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.
- 2) No mechanical maintenance, vehicle refueling, vehicle servicing or, washing of machinery and equipment associated with the approved use shall occur on the land subject to this approval.
- 3) A total of 50 heavy vehicles to be parked on the site at any time of which a maximum of 30 heavy vehicles located in the on the subject land in this application.
- 4) No bulk storage of chemicals, oils or lubricants associated with the approved use is to occur on the land subject to this approval.
- 5) Operating days and hours of the depot shall be Monday to Friday 4:30am to 8:00pm. Movement of trucks and heavy vehicles associated with the approved use shall be limited to these hours of operation.
- 6) All vehicle movements associated with the depot use are to only occur through the existing access point shown on the approved site plan.
- 7) The screen of trees on the eastern boundary, as shown on site plan PA02 prepared by Designing Places dated 11 July 2024, shall be planted to a minimum height of 1m with a dense screen of shrubs and trees along the eastern and southern boundaries of the subject land. Landscaping shall be established in the next planting season after the civil works are complete (whichever comes first) and maintained in good health and condition at all times with any dead or diseased plants being replaced in the next planting season.
- 8) All stormwater from the development site shall be managed in accordance with the approved stormwater management report prepared by DBN Consulting Engineers Pty Ltd dated 12 July 2024 and stormwater management plan (Drawing PA05 dated 11 July 2024) prepared by Designing Places. The stormwater management system shall be installed and operational prior to commencement of the approved development.
- 9) Fencing shown on site plan PA 02 dated 11 July 2024 prepared by Designing Places shall be installed prior to commencement of the approved development.
- 10) All external lighting on the subject land shall be designed and constructed to conform to Australian Standard AS/NZS 4282-1997, and shall be directed away from adjacent residential properties to prevent light spill nuisance.

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- 11) 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.

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).
- 5) Management of the property during construction shall be undertaken in such a manner as to prevent denudation, erosion or pollution of the environment.
- 6) The applicant is reminded of their general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes, or may cause, environmental harm.

OFFICER MAKING RECOMMENDATION

Name: Blake Oneil
Title: Senior Statutory Planner

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ITEM 8. 3

DEVELOPMENT NO.:	24022394
APPLICANT:	Certified Planning and Development
ADDRESS:	30 TERINGIE DR TERINGIE SA 5072
NATURE OF DEVELOPMENT:	Filling of land (46.231m ³) & tree damaging activity to Significant Tree (<i>Eucalyptus viminalis subsp. cygnetensis</i> (Rough-barked Manna Gum)
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Hills Face <p>Overlays:</p> <ul style="list-style-type: none"> • Environment and Food Production Area • Hazards (Bushfire - High Risk) • Heritage Adjacency • Hazards (Flooding - Evidence Required) • Native Vegetation • Prescribed Wells Area • Regulated and Significant Tree • Traffic Generating Development
LODGEMENT DATE:	26 Jul 2024
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.13 18/7/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Doug Samardzija – Senior Statutory Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil

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 proposal is a retrospective application for filling of land at the rear of 30 Teringie Drive Teringie. The Applicant is seeking to expand the extent of flat usable open space behind the house and around the swimming pool. The maximum height of the filling that is proposed is 1.27m which will be battered and landscaped to match the natural features of the land.

The other element of the proposal is tree damaging activity in relation to a single *Eucalyptus viminalis subsp. cygnetensis* (Rough-barked Manna Gum) located to the back of the allotment. The works will include remediation work to clear a large portion of fill placed around the tree and reduce the encroachment within the TPZ from 36% to a tolerable 12%.

BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
30 September 1971	486	Dwelling
24 April 2001	473/220/01	Addition to detached dwelling
07 June 2001	473/436/01	Domestic Outbuilding
19 February 2002	473/1219/01	Domestic Outbuilding- garage
10 March 2004	473/128/04	Two (2) x rainwater tanks
10 November 2008	473/964/05	Deck
07 March 2011	473/77/11	Significant tree removal- Eucalyptus
09 December 2011	473/138/11	Dwelling alterations and additions - double garage with below ground cellar and earthworks forward of the dwelling
09 December 2011	473/915/11	Variation to development authorisation 473/138/11 to vary fencing
10 August 2021	473/449/12	Inground swimming pool and deck

SUBJECT LAND & LOCALITY:

Location reference: 30 TERINGIE DR, TERINGIE SA 5072

Title ref.: CT 5343/95 **Plan Parcel:** D7700 AL34 **Council:** ADELAIDE HILLS COUNCIL

Site Description:

The subject land is a rectangular shaped allotment directly fronting Teringie Drive. The allotment has a frontage of 27.43 which widens to 45.72m at the rear with a total area of 3459m². The allotment is relatively level along the front portion but then starts to slope away from the swimming pool to the rear of the site. Current site improvements include a masonry fence along the front boundary, large concrete front yard and an outbuilding along the front eastern portion of the allotment. A single storey dwelling is also positioned roughly central to the site and immediately behind the dwelling is a swimming pool, associated deck and lawn area. Other site improvements include landscaping and screening hedges throughout the allotment. A single Significant tree being *Eucalyptus viminalis subsp. cygnetensis* (Rough-barked Manna Gum) is located approximately 11m from the rear boundary and 16.5m from the edge of the deck associated with the swimming pool.

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Locality:

The locality is predominantly residential in nature with a variety of allotment shapes and sizes. Most of the dwelling stock in the locality is consistent in nature being predominantly single storey and with very similar footprints. The characteristic of the allotments in the locality are similar to the subject land and contain mostly swimming pools, associated outbuildings and dense vegetation.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Tree-damaging activity: Code Assessed - Performance Assessed
Filling of land: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

- **REASON**
The proposal is not listed in Table 5 as a form of development exempt from notification

Public Notification period – 10 October 2024 to 30 October 2024

- **LIST OF REPRESENTATIONS**

Representor Name	Representor's Property Address	Wishes to be heard (Y/N)	Nominated Speaker (if relevant)
Grace Barbaro	117 Woodland Way, Teringie	Yes	Grace and Frank Barbaro

- **SUMMARY**

The main concerns in the representation can be summarised as follows:

- Stability of the fill
- Nature of the fill dumped being demolition fill
- Construction of a chicken coop (not considered as part of this DA)

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

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AGENCY REFERRALS

None

INTERNAL REFERRALS

None

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**.

Zones

Hills Face Zone

Desired Outcomes	
DO1	<p>To maintain the western slopes of the South Mount Lofty Ranges as an important natural asset of Greater Adelaide by limiting development to low-intensity agricultural activities and public and private open space. The natural character of the zone will be preserved, enhanced and re-established to:</p> <ul style="list-style-type: none">a) provide a natural backdrop to the Adelaide Plain and a contrast to the urban areab) preserve biodiversity and restore locally indigenous vegetation and fauna habitats close to metropolitan Adelaidec) provide for passive recreation in an area of natural character close to the metropolitan aread) provide a part of the buffer area between metropolitan districts and prevent the urban area extending into the western slopes of the Mount Lofty Ranges. <p>‘Natural character’ refers to the natural topography, native vegetation and colours, such as greens and browns of non-reflective earthen tones, normally associated with a natural landscape. Additionally, natural character refers to the open character of the land in those areas of the zone where open grazing currently predominates.</p>

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Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria
POs: 1.1, 1.3, 1.4, 3.1, 3.2, 10.2, 10.4, 10.5, and 11.1. DPFs: 3.1,

The proposed earthworks along with the small level of tree damaging activity is a low scale activity on an existing residential allotment where the owners have sought to create additional usable private open space. The extent of the earthworks that has thus far been undertaken will be scaled back to facilitate the protection of a significant tree to the rear of the site. All the earthworks will also be battered off and vegetated to ensure that the natural character of the area is maintained. The proposal therefore satisfies POs 1.1, 1.3.

The earthworks that are proposed are not entirely consistent with PO 3.1, mainly in that they are not associated with building work. That being said, the extent of fill that is proposed is only marginally above the quantitative height of 1m envisaged by the corresponding DPF. The proposal is therefore of a nature that will preserve the natural form of the land as much as possible. The proposal has also been amended to ensure that the native vegetation on the land is maintained. The proposal is therefore considered to satisfy the main intent of the PO 3.1 irrespective of it not being associated with building work.

The extent of the earthworks proposed, and the location means that there is ample space on the subject land to batter the earthworks, stabilise it and plant it out to ensure that the natural character is maintained. Representor concerns raised in relation to the stability of fill proposed have been addressed by the applicant in their response by confirming that the fill placement is an engineered solution, and a batter has been designed so that it gradually transitions from the flat lawn area at the top towards the bottom portion of the site with appropriate compaction to ensure stability. Condition 2 has also been recommended requiring the earthworks batter to be landscaped. This will ensure consistency with POs 3.2 and 10.5.

As mentioned above, the proposed earthworks will result in a small level of tree damaging activity. The extent of the earthworks that have been undertaken thus far have been deemed by the project arborist to be too excessive and in the order of 36% encroachment into the tree protection zone (TPZ). The arborist has therefore indicated that remediation works need to be undertaken to ensure that the health of the tree is not compromised. Amended plans have been provided which show the modification works that will be undertaken to reduce the TPZ encroachment to 12%. Whilst this is still above the normal 10% allowance, the project Arborist has confirmed that the 2% encroachment beyond the standard will have minor impact on the tree's health long term. As such the proposal is considered to accord with POs 10.2 and 11.1.

There are no visual impacts from the extent of the earthworks proposed. As mentioned, the height of the fill proposed is marginally above that envisaged by the DPF and has been proposed to match the level of the existing backyard area. The Applicant has also indicated on the plans that the earthworks will be battered to match in with the landscape. The proposal therefore satisfies PO 10.4.

Overlays

Environment and Food Production Areas Overlay

Desired Outcomes	
DO1	Protection of valuable rural, landscape, environmental and food production areas from urban encroachment.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1 DPFs:	

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Considering that the proposed development is not related to land division the above overlay is not considered to be relevant in assessment of this application.

Hazards (Bushfire- Medium 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.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1, 2.1, 3.1, 3.2, 4.1, 4.2, 4.3, 6.2 DPFs: 3.2, 4.2, 6.2	

Considering that the proposed development is not related to building work for habitable structures and does not impact on current access arrangements to the site, the above overlay is not considered to be relevant in assessment of this application.

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 subject land is not registered as flood prone and there is no evidence of any flooding occurring on land. As such Council doesn't consider that any further evidence is required.

Heritage Adjacency Overlay

Desired Outcomes	
DO1	Development adjacent to State and Local Heritage Places maintains the heritage and cultural values of those Places.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1 DPFs:	

The closest heritage listed place is approximately 700m east of the subject land and the earthworks are not in direct view of the heritage listed place. As such, Council considers that the above overlay is not relevant in assessment of this application.

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	

The proposal does not involve removal of native vegetation. Recent earthworks undertaken at the site without approval have resulted in placement of soil around a *Eucalyptus viminalis subsp. cygnetensis* (Rough-barked Manna Gum) which has been identified as a native tree. As a result, an Arborist report has been prepared which outlines the level of remediation work that will need to be undertaken to remove the soil and ensure that the health of the tree is not impacted.

The project arborist has at the time of inspection observed that the extent of TPZ encroachment was 36% and that the proposed removal of placed fill would reduce the encroachment to 12% in the TPZ whilst completely removing any encroachment within the SRZ. The Arborist has concluded that whilst the 12% is above the general 10% tolerable encroachment, the extent of impact that this would pose on the tree would likely be minor in the long term.

Prescribed Wells Area Overlay

Desired Outcomes	
DO1	Sustainable water use in prescribed wells areas.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs: 1.1 DPFs: 1.1	

Considering that the proposed development is not related to requiring or impacting on the water licence, the above overlay is not considered to be relevant in assessment of this application.

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, 1.4, 2.1 DPFs:	

PO 1.2 seeks that Significant trees are retained where they provide important contribution to the character or amenity of the area, are indigenous, represent an important habitat, part of a wildlife corridor, are important to maintain biodiversity in the local environment and form notable visual elements. The report prepared by the project Arborist did not go into any detailed discussion relating to these matters outside of identifying the tree as native. The focus of the assessment by the Arborist was the health of the tree which he confirmed to be healthy. At no point in the report was there a discussion in relation to removal of the tree but rather remediation measure that need to be implemented to remove the soil deposited and the nature in which this was to occur to preserve the tree.

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The report concluded that the extent of soil removal that will be undertaken will be a significant reduction in the TPZ encroachment from 36% to 12%. Whilst the extent of the enhancement is still beyond the 10% generally accepted, the Arborist concluded that the 2% encroachment beyond that will have a minor impact on the tree in the long term. It is therefore considered that the proposal satisfies PO 1.2.

The earthworks were undertaken to create an additional flat area at the rear of the property which slopes away from the edge of the swimming pool. The initial extent of the earthworks without the proposed remediation work would have been considered unreasonable. The 12% encroachment whilst still classified as tree damaging activity is considered to be reasonable to accommodate a reasonable development on sloping topography, especially given that the project Arborist has confirmed that the extent of encroachment would be acceptable. The proposal therefore satisfies POs 1.4 and 2.1.

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	
POs: 1.1 DPFs: 1.1	

This application does not include any new building work as such there are no issues as far as building within proximity to powerlines. The applicant has also provided a declaration stating that the proposal would not be contrary to the regulations prescribed for the purposes of section 86 of the Electricity Act 1996. As such this proposal is consistent with DO 1 as well as PO 1.1.

Design

Desired Outcomes	
DO1	Development is: <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 areab) 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 visitorsc) 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: 3.1, 3.2, 8.1, 10.1 and 10.2 DPFs: 8.1, 10.1 and 10.2	

The plans show that the soil will be battered off and landscaped to blend in with the natural landscape and topography of the land and ensure compliance with POs 3.1 and 3.2. Condition 2 has also been recommended to require these works are undertaken.

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At its highest point the extent of the fill is 1.27m, and whilst this is above that envisaged by DPF 8.1, the extent of encroachment beyond the quantitative figure is minor in nature and not considered contrary to PO 8.1.

Whilst POs 10.1 and 10.2 are more specifically concerned with overlooking from upper-level windows and decks, they none the less serve some relevance to the proposed development. Given that the subject land and the area where the earthworks are proposed is elevated significantly above the neighbouring property to the rear, some consideration need to be given to overlooking if the earthworks are proposed closer to the boundary. In this instance the proposed works are not considered to be direct overlooking. In reference to the subject land, neighbouring dwelling at the rear ends along the south/eastern portion of the subject land with the private open space area extends along the rear boundary of the subject land. Whilst there will be views into the neighbouring property, they will not significantly increase from what is currently the case. Additionally, the furthest point of the extended lawn area to the rear property boundary is 17 metres which therefore doesn't qualify as direct overlooking.

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	
POs: 12.2	
DPFs: 12.2	

Earthworks undertaken and further remediation measures that are required are not proposed in the area of the allotment used for on site waste system. The proposal therefore satisfies PO 12.2.

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 zone does have restrictive policies in relation to earthworks it does not specifically prohibit them. The majority of the relevant policies have been satisfied with only minor departures mainly relating to the overall height of the fill and the fact that the earthworks are not associated with the built form. The extent of native vegetation impact has also been assessed and whilst some small level of impact will occur, it is not of a nature that will not impact the health of the significant tree or require its removal.

In relation to the Overlays, it is generally accepted that most of the Overlays that apply to the site do not actually apply to the proposed development. That being said, the key Overlays that are applicable being the Native Vegetation Overlay and Regulated and Significant Tree Overlay have been considered in relation to the proposed development and have been satisfied. The earthworks will not require removal of any native vegetation, whilst the tree damaging activity being undertaken has been reviewed by the project Arborist and has been deemed to be acceptable.

The general section policies in the Code have also been addressed with the proposal satisfying the requirements with only a small departure in relation to the height of earthworks.

CONCLUSION

The key considerations in relation to the proposal were about the extent of the earthworks proposed, the impacts this would have on native vegetation or regulated and significant trees and also in relation to the way the earthworks have been proposed to be battered. As mentioned in the above paragraph, the proposal is not considered to be seriously at variance with the Code. The extent of earthwork initially undertaken will be scaled back to address the health of a Significant Tree on the subject land.

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The extent of fill is only marginally above that envisaged by the Code is proposed immediately around the existing usable private open space area to increase its size. The works are proposed to be battered to match in with the topography of land and will be landscaped to ensure the natural features of the landscape are maintained.

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 24022394 by Certified Planning and Development for filling of land (46.231m³) & tree damaging activity to Significant Tree (*Eucalyptus viminalis subsp. cygnetensis* (Rough-barked Manna Gum) - at 30 Teringie Drive, Teringie 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) All exposed excavations and fill 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 coversAll works must be completed within 3 months of the approved development to the reasonable satisfaction of Council.
- 3) The tree management works in relation to the *Eucalyptus viminalis subsp. cygnetensis* (Rough-barked Manna Gum) tree outlined in the Arborist's Report prepared by Old Growth Arboriculture dated 10 September 2024 and submitted as a strategy for management of the significant tree are to be undertaken simultaneously with any works on the site. The works are to be completed within 3 months of Development Approval date.
- 4) Prior to commencement of work, straw bales (or other soil erosion control methods as approved by Council) shall be placed and secured below areas of excavation and fill to prevent soil moving off the site during construction.

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).**

OFFICER MAKING RECOMMENDATION

Name: Doug Samardzija
Title: Senior Statutory Planner

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ITEM 8.4

DEVELOPMENT NO.:	24017988
APPLICANT:	Tom Walker Dragi Stojanov
ADDRESS:	32 DEVILS GULLY RD KERSBROOK SA 5231
NATURE OF DEVELOPMENT:	Store and associated earthworks
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Productive Rural Landscape <p>Overlays:</p> <ul style="list-style-type: none"> • Character Preservation District • 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 • Water Resources
LODGEMENT DATE:	21 Aug 2024
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.15 15/8/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes - 27 Aug 2024 - 16 Sept 2024
RECOMMENDING OFFICER:	Tim Mason Statutory Planner
REFERRALS STATUTORY:	None
REFERRALS NON-STATUTORY:	None

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 proposal seeks the construction of a 30.00m x 15.00m building to be used for storage. This building will have a total area of 450m², a maximum wall height of 4.86m and a maximum roof height of 6.24m as measured from the natural ground level. The building is to be setback 34.05m from the southern (front) boundary and 16.76m from the northern (rear) boundary as well as approximately 364.50m west of the existing dwelling.

The proposal has been sited on an existing predominantly flat portion of land that has is substantially clear of vegetation and is set down 8.90m below road level. The building, however, requires incidental earthworks to facilitate construction including a retaining wall with a maximum height of 0.60m and associated battering.

The proposal will also establish rights to clear approximately 0.06 hectares of native vegetation surrounding the proposed building in the form of a 10m asset protection zone.

The proposal was not considered to satisfy the definition of an Outbuilding as per Part 7 of the Planning and Design Code. The definition requires an outbuilding to be on the same site as a main building to which it is ancillary and subordinate and has a use and function which relates to the main building.

This building is not considered to be located on the same site as the dwelling despite being on the same allotment nor is not considered to be ancillary to the dwelling given the building requires a person to leave the allotment and travel 385.26m along the primary road in order to access this building from the dwelling. Given this, the building was considered to be a store when considering the proposed land use against the definition of a store in the Planning and Design Code.

The landowner has outlined his intention to use the building for primarily domestic storage, as well as approximately 100m² for the storage of materials for mushroom production off-site and the production of bio-char on-site.

The application has been delegated to the Assessment Panel by the Assessment Manager given the circumstances.

BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
01 September 1998	1998/179	Horticulture (oyster mushroom production)

There are no previous Development Applications on the subject land recorded with Council prior to Development Application 1998/179.

SUBJECT LAND & LOCALITY:

Location reference: 32 DEVILS GULLY RD KERSBROOK SA 5231

Title ref.: CT 5195/977 **Plan Parcel:** H105700 SE694 **Council:** ADELAIDE HILLS COUNCIL

Site Description:

The subject land is an irregularly shaped allotment, with an approximate area of 9.81 hectares. It is wider at the front, with a frontage to Devils Gully Road of 782.55 metres.

The land is approximately 201.80m west of the intersection of Devils Gully Road and Kersbrook Forest Road and 3.42km north of the Kersbrook Township.

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The subject land includes a creek which flows east through the allotment, and fills four (4) existing dams, before continuing to the Malcom Creek and then the South Para Reservoir.

The use of the land is rural residential, comprised of a two-storey detached dwelling with associated outbuildings. The dwelling is sited away from the road frontage, near the northern (rear) boundary. It is surrounded by a cluster of trees at the rear, with a dam and open field between the dwelling and the front boundary.

The land is undulating, with a northwest-southeast cross-fall through the allotment. The allotment is not serviced by either mains water or sewer, however the allotment does have an electricity connection.

The allotment is accessed by two existing crossovers, leading to the dwelling and the existing cleared land on which the proposal is to be constructed. These two crossovers are separated by approximately 385.26m of public road as measured along boundary.

Locality:

Devils Gully Road is an unsealed Council roadway along the front boundary of the allotment, and this becomes unmade road reserve at the western end of the allotment.

The allotment faces onto four (4) rural residential allotments, each primarily used for residential purposes and populated with native vegetation and watercourses. The adjoining rear allotment is predominantly covered with native vegetation, with much of this land inaccessible given the slope and vegetation cover. However, a dwelling and associated outbuildings exists towards the front boundary of this allotment with Kersbrook Forest Road.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Store: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
A store is listed as Performance Assessed in accordance with *Table 3 - Applicable Policies for Performance Assessed Development* as per the Productive Rural Landscape Zone

PUBLIC NOTIFICATION

- **REASON**
The store exceeds DTS/DPF 4.1 and DTS/DPF 4.3 in accordance with the *Table 5 - Procedural Matters* of the Productive Rural Landscape Zone.
- **LIST OF REPRESENTATIONS**
No representations were received during the Public Notification for this Development Application.

AGENCY REFERRALS

- None

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INTERNAL REFERRALS

- None

PLANNING ASSESSMENT

Desired outcomes

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

Performance outcomes

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

Designated performance features

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

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

Zone:

Productive Rural Landscape Zone

Desired Outcome	
DO 1	A diverse range of land uses at an appropriate scale and intensity that capitalise on the region's proximity to the metropolitan area and the tourist and lifestyle opportunities this presents while also conserving the natural and rural character, identity, biodiversity and sensitive environmental areas and scenic qualities of the landscape.
DO 2	A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the sale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes its regional identity.
DO 3	Create local conditions that support new and continuing investment while seeking to promote co-existence with adjoining activities and mitigate land use conflicts.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Land Use & Intensity PO 1.1 & DTS/DPF 1.1	
Siting and Design PO 2.1 & DTS/DPF 2.1, PO 2.2 & DTS/DPF 2.2	
Rural Industry PO 4.1 & DTS/DPF 4.1, PO 4.2, & DTS/DPF 4.2, PO 4.3 & DTS/DPF 4.3	

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Built Form and Character PO 11.1

The provisions of the Productive Rural Landscape Zone predominantly anticipate primary production and horticultural activities as well as associated value adding activities. This includes small scale storage which supports diversification and is value adding to locally sourced primary production as established by Performance Outcome 4.1.

DTS/DPF 4.1 and PO 4.1 supports storage and other industrial land uses where primary production is directly supported on the same or adjoining allotment. It is considered that the proposed storage does not satisfy these provisions given no primary production currently exists on this allotment nor is it reasonably foreseeable that primary production could be undertaken on this allotment given the slope of the land and existing watercourse. However, it is noted that horticulture in the form of mushroom production was approved for this allotment but was not ever commenced. The Consent has now lapsed. Therefore, this would be inconsistent with Desired Outcome 2 which supports development including agriculture, horticulture and value adding opportunities. Given the absence of productive land uses at this site, the proposal is not considered to be value adding as per the Desired Outcome and Performance Outcome.

Additionally, DTS/DPF 4.1 outlines a quantitative maximum floor area of 350m² for storage buildings which support primary production. The proposed building exceeds this provision with a total floor area of 450m², which equates to a 28.57% variance from this provision. Given the absence of productive activities on this allotment, the proposal is not considered to warrant this variance from the provision. Furthermore, the proposed storage is considered to be directly at variance with the land use intentions and scale which are supported by PO 4.1 and DTS/DPF 4.1.

The scale and siting of the proposed building is also considered to contravene PO 4.3 which seeks that buildings associated with storage are setback at least 50m from all road and allotment boundaries. While the proposal building is to be setback 34.05m from the front boundary and 16.76m from the rear boundary, the building is not expected to dominate the appearance of the allotment given the siting of the building in a substantially vegetated valley. This includes a finished ground level of the building 8.90m below the finished ground level of the adjoining primary road.

Additionally, the siting of this building is considered to be supported by PO 11.1 which speaks directly to large buildings in the Zone that have been sited as to reduce impacts on the surrounding scenic and rural vistas. Given this, the proximity of the proposed building to the front and rear boundaries is considered to be reasonable given the proposed set down and height of the building are not expected to introduce unreasonable bulk to the allotment.

Overlays

Character Preservation District Overlay

Desired Outcome	
DO 1	Recognise, protect and enhance the special character of Character Preservation Districts.
DO 2	The long term use of land outside of townships for primary production and associated value adding enterprises is assured and promoted.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Built Form and Character PO 2.1, PO 2.2, PO 2.3	
Built Form and Character in the Rural Area PO 3.1, PO 3.2, PO 3.3, PO 3.4, PO 3.5, PO 3.6	
Earthworks PO 4.1 & DTS/DPF 4.1	

The provisions of the Character Preservation District Overlay reinforce the provisions of the Productive Rural Landscape Zone, supporting development outside of Townships for the purpose of primary production and associated value adding enterprise. Further to this, the Overlay supports development which minimises impacts to the existing landscape and respond to the natural features of the allotment.

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Performance Outcomes 3.2, 3.3 and 3.4 support development of buildings which integrate into the existing landscape as to minimise the appearance of the building. As previously discussed, the proposal is not expected to be visually dominant given the substantial 8.90m set down from the natural ground level of the adjoining road.

However, it is considered that the proposal is at direct variance with PO 3.5 which requests that buildings be clustered on site and substantially well back from Public Roads. This building is sited 364.50m west of the existing cluster of buildings on the allotment, including the dwelling and associated outbuildings.

Hazards (Bushfire – High Risk) Overlay

Desired Outcome	
DO 1	Development, including land division is sited and designed to minimise the threat and impact of bushfires on life and property with regard to the following risks: 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	
Land Use	
PO 1.1	
Siting	
PO 2.1	
Built Form	
PO 3.1, PO 3.2 & DTS/DPF 3.2	
Vehicle Access – Roads, Driveways and Fire Tracks	
PO 6.1 & DTS/DPF 6.1, PO 6.2 & DTS/DPF 6.2, PO 6.3 & DTS/DPF 6.3	

The provisions of the Overlay speak directly to the siting of buildings which increase the potential for fire outbreak to be sited away from significant vegetation. The building as proposed is considered to be surrounded by significant vegetation in the immediate vicinity, this includes substantial natural regrowth since the 2015 Sampson Flat Bushfire.

The building is not habitable and would not increase risks to human life despite the proximity to significant vegetation. Given this, the proposal did not warrant a referral to the CFS in accordance with the Procedural Matters of the Overlay.

Native Vegetation clearance allows for a 10m asset protection zone to be established around the building as outlined in the accompanying Native Vegetation Data Report. This clearance is expected to minimise the risk of fire spread between the surrounding vegetation and the building in the event of a bushfire should the clearance be undertaken.

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Hazards (Flooding – Evidence Required) Overlay

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

The existing slope of the allotment is expected to direct stormwater away from the proposed store and to the existing watercourse immediately north of the proposal.

Additionally, there is currently no Council mapping that indicates the subject land is prone to flooding.

Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay

Desired Outcome	
DO 1	Safeguard Greater Adelaide's public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from secondary reservoirs or diversion weir catchments from the Mount Lofty Ranges.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Water Quality PO 1.1 & PO 1.2 & DTS/DPF 1.2	
Wastewater PO 2.1, DTS/DPF 2.1, PO 2.3 & DTS/DPF 2.3, PO 2.4 & DTS/DPF 2.4, PO 2.5 & DTS/DPF 2.5	
Stormwater PO 3.1, PO 3.2, PO 3.3, PO 3.9 & DTS/DPF 3.9	
Landscapes and Natural Features PO4.1	

The proposal includes retaining to a maximum height of 0.55m and associated battering which is to be setback 15.94m from the existing on-site watercourse. This is considered to be contrary to DPF 2.5 (a) which requests earthworks are not to be undertaken within 50m of a watercourse. However, it is considered that the excavation required to facilitate development is relatively minor and is not expected to result in changes to the flow of surface water across the subject land.

Additionally, the proposed store is to be attached to a rainwater tank with a maximum capacity of 4500L. It is noted that this capacity is requested by the Planning and Design Code for an Agricultural Building of the same size in this Overlay. Overflow will be directed to the watercourse.

Native Vegetation Overlay

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

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ITEM 8.4

PO 1.1 & DTS/DPF 1.1, PO 1.2, PO 1.4

The proposed store establishes rights to clear existing native vegetation within a 10m asset protection zone surrounding the building. This includes 0.06 hectares of *Eucalyptus leucoxylon ssp leucoxylon* (SA Blue Gum) woodland with an open sclerophyll and grassy understorey. A supporting data report prepared by an accredited native vegetation consultant was included with the application and has categorised this clearance as 'Level 2'.

As this assessment was considered to constitute a level 2 clearance, the applicant did not warrant a referral to the Native Vegetation Council in accordance with the Procedural Matters of the Overlay.

As the construction of this building does not require the clearance of any native vegetation, and only establishes incidental rights to clear to establish an asset protection zone, no Significant Environmental Benefit (SEB) payment is required in conjunction with this application.

Performance Outcome 1.1 outlines that where development cannot practically avoid native vegetation clearance, clearance should be minimised. The selection of the previously cleared site indicates that consideration has been made to minimising clearance of Native Vegetation to facilitate construction. However, the scale of the proposal has been established as too large when considering the provisions of the Zone. The proposed level of clearance would not necessarily be needed if the building was proposed in accordance with PO 4.1 and DTS/DPF 4.1 of the Zone.

Prescribed Water Resources Area Overlay

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

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

Water Resources Overlay

Desired Outcome	
DO 1	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.
DO 2	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	
Water Catchment PO 1.1, PO 1.2, PO 1.5 & DTS/DPF 1.5, PO 1.6, PO 1.7, PO 1.8, PO 1.9	

The provisions of this Overlay discourage development which requires modification to existing water courses or results in adverse impacts to the quality of water resources.

The portion of land selected for the development is considered to be substantially flat and requires only minor cutting into the slope as to facilitate development. Resultantly, the flow of surface water on the allotment is not expected to be seriously modified by the construction of the building despite the proposed 12.53m setback of the building from this water course.

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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	
PO 1.1 & DTS/DP F1.1	

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 1.1.

Design

Desired Outcome	
DO 1	Development is: a) contextual – by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate areas. b) dural – fit for purpose, adaptable and long lasting. c) inclusive – by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm for occupants and visitors. d) sustainable – by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
External Appearance PO 1.5	
On-site Waste Treatment Systems PO 6.1	
Carparking Appearance PO 7.1, PO 7.2, PO 7.4, PO 7.5, PO 7.6, PO7.7	
Earthworks and Sloping Land PO 8.1 & DTS/DPF 8.1	

Given the scale of the subject land, it is considered that adequate undeveloped land would be available to facilitate carparking on site to be used in conjunction with this store.

Retaining walls and earthworks facilitating the proposed store exceed the desired cut and fill depth sought by Designated Performance Feature 8.1 with a retaining wall with a maximum height of 0.60m and additional 1.04m of cut to establish a slope of 1 in 2. It is noted that this deviation from the provision is minor and unavoidable to facilitate the proposed development. However, it is considered that the excessive scale of the proposal results in earthwork which could have been avoided had the store been of a scale sought by PO 4.1 and DTS/DPF 4.1 of the Zone. Given this, the proposal is considered to be contrary to PO 8.1 as the existing flat portion of land is considered to be adequately large as to facilitate development on this allotment of a scale envisaged by the Zone without the need for additional earthworks.

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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 11.1 & DTS/DPF 11.1	
Wastewater Services PO 12.1 & DTS/DPF 12.1, PO 12.2 & DTS/DPF 12.2	

As the proposal does not require a connection to either water or a wastewater management system, these provisions are therefore not considered to be applicable.

Interface between Land Uses

Desired Outcome	
DO 1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate uses.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Activities Generating Noise or Vibration PO 4.1 & DTS/DPF 4.1, PO 4.2, PO 4.5	
Air Quality PO 5.1, PO 5.2	
Light Spill PO 6.1, PO 6.2	

The Interface between Land Uses provisions encourage land uses which respond to the existing surrounding land uses as to minimise introduced impacts on these uses. While the proposed store is considered to be uncharacteristic for the locality, being located in a substantially rural-residential area where minimal commercial land uses exist, it is not considered to introduce adverse impacts to surrounding allotments given the nature of the land use.

It is considered that a store by nature requires minimal activity on the site, in contrast to repairs or construction which would be associated with industrial land uses. Given this, the proposal is not expected to introduce unreasonable disturbance to surrounding sensitive receivers.

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	
Movement Systems PO 1.4 & DTS/DPF 1.4	
Vehicle Access PO 3.1 & DTS/DPF 3.1, PO 3.5 & DTS/DPF3.5, PO 3.6, PO3.8	
Vehicle Parking Rates PO 5.1 & DTS/DPF 5.1	
Vehicle Parking Areas PO 6.2 & DPF/DTS 6.2, PO 6.6 & DTS/DPF 6.6	

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Access to the proposed store is to be achieved through an existing crossover from Devils Gully Road which does not require modification to facilitate access.

Performance Outcome 5.1 and corresponding Designated Performance Feature 5.1 seek sufficient on-site car parking with regard to *Table 1 – General Off-Street Car parking Requirements*. For a Store, Table 1 seeks the provision of 0.50 parking spaces per 100m², which for this proposal would mean the provision of 2 parking spaces. The proposal does not indicate designated parking spaces on-site, however, it is considered that there is sufficient space on the allotment to facilitate adequate off-street parking.

CONSIDERATION OF SERIOUSLY AT VARIANCE

The proposed store is not considered to be seriously at variance with the provisions of the Planning and Design Code.

The provisions of the Productive Rural Landscape Zone encourage development of similar scale where associated with primary production, resultantly buildings of this scale are reasonably expected to be constructed in this Zone where they are associated with primary production. However, the proposal is considered to be directly at variance with provisions relating to land use and siting given the absence of primary production on the subject land. Additionally, it is noted that no large scale primary production is reasonably foreseeable on this allotment that would warrant a building of this scale given the abundance of native vegetation which would be cleared, the existing water course and natural topography.

It is not considered that this building and the associated land use would introduce unreasonable disturbance and nuisance to the surrounding sensitive receivers as to constitute seriously at variance.

CONCLUSION

The proposal is for a store at 32 Devils Gully Road, Kersbrook, to be used in conjunction with existing residential land uses. The subject land is located in the Productive Rural Landscape Zone and surrounded by allotments used predominantly for rural-residential land uses.

The proposed store is considered to be inappropriate when considering the intentions of the Productive Rural Landscape Zone. This Zone support large buildings which are associated with primary production. Given the absence of any productive land uses on the subject land, the use of this land for storage is considered to be directly at variance with these provisions regardless of scale.

Additionally, all supporting development to be undertaken in conjunction with the proposal is also considered to be inappropriate when considering the scale of the building. It is noted that a substantial portion of undeveloped land had been selected to facilitate this development, this includes being mostly clear of vegetation and pre-cut. However, the scale of the building requires additional clearance of native vegetation and concurrent earthworks which are not expected to be required had the development been designed of a more appropriate scale.

Overall, this proposal is not considered to be seriously at variance with the provisions of the Planning and Design Code, although it is considered to be sufficiently at variance with these provisions as to not warrant Planning Consent.

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RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
- 2) Development Application Number 24017988 by Tom Walker and Dragi Stojanov for a Store at 32 Devils Gully Road, Kersbrook is REFUSED Planning Consent subject for the following reasons:

Productive Rural Landscape Zone

Performance Outcome 4.1:

The proposal is not considered to constitute value adding development in association with existing primary production, nor is it directly related or ancillary to primary production. It is considered to be contrary to

Performance Outcome 4.1

Overlays

Character Preservation District

Performance Outcome 3.5:

Development is proposed to be located outside an existing cluster of buildings on the allotment, creating fragmented pockets of development on the subject land as to be contrary to Character Preservation District

Overlay Performance Outcome 3.5.

Native Vegetation

Performance Outcome 1.1:

The proposal requires the clearance of existing vegetation that is unwarranted and contrary to Native Vegetation

Overlay Performance Outcome 1.1 when considering the proposal is too large relative to the provisions of the associated Zone and is not considered to be reasonable development.

General Development Policies

Design

Performance Outcome 8.1:

The proposal requires earthworks to facilitate development that are contrary to General Development Design

Performance Outcome 8.1.

OFFICER MAKING RECOMMENDATION

Name: Tim Mason
Title: Statutory Planner