

COUNCIL ASSESSMENT PANEL MEETING
10 January 2018
AGENDA

Applicant: Bush Play	Landowner: C E McEwen & C L Thomas
Agent: Julie Lewis	Ward: Onkaparinga Valley
Development Application: 17/489/473	Originating Officer: Doug Samardzija
Application Description: Change of use from primary production to include recreation facility - nature play area & associated car parking (non-complying)	
Subject Land: Lot:56 Sec: P5188 DP:69493 CT:6120/300 Lot:1 Sec: P5154 FP:10298 CT:5482/148	General Location: 145 Pedare Park Road and: 338 Burns Road Woodside Attachment – Locality Plan
Development Plan Consolidated : 29 April 2016 Map AdHi/1, 3 & 53	Zone/Policy Area: Watershed (Primary Production) Zone - Onkaparinga Slopes Policy Area
Form of Development: Non-complying	Site Area: Combined area of the two allotments is 40 hectares
Public Notice Category: Category 3 Notice published in The Advertiser on 27 September 2017	Representations Received: 21 Representations to be Heard: 3

1. EXECUTIVE SUMMARY

The purpose of this application is to change the use of land to include recreation facility-nature play area with associated car parking. The proposal does not include any building work and intends to only utilise the existing natural features of the allotment to operate as the outdoor recreation area in an effort to expose children to more outdoor activities.

The subject land is located within the Watershed (Primary Production) Zone - Onkaparinga Slopes Policy Area and is a non-complying form of development. Nine (9) representations in opposition and twelve (12) representations in support of the proposal were received during the Category 3 public notification period.

As per the CAP delegations, the CAP is the relevant authority for Category 3 non-complying development where representors wish to be heard.

The main issues relating to the proposal are access, increased traffic, the management of private road, privacy, public safety and rubbish management.

Following an assessment against the relevant zone and Council Wide provisions within the Development Plan, staff are recommending that **CONCURRENCE** from the State Commission Assessment Panel (SCAP) be sought to **GRANT** Development Plan Consent.

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- Change the use of land to include recreation facility –nature play
- Associated car parking for 15 vehicles
- Creation of a passing bay within the right of way

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Attachment – Application Information** and **Attachment – Applicant’s Professional Reports**.

The Land Management Agreement registered over the land is included as **Attachment – Land Management Agreement**.

3. BACKGROUND AND HISTORY

March 02, 2005 2004/D95/473 Council approved a land division-Boundary Realignment

December 05, 2004 2004/1044/473 Council approved a domestic outbuilding-garage

4. REFERRAL RESPONSES

- **EPA**
The EPA considers the risk of environmental harm from the proposed development to be low. There were two standard notes recommended to be included on any consent granted as part of the referral response.
- **AHC ENGINEERING**
Council’s Engineering Department have no concerns regarding the proposed development but have made comments in relation to buses crossing over the existing bridge. A condition was recommended to restrict buses to mini bus size to a maximum of 10 tonnes full laden (refer recommended condition 4).
- **AHC EHU**
Council’s Environmental Health Department has reviewed the proposed development and the existing on-site waste system and based on the numbers proposed have determined that the existing system should be satisfactory. However conditions were recommended to have the tank pumped out prior to the development commencing, and then pumped out again every 2 years (refer recommended conditions 2 and 3). The Health Department have also advised that if there is any sign of system failure that the property owner is legislatively obliged to rectify any failure.

The above responses are included as **Attachment – Referral Responses**.

5. CONSULTATION

The application was categorised as a Category 3 form of development in accordance with Section 38(2)(c) of the Development Act 1993 requiring formal public notification and a public notice. Twenty one (21) representations were received and one (1) additional submission was received out of time. Of these nine (9) representations are opposing the proposal, and twelve (12) are in support of the proposal. All of the representations were from adjacent properties and the surrounds.

The following representors wish to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Sam & Louise Roesler	26A Pedare Park Rd Woodside	Sam & Louise Roesler
Dymphna Sprod	340 Tiers Rd Woodside	Dymphna Sprod
Rosemary & Barry Kennedy	102 Pedare Park Rd Woodside	Rosemary Kennedy

The applicant or her representative – Julie Lewis from URPS may be in attendance.

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

- The access, parking and private road usage as well as maintenance of the access
- Dam safety due to rural fencing
- Privacy and security
- Impact on the amenity of the locality
- Effluent management
- Traffic

These issues are discussed in detail in the following sections of the report.

Copies of the submissions are included as **Attachment – Representations** and the response is provided in **Attachment – Applicant's Response to Representations**. A copy of the plans which were provided for notification are included as **Attachment – Publically Notified Plans**.

6. PLANNING & TECHNICAL CONSIDERATIONS

This application has been evaluated in accordance with the following matters:

i. The Site's Physical Characteristics

The subject land is irregular shaped allotment of approximately 8.6 hectares in area located just west of the Township of Woodside. The property is predominantly utilised for residential and primary production purposes with the dwelling and associated structures located in the southern portion of the allotment. The site is predominantly accessed via Pedare Park Road to the south but can also be accessed from the north via a right of way. The right of way runs the entire length of the property and is utilised by a number of immediate land locked properties.

Part of the development also utilises a section of adjoining land immediately to the east at 338 Burns Road labelled as section 6 on the site plan. This area is predominantly a creek line with a total area of approximately 3670m². The owner of

the subject land has advised that a Heads of Agreement has been entered into with the applicant granting usage rights for the creek line should approval be granted.

ii. The Surrounding Area

The locality is characterised by a mixture of allotments which vary in shape and size and which are predominantly used for residential and/or primary production purposes. The closest dwelling to the proposed development is immediately adjacent to the northern boundary of the subject land which is approximately 30m away from the closest activity areas labelled as activity area 2 and 8 on the site plan. The majority of the properties in the immediate locality are accessed via the unsealed Pedare Park Road with the land locked properties also utilising an unsealed right of way which runs the entire length of the subject land. Access is also possible from Burns Road to the north through the right of way which all part of the same right of way that starts at Pedare Park Road.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Onkaparinga Slopes Policy Area of the Watershed (Primary Production) Zone and these provisions seek:

Onkaparinga Slopes Policy Area

- *The retention of low density rural development by the exclusion of rural living area or uses which would require division of land into smaller holdings.*

The following are considered to be the relevant Policy Area provisions:

Objectives: 1

The proposal is for a change of land use from primary production to include recreation facility in a form of nature play area. The proposal only includes minor earthworks to accommodate the car parking areas with the change of use relying on the natural features of the landscape to expose children to the rural environment and outdoor activities and not requiring any form of building work. Given that the proposal is not going to alter the landscape or impact on the existing use of the land it is therefore considered that the proposal is in accordance with Objective 1 which seeks the retention of low density rural development.

Watershed (Primary Production) Zone

- *The maintenance and enhancement of the natural resources of the south Mount Lofty Ranges*
- *The long term sustainability of rural production in the south Mount Lofty Ranges*
- *The enhancement of the amenity and landscape of the south Mount Lofty Ranges for the enjoyment of residents and visitors.*
- *The development of a sustainable tourism industry with accommodation, attractions and facilities which relate to and interpret the natural and cultural resources of the south Mount Lofty Ranges*

The following are considered to be the relevant Zone provisions:

Objectives: 1, 2, 3, 4, 5 and 6

PDCs: 14, 16, 17, 31, 42 and 44

Form of Development

Objective 3 of the zone seeks long term sustainability of rural production and is further enforced by Zone PDCs 16 and 17 which also seek that primary production activity is not prejudiced and land remains available for such purposes, and PDC 44 which states that development that removes or diminishes primary production land should not be undertaken. The proposed use of land for recreational purposes in form of a nature play will utilise the existing land features to provide participants with the unique outdoor experience. The proposal does not involve any building work and the only work required to accommodate the development is to provide a car parking area for a maximum of 15 cars and a bus turning area. The work is considered minimal and will not alter or impact to any significant degree on the primary production and by not altering the landform the proposal will ensure that the land is retained for primary production purposes. As such given that the use proposed relies on the natural features of the landscape and is not going to impact on the land being used for primary production purposes the proposal is therefore considered to be consistent with Zone Objective 3 and PDCs 16, 17, 42 and 44.

Appropriateness of Proposal in Locality

The proposal is considered to be a suitable additional use to the existing primary production on the subject land. The proposal is not considered to detrimentally affect the character of the locality. The application does not include any additional building work and apart from the car parking area the proposed use relies on the landform to remain the unchanged to provide the participants with a unique outdoor experience. The existing toilet facilities within the dwelling are proposed to be used to cater for the additional number of people. The applicant has identified that there is an intention to build a toilet block at later stages which would be subject to a separate application. Council's Environmental Health Department has reviewed the existing system and assessed it against the maximum number of participants proposed at any one time and have deemed it to be satisfactory for the intended number of people but have recommended conditions regarding regular pumping out of the tank and have also advised of the need to immediately upgrade the system with first signs of any failure. It is therefore considered that the proposed development is not going to detract from the natural and rural character of the region and is therefore consistent with zone Objectives 2 and 5 and PDC 14.

Objective 6 encourages development of a sustainable tourism industry with attractions and facilities which relate to and interpret the natural and cultural resources of the south Mount Lofty Ranges. Whilst the proposed change of land use is not considered as a form of tourism development in the traditional sense, the proposal is still considered to have tourism benefits. Whilst the proposal will predominantly include school groups from the Woodside area, it is not limited to these groups and bookings from groups outside the region would have overlapping benefits on the Adelaide Hills tourism. The applicant has indicated that as part of the nature play experience the children and parents will be introduced to Peramangk culture and language which is consistent with the Objective 6 which seeks that

development promotes the natural and cultural resources of the south Mount Lofty Ranges.

Conservation

As stated earlier in the report the proposal does not include any modification to the land form apart from minor works for the car parking area required to facilitate the development and ensure that the right of way is not obstructed. As such the proposal will not involve removal or damage to the native vegetation and is therefore considered to accord with Objective 4 and PDC 31.

b) Council Wide provisions

The Council Wide provisions of relevance to this proposal seek (in summary):

- *Orderly and economic development*
- *Protection of the productive primary production land*

The following are considered to be the relevant Council Wide provisions:

Objectives: 1, 2, 6, 20, 62, 70, 81, 87, 95, 103, 104, 105

PDCs: 2, 13, 15, 44, 58, 59, 60, 174, 202, 203, 216, 229, 234, 247, 260, 262, 266, 267, 268 and 299

Form of Development

The subject land is currently used predominantly for residential purposes with a dwelling and associated structures located in the south western portion of the allotment whilst the remainder of the allotment is used for farming and grazing purposes. The proposal seeks to establish a small scale recreational facility in a form of nature play to expose participants to the outdoor activities. The proposal will involve minor works to accommodate the car parking area whilst the remainder of the land form will remain unaltered. The proposal is therefore considered to be orderly and economic and therefore accords with Objective 1 and PDC 2. Such uses which take advantage of the nature features on offer are also encouraged and envisaged in the zone as well as the Adelaide Hills region and are also supported by Objective 81 which talks about the establishment of suitable recreation areas to cater for outdoor recreation activities.

Objective 2 envisages a proper distribution and segregation of living and recreational activities by the allocation of suitable area of land for those purposes. Whilst Objective 87 seeks that the amenity of the localities is not impaired by the appearance of land, buildings and objects. Given that the proposal intends to establish a recreational facility in form of a nature play within the vicinity of residential and rural properties it is therefore not considered to accord with objective 2. However given that the nature of the proposed development relies on having a large space to provide participants with outdoor activities it has to be anticipated that some overlap between living and recreation area is unavoidable. Given the small scale of the proposed development which would run on pre booked sessions within a controlled environment, it is considered that the proposal is not going to have significant impacts on the amenity of the locality. The proposal is therefore considered to accord with Objective 87.

PDCs 13 and 15 state that development should not be undertaken if the construction, operation and/or management of such development is likely to result in dust or noise nuisance or cause other nuisance to the community by the way of light interference. In some of the representations received there were concerns raised in relation to the access, increase in traffic and the impacts on their properties. The subject land is most easily accessed from the south via Pedare Park Road however the property can also be accessed from Burns Road to the north but this also requires utilising the right of way through two other properties. In the report submitted with the application the applicant has confirmed that whilst access from Burns Road is possible anyone that is arriving for the nature play purposes would be instructed to come via Pedare Park Road entry and therefore the properties to the north will not be impacted upon by the increased traffic.

The proposal seeks to hold up to two sessions a day on maximum of three days a week and it is anticipated that the maximum number participants for each session will not exceed 30 persons including the guardians in which case the maximum number of vehicles per session will not exceed 15 with the total number of vehicles of 30 per day for the two sessions. The business would not operate as a form of drop off and pick up activity with the parents and or guardians required to stay with the children during the session and therefore based on the maximum number of vehicles a day there would be a total of 60 vehicle movements a day. In the event that a school booking is taken which exceeds more than 30 children, only one session will be held that day and the maximum number of children and adults would not exceed 70. In this instance the children would arrive via a bus rather than in individual vehicles. Pedare Park Road is an unsealed road and is a total of 580m in length from Tiers Road to the edge of the subject land and with the increase in traffic movement it is anticipated that there would be level of impact on adjoining properties. As far as dust nuisance the only property that would experience any significant impact is 205 Pedare Park Road given that the dwelling is set approximately 23m away from the road. Given that the nature play would predominantly operate during the wetter seasons the traffic is unlikely to have any major impact on the neighbouring properties.

The potential for noise nuisance is considered to be minimal. The hours of operation proposed are 9:45am to 11:45am for the first session and 12:30pm to 2:30pm for the second sessions. Whilst some noise from the passing cars and children on the subject land is anticipated, the activities will be operated during the day and the impact on neighbouring properties would be minimal.

Recognizing the above the proposal is considered to be relatively consistent with PDCs 13 and 15.

Movement of people and car parking

The allotment has adequate space to provide on-site car parking in accordance with the Australian Standards. The site plan provided shows the location of the proposed car parking area to accommodate up to 15 cars and also a bus turning area. The car parking area will ensure that cars are not parked on the existing right of way. The applicant has also confirmed that a passing bay will be installed along the section of the right of way to allow for easier movement of vehicles especially in the case where

a car and a bus would need to pass. The proposal is therefore considered to accord with PDCs 44, 59 and 60.

Objective 20 anticipates safe and efficient movement of people and goods whilst PDC 58 seeks that development includes adequate, safe and convenient off-street car parking that does not interfere with the safety and convenience of traffic on any road or thoroughfare. There were concerns raised by the neighbours in relation to the ability of traffic to move freely along Pedare Park Road and that the potential increase in traffic will block the access to the paddocks through access gates along Pedare Park Road and road maintenance. Council's Engineering Department was consulted in relation to the Pedare Park Road and there were no concerns raised about the potential of the road to cater for the increase in the traffic movement.

Neighbours that utilise the right of way as means of access to the property have also raised concerns about the ability of the right of way to handle the increase in the traffic movement, the potential for the development to block the right of way and the maintenance. As it is a free and unrestricted right of way the owners have the responsibility to ensure that there is nothing obstructing the access. Notwithstanding this, the proposal does also include a car parking area for cars as well as a bus as mentioned in the report above which would be located away from the right of way. Additionally the applicant has advised that specific instructions would be provided to participants prior to attending to ensure that access is kept clear at all times. Whilst it is possible to access the property via a right of way from Burns Road and also Pedare Park Road, the participants of the nature play will be advised to only access the site via the entry point from Pedare Park Road. Increase in the traffic movement will generate the need for a more frequent maintenance of section of right of way that is going to be utilised for the nature play activities. In the response to the representation the applicant acknowledges the need for more frequent maintenance of the right of way and their obligation to maintain the portion of the right of way that is utilised by the participants. A condition has also been recommended as part of the approval requiring the applicant to maintain the right of way at all times (see recommended condition 6). The proposal is therefore considered to have sufficiently addressed the safe and efficient movement of people and therefore accords with Objective 20 and PDC 58.

Access

On occasions apart from participant's arriving by private vehicles they would arrive via a bus. Given that there is a bridge crossing between the subject land and Pedare Park Road there is a load limit on the type of bus that would be able to cross the bridge to access the site. Through consultation with Council's Engineering Department the applicant was advised that only a mini bus not exceeding 10 tonnes fully laden was permitted to cross the bridge. This has also been reinforced by recommended condition 4.

Rural Development

Objective 6 seeks the protection of the primary production land from conversion to non-productive or incompatible uses. Objective 62 seeks the retention of rural land in primary production and PDC 174 anticipates that rural land be retained for agricultural purposes and/or for native vegetation purposes. Whilst the proposed development is not compatible with primary production it is not considered that the

proposed change of use is going to have any impacts on the land to be used for such purposes. The proposal does not involve any building work and relies on the current features of the landscape as a basis for the business operation and will therefore ensure that the land is maintained and is capable of being used for primary production purposes. As such the proposal is considered to accord with Objective 6 , and 62 and PDC 174.

Conservation

Objective 70 and PDCs 202 and 203 envisage development which preserves and retains the remaining native vegetation. As stated earlier in the report the proposed changes of use does not involve any building work and does not include any type of activity which would impact on the native vegetation. Instead the proposal will utilise the existing features of the land to provide a variety of nature play experiences to participants. The proposal is therefore considered to accord with Objective 70 and PDCs 202 and 203. At the same time the proposal is consistent with PDC 229 which states that development should take place in a manner which minimizes alteration to the existing land.

Wastewater and Litter Management

As part of the proposed development the applicant has indicated that the existing toilet facilities within the dwelling would be used by participants if required. The existing waste water system was reviewed by Council's Environmental Health Department in the context of the proposed number of participants that are expected and it was determined that the existing system would be capable of handling the additional loads provided the appropriate maintenance measures are implemented. Noting the above it was recommended that two condition be attached as part of the approval with one condition requiring the applicant to pump out the septic tank prior to commencement of business operations and the second condition requesting that the septic tank be pumped out every two years and these conditions have been accepted by the applicant. The proposal is therefore considered to accord with PDC 216 which requires that treatment of effluent be achieved without risk to health and water resources and Objectives 103, 104 and 105 which seek protection of the watershed from pollution.

PDC 247 requires that tourist and recreational development be provided with waste disposal and litter collection facilities. Whilst the waste water requirements have been discussed above and have been deemed as satisfactory, there were concerns raised by neighbours that the proposed development would result in a litter problem. The applicant does not propose any form of litter facility but has advised that the proposal does not include food breaks or consuming of meals on site and that the participants would be advised to take any rubbish that they might have home with them. Given the small scale of the operation this is considered appropriate and the proposal is considered to accord with PDC 247.

Tourism

As mentioned earlier in the report the proposed change of use to a recreation facility in a form of nature play does not constitute a form of tourism in a traditional sense but it is still considered to have benefits on tourism, in particular for the immediate Township of Woodside. Whilst predominant participants of the nature play will be from the immediate surrounding areas and schools, bookings are however not

limited to people from within these areas. As such with any bookings from outside the region there is scope for the proposal to have overlapping benefits on other businesses within the immediate locality, especially in the Township of Woodside but also the wider Adelaide Hills region. Furthermore as mentioned earlier in the report, part of the nature play experience will also be exposing the participants to the Peramangk culture and language. The proposal is therefore considered to be relatively consistent with Objective 95 and PDCs 260(b), 262, 266(a), 267 and 268.

7. SUMMARY & CONCLUSION

The proposal is for a change of use of land from primary production to include recreation facility in a form of nature play area with associated car parking. The proposed nature play concept is a relatively new one and as such the Watershed (Primary Production) Zone as well as the remainder of the Development Plan provisions are relatively silent on these types of development. Notwithstanding this when assessed against the impacts on the amenity as well as impacts on primary production the proposal was considered to have minimal impacts due primarily to the fact that it is of a small scale and pre booked nature but also due to the fact that it does not involve any building work and relies on the natural features of the landscape.

Off-street car-parking area and vehicle manoeuvring area is also being provided and deemed adequate to ensure that the right of way is kept clear at all times. Whilst the proposed development will increase the traffic in the locality in particular along Pedare Park Road, the impact is considered to be minimal.

There is no need to upgrade the existing on site waste water system with the existing system considered as adequate subject to regular maintenance and pumping out of the tank which has been enforced by conditions as recommended by Council's Health Department.

Accordingly, the proposed change of land use to include recreation facility in a form of nature play is not anticipated to have any negative impacts on the locality.

The proposal is sufficiently consistent with the relevant provisions of the Development Plan, despite its non-complying nature, and it is considered the proposal is not seriously at variance with the Development Plan. In the view of staff, the proposal has sufficient merit to warrant consent. Staff therefore recommend that **CONCURRENCE** from the State Commission Assessment Panel be sought to **GRANT** Development Plan Consent, subject to conditions.

8. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and seeks the CONCURRENCE of the State Commission Assessment Panel to GRANT Development Plan Consent to Development Application 17/489/473 by Bush Play for Change of use from primary production to include recreation facility - nature play area & associated car parking (non-complying) at 145 Pedare Park Road and 338 Burns Road Woodside subject to the following conditions:

1. Development In Accordance With The Plans

The development herein approved shall be undertaken in accordance with the following plans, details and written submissions accompanying the application, unless varied by a separate condition:

- Statement of effect prepared by URPS dated September 2017 and stamped as received by Council 20/09/2017
- Site plan prepared by URPS dated 26/05/17 and stamped as received by Council 07/06/2017
- Zone 12 enlargement plan and car parking area received as part of statement of effect, dated 19/09/17 and stamped as received by Council 20/09/2017
- Response letter to representation prepared by URPS dated 30 November 2017 and stamped as received by Council 30/11/2017
- Enlargement plan and handbook example date stamped as received by Council 5/12/2107
- E-mail correspondence with Julie Lewis from URPS dated 02 January 2017

REASON: To ensure the proposed development is undertaken in accordance with the approved plans.

2. Prior To Commencement- Septic Tank Pumped

Prior to commencement of the approved development, the existing septic tank shall be pumped out and a receipt provided to the Environmental Health Unit of Council as evidence this has occurred.

REASON: Development should minimise the risk of pollution to water catchment areas.

3. Septic Tank Pump Out

The septic tank shall be pumped out a minimum of every two years and a receipt shall be provided to the Environmental Health Unit of Council as evidence this has occurred.

REASON: Development should minimise the risk of pollution to water catchment areas.

4. Bus Limit

Buses entering the property shall be no bigger than a mini bus with a maximum weight not exceeding 10 tonnes fully laden.

REASON: To ensure safe and convenient movement of vehicles.

5. Overall Capacity

The capacity of each session shall be limited to a maximum of 30 persons including children and adults. In the event that a school booking is taken which exceeds 30 persons then only one (1) session shall be held that day and the maximum overall capacity of the group shall not exceed 70 persons including children and adults.

REASON: To ensure the proposed development is undertaken in accordance with the approved plans, to ensure that neighbouring properties are not impacted on negatively by this development and to ensure the waste control system is adequate.

6. Maintenance Of Right Of Way

The right of way used to facilitate access to the site and the car parking area shall be maintained in good condition at all times by the applicant.

REASON: For safe and convenient movement of vehicles.

7. Passing Bay

A passing bay to facilitate two way vehicle movements in the right of way, as indicated on the enlargement plan, shall be installed prior to commencement of the development.

REASON: For safe and convenient movement of vehicles.

8. Nature Play Access

Nature Play participants shall only access the site via an existing entry point from Pedare Park Road. Access from Burns Road shall remain as private access only and shall not be used by participants of Nature Play.

REASON: For safe and convenient movement of vehicles.

9. Car parking Designed In Accordance With Australian Standard AS 2890.1:2004

All car parking spaces, driveways and manoeuvring areas shall be designed, constructed with grass reinforcement mesh and delineated in accordance with Australian Standard AS 2890.1:2004. Delineation and directional arrows or signs shall be clearly visible and maintained in good condition at all times. Driveways, vehicle manoeuvring and parking areas shall be constructed within six (6) months of the Development Approval and maintained in good condition at all times to the reasonable satisfaction of the Council.

REASON: To provide adequate, safe and efficient off-street parking for users of the development.

10. Opening Hours

The Nature Play shall operate a maximum of 3 days a week ranging from Monday to Friday. Each of the days shall be limited to maximum of two sessions a day in the following hours:

Session One: 9:45am to 11:45am

Session Two: 12:30pm to 2:30pm

A register shall be kept of all bookings held each calendar year and made available to Council on request.

REASON: To ensure the development operates in accordance with the approval.

11. Removal Of Solid Waste

All solid waste including food, papers, cartons, boxes and scrap material of any kind shall be taken off the site by the participants and disposed of accordingly.

REASON: To maintain the amenity of the locality.

NOTES

1. **Development Approval Expiry**

This development approval is valid for a period of twelve months commencing from the date of the decision notification. However if the development hereby approved is substantially commenced within the twelve (12) month period then it shall be completed within three (3) years of the date of such notification. This time period may be further extended beyond the 3 year period by written request to, and approval by, Council prior to the approval lapsing. Application for an extension is subject to payment of the relevant fee. Please note that in all circumstances a fresh development application will be required if the above conditions cannot be met within the respective time frames.

2. **EPA Environmental Duty**

The applicant is reminded of his/her 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.

3. **EPA Information Sheets**

Any information sheets, guideline documents, codes of practice, technical bulletins, are referenced in this decision can be accessed on the following web site:

<http://www.epa.sa.gov.au/pub.html>

9. **ATTACHMENTS**

Locality Plan
Proposal Plans
Applicant's Professional Reports
Referral Responses
Representations
Applicant's response to representations

Respectfully submitted

Concurrence

Doug Samardzija
Statutory Planner

Deryn Atkinson
Manager Development Services

COUNCIL ASSESSMENT PANEL MEETING
10 January 2018
AGENDA

Applicant: O'Leary Walker Wines	Landowner: O`Leary Walker Adelaide Hills Pty Ltd
Agent: Nielsen Architects	Ward: Onkaparinga Valley
Development Application: 17/396/473	Originating Officer: Brendan Fewster
Application Description: Building alterations and additions, conversion of storage and production areas to restaurant (72 seat capacity) and increase on-site car parking	
Subject Land: Lot:114 Sec: P4018 DP:90186 CT:6105/315	General Location: 18 Oakwood Road Oakbank Attachment – Locality Plan
Development Plan Consolidated : 28 April 2016 Map AdHi/19 and Map AdHi/58	Zone/Policy Area: Watershed (Primary Production) Zone - Balhannah/Oakbank (Rural Surrounds) Policy Area
Form of Development: Merit	Site Area: 1.42 hectares
Public Notice Category: Category 2 Merit	Representations Received: One Representations to be Heard: One

1. EXECUTIVE SUMMARY

The purpose of this application is for alterations and additions to existing buildings, conversion of storage and production areas to two restaurant (72 seat capacity) areas and the provision of additional on-site car parking.

The subject land is located within the Watershed (Primary Production) Zone - Balhannah/Oakbank (Rural Surrounds) Policy Area and is a merit form of development. One representation in opposition of the proposed development was received during the Category 2 public notification period.

As per the CAP delegations, the CAP is the relevant authority for a Category 2 development where a representor(s) wishes to be heard.

The proposed restaurant would complement the existing cellar door outlet and cordial production on the land and contribute to the vitalisation of the township. The relatively small scale of the restaurant (maximum of 72 seat capacity) and the sensitive restoration of existing heritage and non-heritage buildings on the site would ensure the development does not commercialise or detract from the historic values of the land. There is considered to be sufficient on-site car parking spaces to meet the anticipated demand and any potential for noise disturbance is not considered to be significant.

The subject land contains the former Oakbank Brewery which is State Heritage listed. The main issues relating to the proposal include the suitability of the land use, the impact of the development upon nearby residential properties, heritage preservation, traffic management and car parking.

In consideration of all the information presented, and following an assessment against the relevant zone and Council Wide provisions within the Development Plan, staff recommend that the proposal be **GRANTED** Development Plan Consent, subject to conditions:

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- Alterations to and conversion of, an existing garage on the eastern side of the cellar door to a restaurant. A new store room and a series of glass door openings are to be provided. The restaurant will have seating for 32 people;
- Alterations to and conversion of the former brewing shed on the northern side of the site to a restaurant (pizzeria). New roofing and improvements to the wall cladding is proposed, with much of the existing galvanised cladding to be re-used. The restaurant will have seating for 40 people;
- Operating hours of the restaurants will be between 10.00am and 10.00pm Sunday to Thursday and between 10.00am and 11.00pm Friday and Saturday;
- There will be no more than 15 associated functions per calendar year; and
- Car parking on the site will be formalised and delineated with additional car parking spaces provided for staff and patrons. A total of 40 car parking spaces are to be provided.
- The applicant has lodged an application to amend the existing Producers Licence to a Special Circumstances Licence with inclusion of the lawned area north-east of the proposed restaurants as a licensed area.

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Attachment – Application Information** and **Attachment – Applicant’s Professional Reports**.

3. BACKGROUND AND HISTORY

December 22, 2017	17/1118/473	Variation to Development Authorisation 17/296 - glass roof replacement lodged
August 2, 2017	17/296/473	Council approved verandah additions (glass walkway structure, retractable roof verandah and timber verandah) to cellar door
August 8, 2012	11/14/473	DAC approved land division to create one additional allotment
January 13, 2011	10/794/473	CDAP approved variation to Development Authorisation 08/851/473 – minor changes to buildings,

relocation of two and creation of additional car parking spaces, changes to access arrangements and fencing

July 26, 2010	10/732/473	Council approved advertising and interpretive signage
April 13, 2012	10/418/473	Council approved extension to flood levee bank
February 9, 2010	09/845/473	Council approved variation to Development Authorisation 08/851/473 – replacement lean to shed (constructed)
December 19, 2008	09/851/473	CDAP approved alterations and additions to existing light industry (cordial manufacturing) and establishment of a shop for the sale of wine and a restaurant associated with an existing vineyard Stage 1: Demolition of portion of an existing shed attached to stable building, establishment of a shop for the sale of wine and alterations and additions to existing office area (approved and constructed) Stage 2: Construction of a new production building, bin store and advertising sign and relocation of light industry (not implemented) Stage 3: Demolition of remaining shed attached to stable building (not implemented) Stage 4: Alterations to existing stable building and construction of a new restaurant, kitchen and wine store and associated carparking (not implemented)
January 16, 2008	07/990/473	Council approved demolition of outbuilding
September 20, 2002	02/591/473	Development Plan Consent granted for expansion of administration facilities and upgrade of existing building to accommodate visitor centre, including sales and wine tasting (lapsed)

4. REFERRAL RESPONSES

- **State Heritage Unit**

The proposed development is considered to be acceptable in relation to the State heritage place for the following reasons:

- The proposed works for the restaurant will only alter recently built structures and the setting of the State heritage place is unaffected;
- Although the proposed works for the pizzeria involve significant fabric removal, existing materials will be reincorporated into the development; and the new fabric will be compatible in design; and
- The toilet extension is compatible in form and material.

Reserve Matter condition recommended in relation to the final design for the western sliding door to the proposed pizzeria (refer recommended condition2).

- **AHC EHU**
The subject site is connected to the mains sewer system and all works must be undertaken to the satisfaction of SA Water. The applicant will need to amend the food business listing to include the restaurants.
- **AHC Engineering Department**
Car parking spaces are to be designed to the relevant Australian Standard (refer recommended condition 10). Stormwater shall be appropriately managed on-site.

The above responses are included as **Attachment – Referral Responses**.

5. CONSULTATION

The development was categorised as a Category 2 form of development in accordance with Principle of Development Control 72 of the Watershed (Primary Production) Zone requiring formal public notification. One (1) representation was received in opposition to the proposed development.

The following representor wishes to be heard:

Name of Representor	Representor’s Property Address	Nominated Speaker
Mr Geoff Ridings	11 Oakwood Road, Oakbank	Mr Geoff Ridings

The applicant (or their representative – Nielsen Architects) may be in attendance.

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

- The development application is non-complying;
- The heritage listed buildings are unsuitable for restaurant use due to structural damage, vermin, inadequate drainage and possible asbestos;
- An engineering and flood risk assessment is required;
- Insufficient on-site car parking;
- A waste management plan should be provided; and
- A noise impact assessment should be provided.

These issues are discussed in detail in the following sections of the report.

A copy of the submission is included as **Attachment – Representations** and the response is provided in **Attachment – Applicant’s Response to Representations**.

6. PLANNING & TECHNICAL CONSIDERATIONS

This application has been evaluated in accordance with the following matters:

i. The Site’s Physical Characteristics

The subject land is located on the eastern side of Oakwood Road and is approximately 230 metres to the north of the Onkaparinga Valley Road which passes through the Oakbank Township. The Oakbank Racecourse is immediately to the north.

The land has a wide frontage of some 180 metres to Oakbank Road, is irregular in shape and has a total area of approximately 1.42 hectares. There are several buildings on the land, most of which form part of the original Johnston Oakbank Brewery. The former brewing and stable buildings are State Heritage listed. A cellar door has operated from the site for the past 6-7 years, along with cordial manufacturing.

The Onkaparinga River flows through the northern portion of the site from east to west. There is a levee between the existing buildings and the river that was constructed several years ago for flood mitigation purposes.



Photo 1: The existing garage to be converted to a restaurant



Photo 2: The existing brewery building to be converted to a pizzeria restaurant



Photo 3: The existing cellar door and office buildings in the former stables building



Photo 4: The levee adjacent to the Onkaparinga River for flood protection

ii. The Surrounding Area

The subject land is situated on the northern fringe of the Oakbank Township and is adjacent to the Onkaparinga River.

To the north of the subject land is the Oakbank Racecourse and rural land that is used primarily for viticulture. To the east are several small land holdings that appear to be used periodically for grazing and/or horse keeping and rural residential properties. Immediately south is an established residential area that is characterised by detached dwellings at relatively low densities. To the west is the Onkaparinga River that separates the township from the primary production land that extends further west and to the north.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land is situated within the Balhannah/Oakbank (Rural Surrounds) Policy Area of the Watershed (Primary Production) Zone. The zone and policy area provisions seek:

Balhannah/Oakbank (Rural Surrounds) Policy Area

- *preservation of the character of the river and its backdrop; and*
- *retention of the rural setting of the Oakbank Racecourse and the space separating the two townships.*

The following are considered to be the relevant Policy Area provisions:

Objectives: 1, 2

PDCs: 1, 2, 3

The Watershed (Primary Production) Zone

- *maintain and enhance the natural resources of the Mount Lofty Ranges;*
- *long-term sustainability of rural production;*
- *preservation of native vegetation; and*
- *enhancement of the amenity and landscape character of the Mount Lofty Ranges.*

The following are considered to be the relevant Watershed (Primary Production) Zone provisions:

Objectives: 1, 2, 3, 4, 5, 6

PDCs: 1, 2, 3, 4, 7, 9, 10, 11, 12, 14, 15, 16, 27, 28, 29, 30, 31, 35, 36, 37, 39, 65, 66, 69, 70, 71, 72

As the proposal is to be assessed against a previously consolidated Development Plan (28 April 2016) please refer to **Attachment – Relevant Development Plan Policy Area Provisions** for the relevant Policy Area provisions.

Accordance with the Zone and Policy Area

The objectives of the Watershed (Primary Production) Zone primarily seek the protection and enhancement of the natural environment and rural production within the Mount Lofty Ranges. The Balhannah/Oakbank (Rural Surrounds) Policy Area also seeks the “*preservation of the character of the river and its backdrop*” and the “*retention of the rural setting of the Oakbank Racecourse*”.

The subject land contains the former Oakbank Brewery, which is listed as a State Heritage Place due to its historic significance to the local area. The longstanding use of the land for the processing and/or offering of local produce is well recognised, and this has continued with the more recent inclusion of a cellar door outlet within the original stables building. The applicant is seeking to complement the existing cellar offering with a restaurant that is to be split between the main cellar door building and the former brewery building.

In terms of land use, Principle of Development Control 65 of the Watershed (Primary Production) Zone supports restaurants that are located within the Watershed Area where they are connected to mains sewerage or a common effluent scheme. The subject land is within Area 2 of the Mount Lofty Ranges Watershed Area with a medium priority for protection, meaning the area is environmentally sensitive and thus is more suitable for uses such as restaurant, particularly as the subject land is connected to mains water and sewer services.

Principle of Development Control 66 of the Watershed (Primary Production) Zone states that:

Restaurants should:

- a) be established on the same allotment as, and be visually associated with a winery or shop where the tasting of wine and retail sale of wine are the predominant activities and where the sale of wine is limited to that which is uniquely the licensee’s own product;*
- b) not result in more than 75 seats for customer dining purposes on the allotment; and*
- c) not result in a gross leasable area of greater than 25 square metres for the display and sale of any non-beverage or non-food items on the allotment.*

The proposal satisfies all of the above criteria as the restaurant is associated with an existing cellar door where the tasting and sale of wine are the main activities, no more than 75 seats for dining purposes are to be provided on the site, and no items associated with the restaurant are to be displayed for retail sale. The proposal is therefore considered to satisfy Principles of Development Control 65 and 66 of the Watershed (Primary Production) Zone.

Similarly, the Objectives of the Balhannah/Oakbank (Rural Surrounds) Policy Area that seek the retention of the areas existing natural character and the rural setting of the adjacent racecourse would be satisfied as the proposed restaurant will utilise existing buildings on the land, and in the case of the former brewery, the structural integrity and heritage value of the building will be sensitively restored.

Accordingly, the proposed restaurant is considered to be a desirable form of development that would meet the Objectives of the Zone and Policy Area by complementing the existing activities on the land, restoring a building of heritage value and preserving the area’s natural character.

b) Council Wide provisions

The Council Wide provisions of relevance to this proposal seek (in summary):

- *orderly and economic development;*
- *retention of existing character;*
- *conservation and enhancement of places of State heritage value;*
- *development that does not undermine the objectives of the zone and policy area;*
- *development that protects the character or amenity of the locality; and*
- *safe and convenient traffic movements.*

The following are considered to be the relevant Council Wide provisions:

Objectives: 1, 4, 6, 8, 11, 13, 14, 15, 17, 19, 20, 21, 22, 57, 61, 62, 63, 64, 65, 68, 69, 70, 71, 72, 73, 76, 77, 78, 87, 88, 90, 103, 104, 105, 106, 107, 119, 120, 122, 123, 126, 127, 128, 129, 131

PDCs: 1, 2, 3, 7, 9, 13, 15, 20, 21, 22, 23, 25, 41, 42, 43, 44, 49, 53, 54, 56, 57, 58, 59, 60, 63, 67, 68, 69, 153, 154, 156, 158, 159, 160, 174, 202, 203,

204, 205, 209, 212, 213, 214, 216, 217, 227, 228, 229, 230, 231, 232,
233, 234, 235, 237, 240, 244, 245, 248, 249, 296, 297, 298, 299, 300,
303, 307, 358, 359, 366, 367, 368, 369, 372, 373, 375, 376, 377, 378,
385

Orderly Development

Although the subject land is situated within the Watershed (Primary Production) Zone, from a locational perspective, the land appears as part of the Oakbank Township. The land has access to all necessary services and infrastructure, including mains water and sewer, electricity and public road access. Whilst the proposed restaurant is likely to intensify the use of the land during peak periods, the capacity of the existing services and infrastructure would be unaffected by the development. The proposal would make efficient use of existing services in accordance with Council Wide Objective 2 and Principle of Development Control 5 (Orderly and Sustainable Development).

As already highlighted, the land has longstanding use rights for commercial purposes and more recently for tourist-related development in the form of a cellar door sales outlet. The proposed development would complement the existing cellar door and add vitality to the local community, as envisaged by Council Wide Objective 6 (Tourism Development). The relatively small scale of the restaurant (maximum of 72 seat capacity) and the sensitive restoration of existing heritage and non-heritage buildings on the site would ensure the *"scale, form and location will not overwhelm, over commercialise or detract from the intrinsic natural values of the land on which it is sited or the character of its locality"*. Council Wide Principle of Development Control 3 is also satisfied as the land is considered suitable for the intended use.

The proposal is considered to be an orderly and appropriate form of development from a land use perspective.

Heritage Considerations

The former brewery and stables buildings are listed as a State Heritage Place in Table AdHi/1 of Council’s Development Plan. Council Wide Objectives 99 and 100 seek to ensure that land and buildings of historic significance are conserved and enhanced.

The application has been referred to the State Heritage Unit of the Department of Environment, Water and Natural Resources as required under Section 37 of the *Development Act 1993*. The State Heritage Unit considers the proposed development to be acceptable in relation to the State Heritage Place for the following reasons:

- The proposed works to the restaurant area will not directly affect the heritage values of the State Heritage Place, as works will only alter recently built structures. Further, the setting of the heritage place is unaffected, as changes to external openings are minor in extent; and

- The proposed works to the pizzeria area involve repairs to early timber framing and cladding. Some significant fabric is to be removed, but this will be reincorporated in other proposed works and new fabric will be compatible in design. The proposed extension of the toilet building is compatible in form and material and will not adversely affect the setting of the surrounding State Heritage Place.

As determined by the State Heritage Unit, the proposed development would allow for the adaptive re-use of a State Heritage Place in a manner that conserves and enhances the heritage value and setting of the State Heritage Place.

A reserved matter and condition of consent is requested by the State Heritage Unit that requires final details to be provided in relation to the existing western sliding door to the proposed pizzeria (refer recommended condition 2).

The proposal satisfies Council Wide Objectives 99 and 100 and is therefore acceptable from a heritage perspective.

Appearance of Land and Buildings

The proposal includes alterations to an existing garage that is attached to the eastern side of the cellar door. The existing cladding is to be replaced with a series of glass door openings and a new store room is to be constructed to the side of the building.

Alterations to the former brewing shed on the northern side of the site are also proposed. New roofing and improvements to the timber framing is proposed, with much of the existing galvanised cladding to be re-used. The existing fascia and timber framing will be painted in the colour Monument.

As observed on the proposal plans and in the above photos, the proposed building work would be internal to the site and therefore not readily visible from the road frontage or neighbouring properties. The proposed building work would complement the existing buildings on the land and is to be sensitively undertaken so as to conserve and enhance the property's historical significance. The proposal therefore is considered to satisfy Council Wide Objectives 87, 88 and 90.

Interface and Amenity

The subject land interfaces with an established residential area on the south-western side of Oakwood Road. An adjacent property owner at 11 Oakwood Road has raised concerns with the potential for noise and disturbance from the restaurant.

Operating hours of the restaurant will be between 10.00am and 10.00pm Sunday to Thursday and between 10.00am and 11.00pm Friday and Saturday. The applicant has agreed to these operating hours and a condition to this effect has therefore been included within the recommendation (refer Condition 4). The applicant has also confirmed that no amplified or live music (background music only) will be played within the restaurant at any time. These operational conditions and the containment of the restaurant use within existing buildings, which are well removed from property boundaries, would ensure that external noise is sufficiently minimised. In any event, all restaurant activities will need to be appropriately managed in order to meet the

goal noise requirements of the *Environment Protection (Noise) Policy 2007* and recommended Conditions 6 and 13 reinforce this.

The main cause of disturbance is likely to come from vehicles accessing the site. Whilst the proposal would generate more traffic during the evening than is presently the case, the restricted operational hours would ensure that all vehicles have left the site by 10.00pm Sunday to Thursday and by 11.00pm Friday and Saturday. These closing times would adequately maintain the amenity of nearby residential properties. Furthermore, commercial deliveries would take place within normal business hours.

For the above reasons, it is considered that the proposal would not detrimentally affect the amenity of nearby residential properties and the locality by way of noise, dust, fumes, traffic or vibration. The proposal therefore satisfies Council Wide Objective 1 and 2 and Principle of Development Control 1, 2 and 6 (Interface between Land Uses).

Traffic, Access and Car Parking

The proposal will not alter the current access arrangements. The main car park will continue to be accessed from an existing gated entrance at the southern end of the road frontage that provides simultaneous two-way movements. A second gated access is located further north along Oakwood Road which serves the deliveries area and staff car park. The existing access points are lawful and are considered safe and convenient in accordance with Council Wide Principle of Development Control 26 (Transportation and Access).

Car parking on the site will be formalised and delineated, with additional car parking spaces provided for staff and patrons. A total of 40 car parking spaces are to be provided. In terms of on-site car parking requirements, *Table ADHI/4 – ‘Off Street Vehicle Parking Requirements’* prescribes a car parking rate for a restaurant of 1 space per 3 seats. As the proposed restaurant would have a maximum of 72 seats, there is a Development Plan requirement or demand for at least 24 car parking spaces for the restaurant. This would leave a balance of 19 spaces for the existing cellar door and associated offices on the site. Seventeen (17) exist on-site currently and the cellar door at 190 square metres in area requires 10 car parking spaces, leaving the remaining 9 spaces for staff.

The provision of 40 on-site car parking spaces is considered to meet the anticipated demand generated by the proposed restaurant and existing uses during peak periods for the following reasons:

- The proposal will formalise existing car parking areas and significantly increase the amount of on-site car parking available for patrons;
- The peak operation of the restaurant would not conflict with the peak operation of the existing cellar door outlet;
- The existing cellar door outlet is relatively small in size and generates low traffic volumes throughout daytime periods and there is an accepted shared visitor experience between cellar door and dining;
- The proposed restaurant would have a maximum of 72 seats;

- The restaurant would attract some patronage from local residents who would potentially walk;
- Functions within the restaurant would be limited to 15 per year and a maximum of 72 patrons (except for special events); and
- Large events, such as the Winter Reds Festival would be carried out under a temporary licence, with adjacent land utilised for overspill car parking which currently takes place.

Furthermore, the additional traffic generated by the restaurant would not cause any traffic capacity issues along Oakwood Road or Onkaparinga Valley Road as the traffic volumes would be well within the capabilities of these roads.

Given the above considerations, the proposal would sufficiently meet the anticipated car parking demand generated during peak periods. Accordingly, the proposal would not lead to conditions detrimental to the free flow and safety of pedestrian and vehicular traffic on the surrounding road network.

Stormwater and Flood Management

As the proposal does not include any additional roofed areas or impervious surfaces (car park is not to be sealed), the existing stormwater system will be maintained. The existing system comprises a series of sumps that capture runoff and direct it to the watercourse and street water table. The proposal does not necessitate any upgrade of the existing drainage system, other than the need for a gross pollutant trap in the car park. This is reinforced by recommended condition 11.

The Onkaparinga River flows through the northern portion of the site from east to west. A levee was constructed some time ago between the existing buildings and the river for flood mitigation purposes. The height of the levee was raised only few years ago to a level that would adequately protect the site in a 1-in-100 year flood event. The applicant has provided a survey plan that confirms the height of the levee.

Given the levee that is in place, the proposal would not increase the potential hazard risk to the property or public safety and would not impede the flow of floodwaters through the land. Council Wide Principles of Development Control 3 and 4 (Hazards) are therefore satisfied.

Water Supply & Effluent Disposal

The subject land is connected to mains water and sewer services. Alterations to the existing services will need to be undertaken to the satisfaction of SA Water. The proposal is not expected to have any negative effects on the capacity of the existing water and sewer mains. The proposal is considered to satisfy Council Wide Principle of Development Control 1 (Infrastructure).

There are existing toilet facilities on-site for 100 people and the proposed development includes two additional toilets.

Solid Waste Disposal

The applicant has confirmed that a dumpster style refuse bin will be installed to cater for the anticipated increase in waste from the proposed restaurant. Whilst there is

sufficient area on-site, particularly within the designated deliveries area to store and dispose of refuse in a safe and environmentally sound manner, the size and location of refuse bins has not been confirmed by the applicant. A condition of consent has been included regarding weekly bin collection and that this takes place only during daylight business hours (refer recommended condition 9).

The applicant has confirmed that a grease arrestor was previously installed on the site. Council's Environmental Health Unit has been contact with the applicant regarding the need to register the property as a food business.

7. SUMMARY & CONCLUSION

The proposed restaurant would complement the existing cellar door outlet on the land and contribute to the vitalisation of the township. The relatively small scale of the restaurant (maximum of 72 seat capacity) would ensure the development does not commercialise or detract from the natural character of the surrounding area, including the rural setting of the adjacent Oakbank Racecourse.

The proposed development would also allow for the adaptive reuse of a State heritage place in a manner that conserves and enhances the heritage value and setting of the State heritage place.

There is considered to be sufficient on-site car parking spaces to meet the anticipated demand and appropriate measures would be in place to sufficiently minimise noise and disturbance to adjacent residential properties.

The proposal is sufficiently consistent with the relevant provisions of the Development Plan, and it is considered the proposal is not seriously at variance with the Development Plan. In the view of staff, the proposal has sufficient merit to warrant consent. Staff therefore recommend that Development Plan Consent be **GRANTED**, subject to conditions.

8. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent to Development Application 17/396/473 by O'Leary Walker Wines for Building alterations and additions, conversion of storage and production areas to restaurant (72 seat capacity) and increase on-site car parking at 18 Oakwood Road Oakbank subject to the following conditions:

(1) Development In Accordance With the Plans

The development herein approved shall be undertaken in accordance with the following plans, details and written submissions accompanying the application, unless varied by a separate condition:

- Existing Stormwater Management Plan (Drawing No. A012, Rev. A) prepared by Nielsen Architects and dated 08/09/17
- Existing Site Plan (Drawing No. PA011, Rev. A) prepared by Nielsen Architects and dated 28/06/17
- Site Plan Phase 2 (Drawing No. PA101, Rev B) prepared by Nielsen Architects and dated 28/06/17
- Existing Floor Plans (Drawing No. PA200, Rev. A) prepared by Nielsen Architects and dated 28/06/17
- Existing Restaurant Ground Floor Plan (Drawing No. PA210, Rev. A) prepared by Nielsen Architects and dated 18/04/17
- Proposed Restaurant Ground Floor Plan (Drawing No. PA211, Rev. A) prepared by Nielsen Architects and dated 20/03/17
- Existing Amenities Plan (Drawing No. PA212) prepared by Nielsen Architects and dated 09/05/17
- Existing Brewing Shed Floor Plan (Drawing No. PA220, Rev. A) prepared by Nielsen Architects and dated 18/04/17
- Proposed Pizzeria Floor Plan (Drawing No. PA221, Rev. A) prepared by Nielsen Architects and dated 20/03/17
- Proposed Restaurant East Elevations (Drawing No. PA310, Rev. A) prepared by Nielsen Architects and dated 18/04/17
- Proposed Restaurant North Elevations (Drawing No. PA311, Rev. A) prepared by Nielsen Architects and dated 18/04/17
- Proposed Pizzeria West Elevations (Drawing No. PA320, Rev. A) prepared by Nielsen Architects and dated 19/04/17
- Proposed Pizzeria East Elevations (Drawing No. PA321, Rev. A) prepared by Nielsen Architects and dated 21/04/17
- Proposed Pizzeria South Elevations (Drawing No. PA322, Rev. A) prepared by Nielsen Architects and dated 21/04/17
- Proposed Restaurant Sections (Drawing No. PA410, Rev. A) prepared by Nielsen Architects and dated 27/04/17
- Proposed Pizzeria Sections (Drawing No. PA420, Rev. A) prepared by Nielsen Architects and dated 09/05/17
- Levee Survey Plan (Job Ref. 18417) prepared by Allsurv Engineering Surveys Pty Ltd dated 15/08/17
- Letter prepared by Nielsen Architects dated 28 June 2017
- Letter prepared by Nielsen Architects dated 21 August 2017

REASON: To ensure the proposed development is undertaken in accordance with the approved plans.

(2) **Reserve Matter - Department of Environment, Water and Natural Resources - State Heritage Unit**

The Department of Environment, Water and Natural Resources - State Heritage Unit requires the following matter to be reserved pursuant to Section 33(3) of the Development Act 1993 and addressed to the reasonable satisfaction of Council in consultation with the Department of Environment, Water and Natural Resources.

Final details regarding approval to remove the existing western sliding door to the proposed pizzeria shed to be resolved, as the door may be able to be retained in an open position, to the satisfaction of Council in consultation with the Department of Environment, Water and Natural Resources.

REASON: Retention of significant historic building fabric where possible on site is recommended.

(3) **Commercial Lighting**

Flood lighting shall be restricted to that necessary for security purposes only and shall be directed and shielded in such a manner as to not cause nuisance to adjacent properties.

REASON: Lighting shall not detrimentally affect the amenity of the locality.

(4) **Operating Hours**

The operating hours of the restaurant shall be between 10.00am and 10.00pm Sunday to Thursday and between 10.00am and 11.00pm Friday and Saturday.

REASON: To ensure the development operates in accordance with the approval and there is minimal disturbance to surrounding properties.

(5) **Capacity of Restaurant**

At any one time, the overall capacity of the restaurant shall be limited to a maximum of 72 persons.

REASON: To ensure the proposed development is undertaken in accordance with the approval.

(6) **Restriction on Entertainment**

No live or amplified music shall be played within the licensed premises at any time. Other entertainment shall be restricted to indoor areas and doors/windows kept closed for the duration of the entertainment.

REASON: To minimise the amenity impacts resulting from noise on the locality.

(7) **Restriction on Number of Functions**

The number of functions in a calendar year shall not exceed 15. Such functions shall have a maximum capacity of 72 people. Any increase in the number of functions/capacity will require separate development approval.

REASON: To ensure the proposed development is undertaken in accordance with the approved plans and to ensure the waste control system is adequate.

(8) Restriction on Overall Capacity of Licensed Premises

At any one time, the overall capacity of the licensed premise shall be limited to a maximum of 150 persons.

REASON: Due to on-site car parking facilities.

(9) Solid Waste Management

All solid waste including food, leaves, papers, cartons, boxes and scrap material of any kind shall be stored in a closed container having a close fitting lid. All waste shall be removed from the subject land at least once weekly. Collection of waste shall be carried out only between the hours of 7am and 6pm Monday to Saturday.

REASON: To maintain the amenity of the locality.

(10) Vehicle Access and Car Parking

All car parking spaces, driveways and manoeuvring areas shall be designed, constructed and delineated in accordance with Australian Standard AS 2890.1:2004. Bay delineation shall be clearly visible and maintained in good condition at all times. Driveways, vehicle manoeuvring and parking areas shall be constructed of compacted gravel prior to use of the restaurants and maintained in good condition at all times to the reasonable satisfaction of the Council.

REASON: To provide adequate, safe and efficient off-street parking for users of the development.

(11) Gross Pollutant Trap

All surface water from carparking or hardstand areas shall be directed to a proprietary pollutant treatment device capable of removing oils, silts, greases, and gross pollutants to Council reasonable satisfaction prior to discharge to Council stormwater system or street water table.

The Gross Pollutant Trap shall be cleaned out every calendar year to the reasonable satisfaction of Council.

REASON: To maintain the amenity of the locality and minimise water quality impacts from the development.

(12) Unloading and Storage of Materials and Goods

All materials, goods and refuse shall at all times be loaded and unloaded within the confines of the subject land. Deliveries vehicles shall only access the site between the hours of 8.00am and 6.00pm on any day. Materials and goods shall not be stored on the land in areas delineated for use as car parking.

REASON: To provide safe and efficient movement of people and goods.

(13) Noise Protection

Noise within the habitable rooms (windows closed) of the adjacent residential properties shall not exceed 55 dB(A) (insert based on locality e.g. rural living or rural industry area) between the ‘day’ hours of 7am to 10pm and 48 dB(A) between the ‘night’ hours of 10.00pm to 11.00pm.

REASON: Noise emission that results from the development should not detrimentally affect the amenity of the adjacent residential properties and be in accordance with the Environment Protection (Noise) Policy 2007.

NOTES

(1) Development Plan Consent Expiry

This Development Plan consent (DPC) is valid for a period of twelve (12) months commencing from the date of the decision (or if an appeal has been commenced the date on which it is determined, whichever is later). Building Rules Consent must be applied for prior to the expiry of the DPC, or a fresh development application will be required. The twelve (12) month time period may be further extended by Council agreement following written request and payment of the relevant fee.

(2) EPA Environmental Duty

The applicant is reminded of his/her 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.

(3) State Heritage Unit

Any changes to the proposal as assessed by the State Heritage Unit may give rise to heritage impacts requiring further consultation with the Department of Environment, Water and Natural Resources, or an additional referral to the Minister for Sustainability, Environment and Conservation. Such changes would include for example:

- a) an application to vary the Development Plan Consent, or
- b) Building Rules documentation that differs from the planning documentation

(4) Requirements Under the Heritage Places Act

Please note the following requirements under the *Heritage Places Act 1993*:

- a) If an archaeological artefact believed to be of heritage significance is encountered during excavation works, disturbance in the vicinity shall cease and the SA Heritage Council shall be notified.
- b) Where it is known in advance (or there is reasonable cause to suspect) that significant archaeological artefacts may be encountered, a permit is required prior to commencing excavation works.

- (5) **Requirements Under the Aboriginal Heritage Act**
Please note the following requirements of the *Aboriginal Heritage Act 1988*:
a) If Aboriginal sites, objects or remains are discovered during excavation works, the Aboriginal Heritage Branch of the Aboriginal Affairs and Reconciliation Division of the Department of the Premier and Cabinet (as delegate of the Minister) should be notified under Section 20 of the *Aboriginal Heritage Act 1988*.
- (6) **Sewer Connection**
The restaurant shall be connected to SA Water mains sewer supply. All work shall be to the satisfaction of SA Water.
- (7) **Erosion Control During Construction**
Management of the property during construction shall be undertaken in such a manner as to prevent denudation, erosion or pollution of the environment.
- (8) **Responsibility In Relation To Flooding**
The applicant is reminded that Adelaide Hills Council accepts no responsibility for damage to, or loss of property, as a result of flooding. It is the applicant’s responsibility to ensure that all appropriate steps are undertaken to minimise the potential damage to property as a result of flooding.
- (9) **Compliance with Food Act SA 2001**
This approval under the Development Act 1993 does not in any way imply compliance with the Food Act SA 2001 and/or Food Safety Standards. It is the responsibility of the owner of other person operating the food business from the building to ensure compliance with the relevant legislation before opening the food business on the site.
- (10) **Food Handling Notification**
Food business notification must be provided prior to commencing any food (or consumable product) handling activities. This may be provided on-line at www.fbn.sa.gov.au or by obtaining a notification form from Adelaide Hills Council.

9. **ATTACHMENTS**

Locality Plan
Proposal Plans
Application Information
Referral Responses
Representations
Applicant’s response to representations

Respectfully submitted

Concurrence

Brendan Fewster
Consultant Planner

Deryn Atkinson
Manager Development Services

COUNCIL ASSESSMENT PANEL MEETING
10 January 2018
AGENDA

Applicant: Woolcock Construction Pty Ltd	Landowner: Balcos Pty Ltd
Agent: Woolcock Construction Pty Ltd	Ward: Onkaparinga Valley
Development Application: 17/279/473	Originating Officer: Melanie Scott
Application Description: Variation 18 to DA 11/1091/473 to add 12 new staff car parks at rear of Trade Centre which includes a combined fence and retaining wall (maximum height 3.9m) in the flood zone, stacked parking in front of building 6, relocation of Mitre 10 bin store, modification of unloading area restrictions, modification of access restrictions on northern driveway to allow all vehicles with a right turn only on exit and inclusion of fitness studio (450m ²) in the list of approved uses for Building 10 plus creation of two additional tenancies in Building 10	
Subject Land: Lot:100 Sec: P4013 DP:111437 CT:6169/206	General Location: 37 Onkaparinga Valley Road Balhannah Attachment – Locality Plan
Development Plan Consolidated : 28 April 2016	Zone/Policy Area: Country Township (Balhannah And Oakbank) Zone - Balhannah West Policy Area
Map AdHi/20 & 61	
Form of Development: Merit	Site Area: 1.8 hectares
Public Notice Category: Category 3 Merit Notice published in The Advertiser on 15 September 2017	Representations Received: 8 (one now withdrawn) Representations to be Heard: 4

1. EXECUTIVE SUMMARY

The purpose of this application is to vary a number of elements of the original development approval for the site in Development Application 11/1091/473. The collection of variations has been described as variation 18. As the internal fit out of Building 10 has never been completed the application has been described as a variation to the original. Council confirmed this description with Council's legal advisers in consideration of the history of the development and previous Environment Resource and Development Court orders.

The following proposed variations are as publicly notified:

- 12 new staff car parks to the rear of Building 1 (Trade Centre)
- Proposed stacked parking in front of Building 6 (Office, lunchroom and storage facilities for Balcos)
- Relocation of Mitre 10 bin storage to 10m from hydrant
- Inclusion of two new tenancy spaces within Building 10, totalling 5 tenancies
- Removal of restrictions for loading/unloading within 27.5m of the northern boundary
- Removal of all restrictions for vehicle access to northern boundary and removal of the boom gate.
- Inclusion of fitness studio (max 450m²) in the description of uses for Building 10.

In response to representations and after some discussion with Council over the erosion of ERD Court conditions of approval, some further modifications were proposed. In particular the loading/unloading restrictions are proposed to be altered to 19m from the northern boundary (currently 27.5m). In addition to the boom gate being removed from the northern boundary driveway new signage is proposed to be installed at the driveway advising drivers that exiting vehicles are only able to make a right turn at Onkaparinga Valley Road. It is proposed that the boom gate will be reused at the access to the new staff car parking at the rear of Building 1.

The subject land is located within the Balhannah West Policy Area of the Country Township (Balhannah and Oakbank) Zone - and the proposal is a merit form of development. Four (4) representations in opposition and four (4) representations in support of the proposal were received during the Category 3 public notification period.

As per the CAP delegations, the CAP is the relevant authority for this application as representors wish to be heard.

The main issues relating to the proposal are amenity impacts for nearby residential properties, the inability to secure tenants which is not a development issue but is quoted by the application, internal site management and traffic flow issues.

In consideration of all the information presented, and following an assessment against the relevant zone and Council Wide provisions within the Development Plan, staff recommends that the proposal be **GRANTED** Development Plan Consent, subject to conditions:

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- 12 new staff car parks to the rear of building 1.
- Proposed stacked parking in front of building 6.
- Relocation Mitre 10 bin store to 10m from hydrant.
- Inclusion of two new tenancy spaces with in building 10, totalling 5 tenancies.
- Modification to restrictions for loading/unloading within 27.5m of the northern boundary.
- Modification to restrictions for vehicle access to northern boundary & boom gate.
- Inclusion of a fitness studio (max 450m²) to the description of uses for building 10.

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Attachment – Application Information** and **Attachment – Applicant’s Professional Reports**.

3. BACKGROUND AND HISTORY

April 5, 2017

Development Application 17/279/473 lodged for a variation (Variation 18) to DA 11/1091/473 to add 12 new staff car parks at rear of Trade Centre which includes a combined fence and retaining wall (maximum height 3.9m) in the flood zone, stacked parking in front of building 6, relocation of Mitre 10 bin store, modification of unloading area restrictions, modification of access restrictions on northern driveway to allow all vehicles exit with a right turn only on exit and inclusion of fitness studio

(450m²) in the list of approved uses for building 10 plus creation of two additional tenancies in building 10 (**Refer item 8.3 of this agenda**).

- July 14, 2017 Development Application 17/2/473 - Mezzanine addition to existing Trade Centre (Building 1).
- April 5, 2016 Development Application 15/1086/473 Variation to Development Authorisation 11/1091/473 to amend condition 4.1 to increase hours of operation for Mitre 10 area approved by CDAP.
- March 17, 2016 Development Application 15/258/473 granted Development Plan Consent by ERD Court Order for Variation to Development Approval DA 473/1091/11 to change the use of the Stage 2 tenancies from service trade premises (hereafter referred to as Building 10) from service trade premises to the sale, rental, display or offer by retail of products or materials used in building construction, including (but not necessarily limited to) the following:
1. Plumbing and bathroom renovation supplies; tiles; floor coverings; windows; window coverings and shutters; electrical fixtures and lighting; air conditioning and heating; solar panels; doors and roller doors; guttering, roofing and skylights; water tanks; bricks and pavers; hardware; building supplies; garden and landscape supplies;
 2. Furniture (excluding, except where minor and ancillary to an approved use, electrical appliances; electronic equipment; home entertainment goods; homewares, accessories and manchester; fitness equipment and other kinds of household goods or products used to furnish or decorate the home) – originally refused by CDAP 2 June 2015 and amended through Court Order. (Note none of the above uses in the order have been implemented to-date).
- September 17, 2015 Minor variation approved per Regulation 47A of *Development Regulations 2008* for the redesign of the embankment levels to create an embankment slope of 1:3 and bring the bottom of the embankment to 10.4m from the building line (Pugh Road end) and 13.65m from the building line (building midpoint).
- March 19, 2015 Minor variation approved per Regulation 47A of *Development Regulations 2008* for the creation of three (3) tenancies in building 10. Council notes there are no new external openings described in the drawings, all work is internal, and that the approved use as service trade premises remains.

February 16, 2015	Minor variation approved per Regulation 47A of <i>Development Regulations 2008</i> the variations 11 & 12, previous amendments being noted in 14/1135, 14/765 & 14/239. Variation 11 is described as the relocation of the shade sales from adjacent tenancy 6 & 7 to adjacent tenancy 8, and replace pavers with four additional parks adjacent tenancy 6 & 7. Variation 12 is the addition of two personal access doors, a roller door and a ramp to the rear of tenancy 8 adjacent the Pugh Road elevation of this building. It is noted there are also some changes to paving adjacent tenancy 1 which will be maintained as a delivery vehicle thoroughfare. There also a new personal access door in the eastern elevation (Adjacent Onkaparinga Valley Road) in tenancy 5.
January 13, 2015	Development Application 14/1135/473 Variation to 11/1091/473 and 14/239/473 - change to car park layout, signage and internal layout (tenancy 5, 6 and 7) approved.
December 2, 2014	Development Application 14/564/473 CDAP Refused the change in use of Approved Stage 2 - Service Trade Premises to shop (Retail Supermarket) with additional associated car parking areas, fencing & retaining walls (including a combined fence & retaining wall structure 3.9m high).
November 4, 2014	Development Approval granted to Development Application 14/239/473 Variation to Development Authorisation 11/1091/473: internal works to relocated building 6 (lunchroom, office and facilities), removal of sliding door to building 2, amendment to rear fencing (2.4m high), relocation of Balhannah Kitchens tenancy and alteration to floor areas of north eastern retail tenancies 3 and 4 approved by CDAP 6 May 2014 and amended by ERD Court Order 10 September 2014.
November 3, 2014	Development Application 14/765/473 Variation to development authorisation 11/1091/473 to add a service door to tenancy 5 in Building 8 and construction of a verandah addition to tenancy 4 approved.
September 18, 2013	<p>Development Approval granted to Development Application 11/1091/473 Staged redevelopment of existing service trade premises & cold store facility to create 3 service trade premises and 5 retail tenancies, associated car parking & altered access, associated landscaping, new signage, and to relocate existing sand & metal depot and fencing, timber & rural supplies and to upgrade Pugh Road.</p> <p>Stage 1: Redevelopment of service trade premises to create 2 service trade premises (for existing hardware and garden store and kitchen showroom) and 5 new retail tenancies, associated car parking and signage, reduction in cold storage to 950m², relocation of existing sand and metal depot & fencing, timber and rural supplies, relocation of storage building (building 6), removal of gas bullet, Colorbond® fence 2.4m high and upgrade</p>

	of Pugh Road (from Onkaparinga Valley Road to Trade Centre crossover). Stage 2: Construction of additional service trade premises (1125m ² floor area). Approved by CDAP 5 June 2012 and amended by ERD Court Order 10 October 2012.
September 21, 2011	Development Application 11/806/473 Demolition of various existing structures (including office and verandah on southern side of Pugh Road) approved.
June 16, 2002	Development Application 02/516/473 Replacement Cool room building (building 2) approved.
February 12, 2002	Development Application for Deck Addition (garden centre) and amendment to car park approved.
March 5, 1998	Development Application 97/143/473 Canopy to Storage building addition approved.
September 13, 1996	Storage Building (Building 6) approved.
October 11, 1995	Class 8 Freezer Room (further northern extension to previous application) approved.
June 8, 1990	Verandah (over garden shop) approved.
February 27, 1987	Gable over main entry and verandah (front of building 8) approved.
March 29, 1985	Coldstore (northern extension to previous application) approved.
September 26, 1983	Meat examination room (lean to on south side of building 1) approved.
June 22, 1981	New cold store & freezer rooms (building 5) approved.
March 23, 1981	Garage approved.
1978	Amenities Block approved.

4. REFERRAL RESPONSES

- **Department of Planning Transport and Infrastructure (DPTI)**
Referral under Schedule 8 of the Development Regulations. DPTI's advice is "the left turn restriction must remain for all vehicles larger than an 8.8m Medium Rigid Vehicle. To ensure vehicles 8.8m in length and smaller (i.e. car and trailer) can turn left without crossing the centreline; it is strongly recommended that the existing kerb radius is increased. Some additional chevron marking should also be installed within the driveway to guide exiting vehicles to the right side of the access thereby making the left turn out more feasible".
- **AHC Engineering**
Council engineers advised improving the left turn was not possible, so after further negotiation with the applicant the proposal was amended to allow right turn only from the northern driveway.

A copy of DPTI response is included as **Attachment – DPTI Response**

5. CONSULTATION

The application was categorised as a Category 3 form of development in accordance with Section 38(2) (c) of the Development Act 1993 requiring formal public notification and a public notice. Eight (8) representations were received as a result of the public notification. Of these four (4) representations are opposing the proposal, and four (4) are in support of the proposal. All were from adjacent and nearby properties.

The following representors wish to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Kellie & Robert Bucco	11 Sunningdale Court Balhannah	Self
G Iuliano & C Paardekooper	10 Sunningdale Court Balhannah	Self
Balhannah Cold Stores Pty Ltd	37 Onkaparinga Valley Road Balhannah	TBA
Scott Wood & Karen Fraser	7 Wicks Close Balhannah	Scott Wood

The applicant or their representatives – Eric Lampard or John Vickers may be in attendance.

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

- Congestion in Pugh Road
- Better traffic flows on site
- Possible bin and truck noise adjacent the northern boundary
- Light spill and vehicles lights at night from the main carpark
- Flooding and stormwater management to the rear of building 6
- Unnecessary expansion of parking to an arguably over developed site
- Increase in noise generators adjacent the northern boundary
- Potential for further internal traffic conflict

These issues are discussed in detail in the following sections of the report.

Note, the representation from John Cowie has been withdrawn as the applicant and Mr Cowie have reached an agreement in relation to fencing.

A copy of the submission is included as **Attachment – Representations** and the response is provided in **Attachment – Applicant’s Response to Representations**. A copy of the plans which were provided for notification is included as **Attachment – Publically Notified Plans**.

6. PLANNING & TECHNICAL CONSIDERATIONS

This application has been evaluated in accordance with the following matters:

- i. The subject land is 1.8 hectares in area and has been extensively redeveloped. The land is on the western or low side of Onkaparinga Valley Road and slopes away to the west towards the Onkaparinga River. The rear (western) portion of the land is in the Onkaparinga River flood zone. The land is bounded to the south by Pugh Road which is currently being developed as eight residential allotments. The redevelopment has created a central car park surrounded by built form which envisaged a number of retail activities fronting Onkaparinga Valley Road. The two largest tenancies in this configuration have been approved as service trade premises. There is an internal service road through the rear of the site which currently has restrictions for access purposes. There have been ongoing issues trying to tenant the remaining large service trade premises (Building 10) and anecdotally there are traffic management issues on the site.

- ii. The Surrounding Area

The subject land is located on a main road in a township locality. It is situated between low density residential uses typically developed with single storey detached dwellings on allotments ranging in size from 500m² to 5,000m². Low density residential uses also exist opposite the subject land on Onkaparinga Valley Road. At the rear of the subject land is the Onkaparinga River and larger rural landholdings exist to the west on the opposite side of the River.

The Balhannah Junction Shopping Centre is 500m along Onkaparinga Valley Road in a northerly direction.

- iii. Development Plan Policy considerations

- a) *Policy Area/Zone Provisions*

The subject land lies within the Balhannah West Policy Area of the Country Township Balhannah and Oakbank Zone and these provisions seek:

Balhannah West Policy Area

- low density residential development
- An attractive approach from the west by establishing large gardens and trees along Onkaparinga Valley Road.
- A restriction on commercial, retail or industrial development along Onkaparinga Valley Road apart from small scale light industrial development adjacent the Cold Stores

The following are considered to be the relevant Policy Area provisions:

Objectives: 1, 2

PDCs: 1, 2, 3, 7

The Country Township Balhannah and Oakbank Zone

- Retention of the separate identity of each town
- Promotion of the business and shopping centre in Balhannah as the future business and retail centre
- Protection of rural landscape, separation and the Onkaparinga River and its environs

The following are considered to be the relevant Zone provisions:

Objectives: 1, 3, 4, 7

PDCs: 1, 2, 6, 7 & 8

As the proposal is a variation on a previously approved application a full assessment against the Development Plan Provisions has not been undertaken. An assessment of representor concerns and the applicant's proposal has been undertaken to find a balance for the site and the resident concerns.

The addition of two further tenancies to Building 10 is considered a minor change with minimal impact on the amenity of the area. Arguably the increase from one, to three and now five tenancies will make finding service trade type tenants more difficult. The applicant has strongly stressed the need for these further tenancies to create flexibility to attract tenants. As the proposal does not involve additional openings on the northern face of Building 10 the amenity impact is considered minimal for the adjacent residential areas.

The change of use of one of the spaces in Building 10 to a 24hour fitness studio from a service trade premises is on balance considered acceptable. As a fitness studio there will not be classes and loud music. The 24hour access does create a potential light nuisance for the residence immediately opposite the central carpark access on Onkaparinga Valley Road. The applicant has indicated their willingness to provide the fence solution suggested by the representor. Council has received a copy of the offer made to the representor and the representation has been withdrawn.

The additional staff parking and combined fence and retaining to the rear of building drew comment from a representor regarding access, which will be managed by the relocated boom gate from the internal driveway. With regards to the potential increased flood risk Council accepts the assertion from the applicant's consultant that there will be a negligible increase in flood risk. With regards to stormwater management from the new carpark a condition is proposed to request a stormwater management plan prior to issuing Building Rules Consent, should Development Plan Consent be granted (refer recommended condition 4).

With regards to activities in the vicinity of the northern boundary Council notes the fence on this boundary is noise attenuated. Based on the applicants traffic survey of proposed vehicle movements for the northern driveway and the low numbers who will turn right, and the now proposed restriction on that driveway to vehicles only turning right, the conflict between unloading vehicles and through traffic is expected to be minimal and the driveway is 6.3m wide at the unloading point. There is also the capacity to turnaround should the northern driveway be blocked and exit via Pugh Road. Note all vehicles turning left will perform this manoeuvre. The original decision also limited the amount of traffic and activity in this corner of the site to preserve the adjacent residential amenity. Some representors and supporters of the site owners have stated the restrictions on the use of the northern boundary have created congestion issues in Pugh Road. Council has to balance the new residences in Pugh Road with the existing commercial site adjacent, the residential use to the north of the site, and the on-site congestion detailed by the applicant. With some negotiation the proposal has been modified from that publicly notified. Significantly DPTI was consulted regarding the proposed change to use of for the northern boundary driveway for egress onto Onkaparinga Valley Road. DPTI's advice is that left turn out of that driveway by all but passenger vehicles creates a road hazard involving vehicles crossing to the incorrect side of the road to make that turn. There is very little room at the crossover to modify that turn arc. The applicant and Council have agreed that ONLY RIGHT TURNING VEHICLES can use the northern driveway. Signs will be installed to ensure this and reinforced by recommended condition 5. Also the proposed stacked parking adjacent building 6 has been modified to ensure vehicles can still turn on site and leave via the Pugh Road exit. The applicant's original traffic report indicated the potential number of vehicles to use the northern driveway was minimal and over 60% of those vehicles wanted to go left or north. This information was derived from a multi-day survey of vehicles entering and exiting Pugh Road. There was also the potential for further conflict with vehicles loading and unloading at the rear of Building 10 and proposed through traffic. It is considered the amended proposal meets as best as possible the work health and safety concern of the applicant and best protects the amenity of the locality for both the northern and southern residential properties.

Similarly the unloading/loading zone, also adjacent Building 6 has been modified. Originally the applicant proposed removal of all restrictions. They have now agreed to unloading/loading zone being retained but modified to a distance of 19m from the northern boundary, a 5 metre only reduction from that previously approved (27.5m).

b) Council Wide provisions

The Council Wide provisions of relevance to this proposal seek (in summary):

- Orderly and economic development
- Centres developed in accordance with the desired character for each centre and integrated to incorporate a range of functions and in a manner commensurate with their place in a hierarchy of centre zones and areas

The following are considered to be the relevant Council Wide provisions:

Objectives: 1, 7, 8, 9, 22, 23, 35, 36, 37, 38, 41, 42, 43, 44, 46, 48, 51, 55, 56, 119, 121, 122, 123, 124, 126,
PDCs: 1, 2, 3, 7, 9, 10, 11, 13, 15, 64, 65, 66, 103, 104, 107, 109, 114, 115, 116, 117, 118, 119, 124, 125, 128, 129, 130, 138, 142, 196, 201, 232, 350, 351, 359, 367, 375,

These have been addressed in previous applications for the site and a lengthy dissertation on these principles does not add value to the argument for a number of minor changes proposed by this application.

7. SUMMARY & CONCLUSION

The initial application for this site was made in late 2011. Construction work began in 2013. The site is as yet incomplete but is operating. The incomplete part of the project is Building 10 is not yet internally fitted out or tenanted. For this reason this application is described as a variation. The details of the proposed variations have been detailed in the report. In a very brief form the proposed variations seek to offer more options for the proposed tenanting of building 10, ease traffic congestion issues on the site and the application in its original form did significantly erode the ERD Court conditions imposed in response to residential concerns in 2012. Public notification demonstrated those concerns still exist and the applicant negotiated with Council in response to those representations. It is considered the amended proposal, in particular the restricted use of the northern driveway, the modification of the loading/unloading zone and the offer of fencing for the eastern neighbour offered a balanced solution for both the applicants and the residents.

The proposal is sufficiently consistent with the relevant provisions of the Development Plan, and it is considered the proposal is not seriously at variance with the Development Plan. In the view of staff, the proposal has sufficient merit to warrant consent. Staff therefore recommend that Development Plan Consent be **GRANTED**, subject to conditions.

8. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent to Development Application 17/279/473 by Woolcock Construction Pty Ltd for Variation 18 to DA 11/1091/473 to add 12 new staff car parks at rear of Trade Centre which includes a combined fence and retaining wall (maximum height 3.9m) in the flood zone, stacked parking in front of building 6, relocation of Mitre 10 bin store, modification of unloading area restrictions, modification of access restrictions on northern driveway to allow all vehicles with a right turn only on exit and inclusion of fitness studio (450m²) in the list of approved uses for Building 10 plus creation of two additional tenancies in Building 10 at 37 Onkaparinga Valley Road Balhannah subject to the following conditions:

(1) Development In Accordance With the Plans

The development herein approved shall be undertaken in accordance with the following plans, details and written submissions accompanying the application, unless varied by a separate condition:

- amended site and floor plan from Woolcock Construction sheet 1 of 1 drawing number WC-BALCOS-DP-V18-01 revision number C1.18.4 dated 28 December 2017
- elevation plan from Woolcock Construction sheet 1 of 1 drawing number WC-BALCOS-ELEV-V18-02, C1.18-3 dated 11 November 2017

REASON: To ensure the proposed development is undertaken in accordance with the approved plans.

(2) Previous Plans & Details Still Apply

Except where varied by this authorisation, all other conditions, plans and details relating to Development Authorisation 11/1091/473 continue to apply to this amended authorisation.

REASON: To ensure all valid conditions are complied with.

(3) One tenancy in Building 10 to a maximum floor area of 450m² is approved for operation on a twenty-four hour basis with no amplified music.

REASON: To maintain the amenity of the locality.

(4) The proposed fence, retaining walls and boom gate in association with the staff carparking at the rear of Building 1 must be completed with three months of Development Approval.

REASON: To maintain the amenity of the locality.

(5) Right turn only signage shall be installed at both the entry and exit points of the northern driveway prior to the change of use to the northern driveway.

REASON: To ensure all proposed plans are complied with.

(6) The previously approved loading and unloading area between Building 6 and Building 10 has been amended from 27.5m from the northern boundary to 19m from the northern boundary.

REASON: To ensure all proposed plans are complied with.

(7) Prior to Building Rules Consent Being Granted - Requirement for Stormwater Calculations and Final Drainage Plan

Prior to Building Rules Consent being granted all hydrological and hydraulic stormwater calculations shall be provided together with the final drainage plan for the new staff car park. Discharge of stormwater and surface water flows should be designed to prevent overflows into adjoining properties and associated damage to existing roads and access tracks.

REASON: To minimise erosion, protect the environment and to ensure no ponding of stormwater resulting from development occurs on adjacent sites.

NOTES

(1) Development Plan Consent Expiry

This Development Plan consent (DPC) is valid for a period of twelve (12) months commencing from the date of the decision (or if an appeal has been commenced the date on which it is determined, whichever is later). Building Rules Consent must be applied for prior to the expiry of the DPC, or a fresh development application will be required. The twelve (12) month time period may be further extended by Council agreement following written request and payment of the relevant fee.

(2) Expiry Date Of Variation

This development authorisation to vary the original authorisation is valid for a period not exceeding that of the original authorisation i.e. 18 September 2019. This time period may be further extended by written request to and approval, by Council prior to the approval lapsing. Application for an extension is subject to payment of the relevant fee and will be required to be paid for both the original authorisation and the variation authorisation.

(3) Erosion Control During Construction

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

(4) EPA Environmental Duty

The applicant is reminded of his/her 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.

(5) DEWNR Native Vegetation Council

The applicant is advised that any proposal to clear, remove limbs or trim native vegetation on the land, unless the proposed clearance is subject to an exemption under the Regulations of the Native Vegetation Act 1991, requires the approval of the Native Vegetation Council. The clearance of native vegetation includes the flooding of land, or any other act or activity that causes the killing or destruction of native vegetation, the severing of branches or any other substantial damage to native vegetation. For further information visit:

[www.environment.sa.gov.au/Conservation/Native_Vegetation/
Managing_native_vegetation](http://www.environment.sa.gov.au/Conservation/Native_Vegetation/Managing_native_vegetation)

Any queries regarding the clearance of native vegetation should be directed to the Native Vegetation Council Secretariat on 8303 9777. This must be sought prior to Full Development Approval being granted by Council.

(6) Works on Boundary

The development herein approved involves work on the boundary. The onus of ensuring development is in the approved position on the correct allotment is the responsibility of the land owner/applicant. This may necessitate a survey being carried out by a licensed land surveyor prior to the work commencing.

9. ATTACHMENTS

Locality Plan
Proposal Plans
Application Information
Applicant's Professional Reports
Referral Responses
Representations
Applicant's response to representations
Publically Notified Plans

A Link to the previous consolidated version of the Development Plan will be provided separately

Respectfully submitted

Concurrence

Melanie Scott
Statutory Planner

Deryn Atkinson
Manager Development Services

COUNCIL ASSESSMENT PANEL MEETING
10 January 2018
AGENDA

Applicant: Mr Bradley David Bown	Landowner: Balcos Pty Ltd
Agent: Nil	Ward: Onkaparinga Valley
Development Application: 17/691/473	Originating Officer: Ben Green - Consultant Planner Sam Clements – Team Leader Statutory Planning
Application Description: Change of use from service trade premises to include light industry (micro-brewery) & associated shop (tasting area) within Tenancy 2E (Building 10), including outdoor seating area	
Subject Land: Lot:100 Sec: P4013 DP:111437 CT:6169/206 Lot:16 Sec: P4013 DP:91829 CT:6169/208 Lot:15 Sec: P4013 DP:91829 CT:6169/208 Lot:55 Sec: P4013 DP:91829 CT:6123/947 Lot:502 Sec: P4013 DP:91829 CT:6123/952	General Location: 2/37 Onkaparinga Valley Road, Balhannah (Building 10) Attachment – Locality Plan
Development Plan Consolidated : 28 April 2016 Map AdHi/20 & 61	Zone/Policy Area: Country Township (Balhannah And Oakbank) Zone - Balhannah West Policy Area
Form of Development: Merit	Site Area: 280m ² (Tenancy 2E)
Public Notice Category: Category 3 Notice published in The Advertiser on 6 October 2017	Representations Received: Four (4) Representations to be Heard: Nil

1. EXECUTIVE SUMMARY

The purpose of this application is to change the use of a newly created tenancy from a service trade premises to include a micro-brewery and associated shop (tasting area), including an outdoor seating area.

The subject land is located within the Country Township (Balhannah and Oakbank) Zone and Balhannah West Policy Area, and is a merit form of development. One representation in opposition and three representations in support of the proposal were received during the Category 3 public notification period.

Whilst neither use (shop and light industry) was an originally intended use within the homemaker/trade centre, the proposed light industry use (micro-brewery) is envisaged within the Balhannah West Policy Area. Whilst the shop (tap room) is also not an envisaged use within the Policy Area or Zone, this is a use closely associated with the light industry use that will value add and therefore contribute to the longevity of the business. Given this is not a typical form of development within a centre zone it is considered that the proposal should not detract from the

centre as the primary retail and commercial area for Balhannah. The proposal should not cause unreasonable amenity impacts to the residential properties within the locality, particularly in relation to noise, vapour and odours. Impacts resulting from service vehicle and traffic movements are unlikely to be any different to the current approved use (service trade premises).

As per the CAP delegations, the CAP is the relevant authority for this application as the proposal varies the previous authorisations granted by the CAP and this development is within a tenancy to be created as part of another variation in a separate application (refer to item 8.3 of this CAP agenda.) and the proposed hours of operation are outside of the hours approved in the previous authorisations.

The main issues relating to the proposal are impact on the Balhannah business and retail centre, potential character and amenity impacts, more specifically noise, hours of operation and air quality impacts for adjoining landowners.

In consideration of all the information presented, and following an assessment against the relevant zone and Council Wide provisions within the Development Plan, staff recommend that the proposal be **GRANTED** Development Plan Consent, subject to conditions:

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- To establish a micro-brewery (Left Barrel Brewing) within Tenancy 2E (280m²) on the subject land.
- The brewery will operate 24 hours a day, 7 days a week for the fermentation process whilst actual brewing would occur between 7:30am and 6pm on a weekly basis (Monday to Friday).
- Initially the brewery will be run by the two owners, but may grow to require a couple employees.
- The micro-brewery is proposed to initially produce approximately 30,000 litres of beer per annum, subject to demand.
- Small batch brewing will occur from a 300 litre hot-side brew house within the building.
- Also, wort (unfermented beer) will be produced off-site and transported to the subject building and transferred into fermenters or oak barrels to commence fermentation with yeast being added.
- Once beer fermentation is complete, it will be chilled down using the brewer glycol system, and then packaged onsite within the subject building (kegs and cans/bottles) for both tasting and sales on-site and for supply to other venues and beer merchants.
- A shop (tap/tasting room) is also proposed at the front of the tenancy of some 70m² with tables and chairs (54 seats) provided along with upright barrels both in the tap/tasting room and foyer area, all to be served from the bar. There are also tables and chairs (16 seats) provided outside Building 10 in the paved area. The total capacity within the tap/tasting room and the outside area is 75 persons.
- Bottled and tap beer will be sold on-site in the tap room.

- Kegs and bottles will be loaded by hand and/or forklift and transported to venues/customers by ute or van. Loading will be via the northern canopy and rear roller door.
- Signage will be located on the façade of the building and on the 'Balhannah Village Centre' Pylon Sign.
- Functions will be limited to 12 per year with 75 person limit with any live music restricted to be acoustic and pre-recorded audio played through the house audio system only. The entertainment is within the tap/tasting room only with the rear roller door of the subject tenancy closed.
- Left Barrel Brewing currently holds a Manufacturers and Direct Sales Licence and will be seeking a Producers Licence with sampling and consumption for the premises.
- A trade Waste Discharge Approval has been granted by SA Water.
- Building works will include –
 - Internal full height partition walls to separate sections of the brewery.
 - New rear access roller door opening out to the shared corridor which provided access to the existing emergency door and roller door exit
 - The wet brew zone will be bunded to EPA requirements with appropriate drainage installed to ensure liquid waste is captured for proper disposal.
 - A new trench drain and sump, along with a pump sump, that will take all captured wastewater to an on-site waste storage vessel, prior to treatment and disposal via the existing sewer

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Attachment – Application Information**.

3. BACKGROUND AND HISTORY

April 5, 2017	Development Application 17/279/473 lodged for a variation (Variation 18) to DA 11/1091/473 to add 12 new staff car parks at rear of Trade Centre which includes a combined fence and retaining wall (maximum height 3.9m) in the flood zone, stacked parking in front of building 6, relocation of Mitre 10 bin store, modification of unloading area restrictions, modification of access restrictions on northern driveway to allow all vehicles exit with a right turn only on exit and inclusion of fitness studio (450m ²) in the list of approved uses for building 10 plus creation of two additional tenancies in building 10 (Refer item 8.3 of this agenda)
July 14, 2017	Development Application 17/2/473 - Mezzanine addition to existing Trade Centre (Building 1).
April 5, 2016	Development Application 15/1086/473 Variation to Development Authorisation 11/1091/473 to amend condition 4.1 to increase hours of operation for Mitre 10 area approved by CDAP.

- March 17, 2016
- Development Application 15/258/473 granted Development Plan Consent by ERD Court Order for Variation to Development Approval DA 473/1091/11 to change the use of the Stage 2 tenancies from service trade premises (hereafter referred to as Building 10) from service trade premises to the sale, rental, display or offer by retail of products or materials used in building construction, including (but not necessarily limited to) the following:
1. Plumbing and bathroom renovation supplies; tiles; floor coverings; windows; window coverings and shutters; electrical fixtures and lighting; air conditioning and heating; solar panels; doors and roller doors; guttering, roofing and skylights; water tanks; bricks and pavers; hardware; building supplies; garden and landscape supplies;
 2. Furniture (excluding, except where minor and ancillary to an approved use, electrical appliances; electronic equipment; home entertainment goods; homewares, accessories and manchester; fitness equipment and other kinds of household goods or products used to furnish or decorate the home) – originally refused by CDAP 2 June 2015 and amended through Court Order. (Note none of the above uses in the order have been implemented to-date).
- September 17, 2015
- Minor variation approved per Regulation 47A of *Development Regulations 2008* for the redesign of the embankment levels to create an embankment slope of 1:3 and bring the bottom of the embankment to 10.4m from the building line (Pugh Road end) and 13.65m from the building line (building midpoint).
- March 19, 2015
- Minor variation approved per Regulation 47A of *Development Regulations 2008* for the creation of three (3) tenancies in building 10. Council notes there are no new external openings described in the drawings, all work is internal, and that the approved use as service trade premises remains.
- February 16, 2015
- Minor variation approved per Regulation 47A of *Development Regulations 2008* the variations 11 & 12, previous amendments being noted in 14/1135, 14/765 & 14/239. Variation 11 is described as the relocation of the shade sales from adjacent tenancy 6 & 7 to adjacent tenancy 8, and replace pavers with four additional parks adjacent tenancy 6 & 7. Variation 12 is the addition of two personal access doors, a roller door and a ramp to the rear of tenancy 8 adjacent the Pugh Road elevation of this building. It is noted there are also some changes to paving adjacent tenancy 1 which will be maintained as a delivery vehicle thoroughfare. There also a new personal access door in the eastern elevation (Adjacent Onkaparinga Valley Road) in tenancy 5.

January 13, 2015	Development Application 14/1135/473 Variation to 11/1091/473 and 14/239/473 - change to car park layout, signage and internal layout (tenancy 5, 6 and 7) approved.
December 2, 2014	Development Application 14/564/473 CDAP Refused the change in use of Approved Stage 2 - Service Trade Premises to shop (Retail Supermarket) with additional associated car parking areas, fencing & retaining walls (including a combined fence & retaining wall structure 3.9m high).
November 4, 2014	Development Approval granted to Development Application 14/239/473 Variation to Development Authorisation 11/1091/473: internal works to relocated building 6 (lunchroom, office and facilities), removal of sliding door to building 2, amendment to rear fencing (2.4m high), relocation of Balhannah Kitchens tenancy and alteration to floor areas of north eastern retail tenancies 3 and 4 approved by CDAP 6 May 2014 and amended by ERD Court Order 10 September 2014.
November 3, 2014	Development Application 14/765/473 Variation to development authorisation 11/1091/473 to add a service door to tenancy 5 in Building 8 and construction of a verandah addition to tenancy 4 approved.
September 18, 2013	<p>Development Approval granted to Development Application 11/1091/473 Staged redevelopment of existing service trade premises & cold store facility to create 3 service trade premises and 5 retail tenancies, associated car parking & altered access, associated landscaping, new signage, and to relocate existing sand & metal depot and fencing, timber & rural supplies and to upgrade Pugh Road.</p> <p>Stage 1: Redevelopment of service trade premises to create 2 service trade premises (for existing hardware and garden store and kitchen showroom) and 5 new retail tenancies, associated car parking and signage, reduction in cold storage to 950m², relocation of existing sand and metal depot & fencing, timber and rural supplies, relocation of storage building (building 6), removal of gas bullet, Colorbond® fence 2.4m high and upgrade of Pugh Road (from Onkaparinga Valley Road to Trade Centre crossover).</p> <p>Stage 2: Construction of additional service trade premises (1125m² floor area).</p> <p>Approved by CDAP 5 June 2012 and amended by ERD Court Order 10 October 2012.</p>
September 21, 2011	Development Application 11/806/473 Demolition of various existing structures (including office and verandah on southern side of Pugh Road) approved.
June 16, 2002	Development Application 02/516/473 Replacement Cool room building (building 2) approved

February 12, 2002	Development Application for Deck Addition (garden centre) and amendment to car park approved.
March 5, 1998	Development Application 97/143/473 Canopy to Storage building addition approved.
September 13, 1996	Storage Building (Building 6) approved.
October 11, 1995	Class 8 Freezer Room (further northern extension to previous application) approved.
June 8, 1990	Verandah (over garden shop) approved.
February 27, 1987	Gable over main entry and verandah (front of building 8) approved.
March 29, 1985	Coldstore (northern extension to previous application) approved.
September 26, 1983	Meat examination room (lean to on south side of building 1) approved.
June 22, 1981	New cold store & freezer rooms (building 5) approved.
March 23, 1981	Garage approved.
1978	Amenities Block approved.

4. REFERRAL RESPONSES

- **AHC EHU**

Council's Environmental Health Officer confirmed premises on SA Water Sewer and there were no health issues.

SA Water issued a Trade Waste Discharge Authorisation on 5 October 2017 pursuant to Sections 50 and 56 of the Water Industry Act 2012, subject to conditions.

The Trade Waste Authorisation is included in ***Attachment – Application Information***

5. CONSULTATION

The application was categorised as a Category 3 form of development in accordance with Section 38(2)(c) of the Development Act 1993 requiring formal public notification and a public notice. There were four (4) representations received and of these, there was one (1) representation opposing the proposal, and there were three (3) representations in support of the proposal. All of the representations received were from adjacent and nearby properties.

The applicant may be in attendance at the CAP Meeting to respond to any queries of the Panel.

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

- Strongly support a micro-brewery and tasting area as it will -
 - add to the culture of the area and diversity of the site
 - contribute to the growth of and interest in the region
 - increase tourism and advertising of the Adelaide Hills
 - increase the value of the region's economy
 - increase awareness of the opportunities and benefits of working in and visiting the Adelaide Hills
- Opposition to the proposed development -
 - Consideration must be given to residents adjacent to the site boundary to ensure a change of use to light industry does not detrimentally impact on neighbours
 - The following PDCs should be met PDC 13 (a)(e)(g), PDC 15(e), PDC 201, which mainly relate to minimising amenity impacts
 - Operating hours – no detail is provided for the 'sound proofed' rear roller door
 - Noise impact– patrons moving across the carpark to use the toilet and vehicles and patrons outside during events
 - Air quality impact– odour from the brewery and where hard waste is stored until collection or where solids from liquid waste is stored during the drying process before disposal
 - Objections could be overcome by –
 - Impose an end time of 6pm to the use of the outside seating area
 - Ensure front and rear doors are closed after 6pm to reduce patronage noise from inside
 - Reduce the number of events with Acoustic Entertainment to 6 per year
 - Reduce hours of operation of Events to 9pm
 - Increase the number of toilets onsite to accommodate capacity of 75 patrons / staff to negate need for patrons to cross the car park to use facilities
 - Adopt a Pest Control Plan
 - Provide information on –
 - Storage of waste products
 - Acoustic treatment to roller door and its efficiency
 - Reports or data relating to noise and emissions (including odour) of similar operation to support Application Assessments claim of there being no impact from noise or emissions eg Acoustic report or EPA report.

A detailed response to the representations was received from the applicant that addressed the concerns of the adjoining owner and summarises –

“The proposed development and any potential noise or air emissions are considered too minor to warrant the commissioning of either an air quality study or a noise monitoring/modelling study – as suggested by Kellie and Robert Bucco. It is strongly believed that any emissions would be minor and any resulting impacts; completely negligible. Any recommendations made in such reports would only be mitigation actions that the proponent is already proposing to implement. Further the building is of high

structural quality with excellent insulation; and Kellie and Robert Bucco's property is approximately 75 metres away. In discussions with the owners of the Little Bang Brewing Company; emissions from their larger establishment are also minor and have not garnered a single complaint from adjacent residences. The majority of mitigation measures outlined by Kellie and Robert Bucco though well-intentioned; are believed to be largely unnecessary for a small micro-brewery establishment."

These issues are discussed in detail in the following sections of the report.

A copy of the submission is included as **Attachment – Representations** and the response is provided in **Attachment – Applicant's Response to Representations**.

6. PLANNING & TECHNICAL CONSIDERATIONS

This application has been evaluated in accordance with the following matters:

i. The Site's Physical Characteristics

The subject land is 18,540 m² in area and has an approximate frontage of 120 metres to the western side of Onkaparinga Valley Road and 141 metres to Pugh Street on its southern boundary and is situated on the southern margins of the Balhannah Township.

The land slopes down from the road to the rear boundary and is currently developed with a number of different buildings and uses over five (5) allotments.

Contemporary built form is developed at the front of the site in a 'U' shape design around a central large common car park with the main central tenancy 1 (as seen by the road) is occupied by a large hardware store (Mitre 10) that has its retail component fronting the western side of the carpark. The Mitre 10 also provides a Garden Centre located in the south western corner of the carpark, along with an open sand and metal area on the fenced southern boundary and fencing/rural storage building, trade centre and a cold store building at the rear of the site that obtain separate driveway access direct from Pugh Road on the southern boundary and limited egress to Onkaparinga Valley Road along the northern boundary is controlled by a boom-gate and Colorbond security gates.

There are four (4) tenancies located on the southern side of the central carpark and two (2) tenancies located on the north eastern side of the car park that are used for a mix of commercial uses.

There are currently 3 remaining vacant tenancies located in the north western corner of building 10 and this is proposed to be increased to 5 tenancies via a separate variation development application (refer item 8.3 of CAP agenda). The site of the proposed development is the eastern most tenancy proposed to be numbered 2E.

There is a mix of vegetation evident on the subject land from new landscaping located predominantly around the car park and northern driveway and mature vegetation along the western boundary and north eastern corner of the property.

ii. The Surrounding Area

The subject land is located on a main road in a township locality. It is situated between low density residential uses typically developed with single storey detached dwellings on allotments ranging in size from 600m² to 5,000m². Low density residential uses also exist opposite the subject land on Onkaparinga Valley Road. At the rear of the subject land is the Onkaparinga River and larger rural landholdings exist to the west on the opposite side of the River.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Balhannah West Policy Area of the Country Township (Balhannah & Oakbank) Zone and these provisions seek:

Balhannah West Policy Area

- *Low density residential development*
- *An attractive approach from the west by establishing large gardens and trees along Onkaparinga Valley Road*
- *A restriction on commercial, retail or industrial development along Onkaparinga Valley Road apart from small scale light industrial development adjacent the Cold Stores.*

The following are considered to be the relevant Policy Area provisions:

Objectives: 1 & 2

PDCs: 1, 2, 3 & 7

The Country Township (Balhannah & Oakbank) Zone

- *The retention of township identity by retaining rural separation*
- *Providing for low density residential expansion whilst protecting the rural landscape and Onkaparinga River*

The following are considered to be the relevant Zone provisions:

Objectives: 1, 3 & 4

PDCs: 1, 2, 7 & 8

Refer to **Attachment – Relevant Development Plan Zone Provisions.**

There are few provisions of the subject Country Township (Balhannah and Oakbank) Zone relating to business activities such as a brewery. The subject land is located within an area dedicated for 'living' purposes within the Balhannah – Oakbank Structure Plan but the subject building, along with the subject large landholding, have been put to commercial use for an extended period of time.

It is also stated in Objective 3 of the Zone that the business and shopping centre in Balhannah should be promoted as the business and retail centre. The development of the proposed brewery outside of the Balhannah business and retail centre could be considered as not consistent with this objective of the zone or the township structure

plan, but again, the brewery is to be developed on land that is within an existing business precinct (homemaker/trade centre) that this is already operating as a business hub outside the centre. As such, subject to the design and operational aspects of the proposed brewery, the subject site/tenancy is considered appropriate for the proposed brewery. It is also considered that a brewery, which is a form of light industry, is not a typical land use/development within a centre area, but is more often located in industrial areas. For these reasons, the proposal's variance with Zone Objective 3 and the Balhannah - Oakbank Structure Plan referred to in Zone Principle of Development Control (PDC) 1 is not considered to be fatal.

Whilst PDC 3 of the Balhannah West Policy Area calls for no commercial, retail or industrial development along Onkaparinga Valley Road, PDC 7 confirms that "*Small-scale light industrial development is appropriate adjacent to the Cold Stores, which are located at 37 Onkaparinga Valley Road, Balhannah.*" As mentioned, given the low impact nature of the proposed brewery, it is considered to be light industry. In consideration that the existing built form tenancy is located adjacent the Cold Stores, this site is considered to be an appropriate location for a micro-brewery and shop. The shop (tasting/tap room) is a form of retail and would not normally be considered to be appropriate based on this provision and also given that the original intent and justification for this business hub outside of the centre area was for it to be a homemaker/trade centre. As the shop is associated with the light industry use however and will value add, it will therefore contribute to the longevity of the business. The proposal is inconsistent with Policy Area PDC 3, but consistent with PDC 7.

The proposal is to include the uses of a micro-brewery and shop within an existing building and will essentially not change the external appearance of the premises, with the exception of the outside dining furniture (removable) that will enable the better utilisation of the existing paved areas. Therefore, Policy Area PDC 1 relating to the appearance of built form has previously been assessed and determined in the original application for the redevelopment of this site.

b) Council Wide provisions

The Council Wide provisions of relevance to this proposal seek (in summary):

- *Orderly and Economic Development*
- *Development should not detrimentally affect the amenity of its locality*
- *Industrial development located in suitable areas*
- *Protection of the Mount Lofty Ranges Watershed area from pollution and contamination*

The following are considered to be the relevant Council Wide (CW) provisions:

Objectives: 1, 8, 14, 15, 16, 20, 57, 103, 104 & 105

PDCs: 1, 2, 3, 9, 13, 15, 20, 21, 44, 46, 47, 50, 51, 52, 53, 58, 59, 60, 153, 154, 156, 157, 158, 159, 160, 296, 298 & 299

Form of Development

As mentioned, although the subject land is located within an area dedicated for 'living' purposes within the Balhannah - Oakbank Structure Plan, this site or vacant tenancy to be utilised is within an existing building within an existing homemaker/trade centre. The proposal will allow this tenancy in this mostly vacant building to be utilised. Although not a service trade use as originally intended, the policy area does envisage light industry uses adjacent the cold stores and based on this the subject site is considered suitable for this intended use. Whilst the proposal is not in accord with the structure plan, based on the above reasons, the proposal is still considered to be an orderly and economic development. Whilst the business will start out as only being run by the owners, there may be some employment opportunities created in future (waiting staff and assistant brewer). Based on the above assessment, the proposal is inconsistent with CW PDC 1, but consistent with Objectives 1 and 8, and PDCs 2 and 3.

Appropriateness of Proposal in Locality

Although the majority of land in the locality sits within the same Zone and Policy Area (aside from the rural area outside the township boundaries to the north-west and west), the locality is both commercial and residential in nature. The site interfaces with residential properties on the northern side.

Whether the proposed brewery is an appropriate development, is very much conditional on whether external impacts can be maintained to a reasonable level.

With the above in mind, it is reasonably clear from the proposal documentation that the applicant has endeavoured to manage and mitigate external impacts to these adjacent residential properties. Also, many of these impacts, in particular vehicle movements and noise, have been addressed in the original application to establish this trade/homemaker centre. The conditions relating to these matters will also be applied to this consent (if granted). Based on the assessment of each of the potential amenity impacts below, it is considered that the development will not interfere with the effective use of other land in locality to any greater degree than would the use of this tenancy as a service trade premises. The proposal is considered to be consistent with CW PDC 9.

Noise

It is not anticipated that there will be any significant noise emissions from the proposed brewery and associated shop. The hours of the operation will largely be within the previously approved hours of this existing business hub, aside from Saturday. The approved hours for Saturday are from 8am to 7pm. The brewery and shop is proposed to open from 12pm to 9pm on a Saturday.

Any entertainment and tasting will be restricted to indoors by condition (**refer to recommended condition 16**) with the roller doors of the tenancy kept closed and therefore the only noise generated outside later in the day would be 'people noise' in the outdoor seating area. The existing building should materially buffer noise travelling over to adjacent residential properties to the north, noting that the proposed outdoor seating area is on the southern side of the existing building. Deliveries and forklift operations are to occur within the reduced hours of 7.30am to

6pm Monday to Friday. These hours are in line with the original approved hours for deliveries/service vehicle movements for the future (service trade) tenancies within building 10. All loading and unloading of vehicles will occur within the loading bay underneath the existing acoustic canopy to mitigate noise impacts to the adjacent residential properties.

All brewing activities are to occur indoors and therefore the equipment should not be audible from adjacent properties as there are no windows on the northern elevation of building 10. The main noise generation from the brewery would be from the milling of grain prior to a brew day and the forklift movements. Given the small nature of the brewery, the bottling process will result in minimal noise. It is understood that a four head gravity filler will be used to fill the bottles and the bottles will be capped by hand individually.

Based on the above details and assessment, the proposal should not detrimentally affect the amenity of the locality by the emission of noise or vibrations, in accord with CW PDCs 13 (a) and 15(e).

Solid Waste, Wastewater and Odours

The wastewater generated on site will be stored with an enclosed wastewater storage unit (2000L waste collection tank) mitigating the risk of odours in this regard. Once this wastewater is within the required pH levels it will then drain into the existing sewerage system. The waste generated will comprise a maximum of around 100 litres a day and a trade waste application has been approved by SA Water. The wastewater will be treated and disposed of without risk to health or impairment of amenity consistent with CW PDC 20.

The application documents indicate that the 'hot' side of the beer making process (boiling the wort with hops added) is the primary odour producing process in a brewery. Given the small nature of the brewery, the odour and vapour generated from this process will dissipate and be contained within the enclosed building with high ceilings. It also noted that larger volumes of wort production will occur at larger breweries in the Hills Region and then be transported to the subject building for fermentation. The applicant has indicated that approximately 80% of the wort production will be done off-site. Based on this, the applicant has indicated that there is no intention at this stage to have an exhaust system with a vent in the roof for the vapour to be released into the open air.

Spent grains will be stored in recycled plastic drums and will be collected by farmers for livestock feed.

Given all brewing processes will be undertaken within the enclosed building air quality should not be compromised.

Based on the above assessment, the proposal should not detrimentally affect the amenity of the locality by the emission of odours, vapours, waste water and waste products consistent with CW PDC 13 (a).

Transportation issues

A service trade premise of 280m² would require 11 car parking spaces based on the maximum rate of 4 spaces per 100m². A shop (70m²) and light industry (210m²) would require 6.6 spaces. Whilst a 'licensed premises' rate based on bar and floor area and number of seats is considered to be more appropriate to calculate the car parking needs of this proposal, this consolidated version of the Development Plan does not include such requirements. Based on such a rate, there would be a minimum of 26 car parking spaces required (based on 70 seats). Even if such a rate was applied, it is noted that the proposed shop (tap room) is initially to be open reduced hours, specifically Friday 2pm to 9pm, Saturday 12pm to 9pm and Sundays 12pm to 5pm. Given the Mitre 10 closes at 5.00pm or 5.30pm each night, the whole car park is largely unoccupied after this time. Also, the maximum capacity of 75 persons is most likely to be reached when bus tour groups visit the premises, therefore reducing the car parking demand. The large car park of 120 spaces is considered to be able to accommodate the shortfall of fifteen (15) car parking spaces. As mentioned, as there is no rate for licensed premises the proposal is consistent with the car parking rates detailed within Table AdHi/4 and therefore consistent with CW PDC 44.

There will be no change to how service/delivery vehicles enter and exit the site. Such vehicles will solely use the northern driveway, not the customer car park area. Customers will only use the northern driveway and access if the customer pick-up requires the use of a forklift or lifting equipment. There are adequate manoeuvring areas within the site for the service vehicles required for this particular use (up to a 6m rigid truck) and these vehicles will be able to enter and leave the site in a forward direction. No new access points will be created and the nature of the movements through the access points will not change as a result of the development. The proposal is in accord with CW PDCs 47, 50, 51, 52 and 53.

The applicant has indicated that large buses will not enter the car park. Persons will embark and disembark from large vehicles (buses) greater than 12 seater commuter/mini-bus size (5.3m in length) via Onkaparinga Valley Road or Pugh Road. Given large buses could park on Pugh Road, the development should not generate pedestrian traffic across the arterial road. The proposal is consistent with CW PDC 46.

The existing car park area has been line marked in accordance with the Australian Standards and the development will not interfere with the safety and convenience of traffic on Onkaparinga Valley Road. The proposal is consistent with CW PDCs 58, 59 and 60.

Industrial Development

As mentioned above, the car parking provided for the light industry and shop uses is sufficient and accords with Table AdHi/4. The width of the internal driveway and Onkaparinga Valley Road is sufficient for the size of service vehicles envisaged. The proposal accords with CW PDCs 153 and 156. Whilst this is not an industrial area/Zone, the Policy Area does envisage some light industry adjacent the cold stores.

A micro-brewery is a form of light industry which is considered to be more appropriate adjacent to residential areas/properties, and is consistent with CW PDC 157.

As determined above, the proposal should not have a significant impact on the amenity of the locality or lead to the deterioration of health and living standards in this locality. Also, the proposal should not create pollution problems and is considered to pose a negligible risk to the Mount Lofty Ranges Watershed. The proposal is consistent with CW PDCs 158, 159 and 160.

Watershed Protection

As mentioned, the proposed storage of waste from the proposed micro-brewery will be contained in a sealed waste collection tank within a bunded area until it is discharged to the mains sewer system. The wastewater management is to be undertaken to the satisfaction of SA Water. The risk to the watershed area is therefore considered to be negligible. The proposal accords with CW Objectives 103, 104 and 105, and PDCs 296, 298 and 299.

7. SUMMARY & CONCLUSION

The proposal will utilise a tenancy within part of the building that has been vacant for some time. The proposed light industry use (micro-brewery) is envisaged within the Balhannah West Policy Area. Whilst the shop (tap room) is not an envisaged use within the Policy Area or Zone, nor is it one of the originally intended uses within the existing homemaker/trade centre, this use is associated with the light industry use and will value add to the proposed business and therefore contribute to its longevity. Given this is not a typical form of development within a centre zone it is considered that the proposal should not detract from the centre area as the primary retail and commercial/business area for Balhannah. Although at odds with the Balhannah - Oakbank Structure Plan, the proposal is considered be an orderly and economic form of development.

The proposal should not cause unreasonable amenity impacts to the residential properties within the locality, particularly in relation to noise, vapour and odours. Impacts resulting from service vehicle and traffic movements are unlikely to be any different to current approved use/s (service trade premises).

Wastewater will be collected in a sealed waste collection tank within a bunded area. This wastewater will then be discharged into the sewer main all in accordance with an authorisation granted by SA Water. The proposal poses as negligible risk to water quality in the Mount Lofty Ranges Watershed.

The proposal is sufficiently consistent with the relevant provisions of the Development Plan, and it is considered the proposal is not seriously at variance with the Development Plan. In the view of staff, the proposal has sufficient merit to warrant consent. Staff therefore recommend that Development Plan Consent be **GRANTED**, subject to conditions.

8. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent to Development Application 17/691/473 by Bradley David Bown for Change of use from service trade premises to include light industry (micro-brewery) & associated shop (tasting area) within Tenancy 2E (Building 10), including outdoor seating area at 2/37 Onkaparinga Valley Road Balhannah subject to the following conditions:

(1) **Development In Accordance With The Plans**

The development herein approved shall be undertaken in accordance with the following plans, details and written submissions accompanying the application, unless varied by a separate condition:

- Amended proposal report prepared by Brad Bown of Left Barrel Brewing received by Council 29 Sept 2017
- Amended floor plan (Rev. 6) received by Council 03 Oct 2017
- Overall floor plan of Building 10 (Dwg no: WC-1583-01FP) prepared by Woolcock Group received by Council 04 Oct 2017
- Site plan (Dwg no:WG-BALCOS-DP-V17) prepared by Woolcock Group received by Council 03 Oct 2017
- Licensed Areas Plan received by Council 7 Nov 2017
- Response to representations prepared by Brad Bown of Left Barrel Brewing received by Council 3 Nov 2017

REASON: To ensure the proposed development is undertaken in accordance with the approved plans.

(2) **Hours of Loading Bay**

Use of the loading bay in the north-eastern driveway must only be used during the following times:

Monday to Friday 7am to 6pm

Any forklift noise arising during the loading and unloading of goods at the loading bay shall comply with the indication noise levels provided by Clause 20 of the Environment Protection (Noise) Policy 2007 when measured and adjusted in accordance with the Policy at the adjacent residential properties.

REASON: To minimise amenity impacts (noise) to adjacent residential properties.

(3) **Use of Loading Bay and North-Eastern Driveway**

The north-eastern driveway (including the area under the acoustic canopy) must not be used for any purpose other than vehicle movement and loading and unloading directly to vehicles in the loading bay.

REASON: To minimise amenity impacts (noise) to adjacent residential properties.

(4) Use of North-Eastern Driveway

The north-eastern driveway must not be used by vehicles other than:

- Commercial vehicles loading or unloading directly to the loading bay in the driveway

REASON: For safe and convenient movement of people and goods.

(5) Customer Pick-Ups

Customer pick-ups must occur from the front entrance to Building 10 but may occur in the loading bay where use of any forklift or lifting equipment is required or where an item sold from the premises cannot be safely carried by one person through the front entrance.

REASON: For safe and convenient movement of people and goods.

(6) Vehicles Turned Off in Loading Bay

Prior to commencement of the proposed development, a sign must be erected in the north-eastern driveway at the point prior to the loading and unloading bay (in a position and of size which meets the reasonable satisfaction of Council which reads as following: "ALL ENGINES MUST BE TURNED OFF DURING LOADING AND UNLOADING."

REASON: To minimise amenity impacts (noise) to adjacent residential properties.

(7) Waste Storage

The occupants of Building 10 may only store domestic sized 'wheelie bins' adjacent the rear (north western) wall of that building. Any large commercial or industrial bins may not be stored within 27.5 metres of the north-eastern boundary of the subject land.

REASON: To minimise amenity impacts (visual and odour) to adjacent residential properties.

(8) Refrigeration Unit

The refrigeration unit for the cool room shall be located within the building. If a backup generator is used this shall also be located within the building and operated only when the roller door is completely closed.

NOTE: An exhaust flew within the roof would need to be provided to vent (exhaust fumes from the generator) to the outside area.

REASON: To minimise amenity impacts (noise) to adjacent residential properties.

(9) Vent Filters

Vent filters shall be installed on any flue or vent at the time of installation. These filters shall utilise a combination of zeolites, oxidising agents and micro-porous, impregnated pelletised activated carbon media or similar to treat the vapour, odorous air or fumes to the satisfaction of Council.

REASON: To minimise amenity impacts (vapour, fumes or odour) to adjacent residential properties.

(10) Production Capacity

The production capacity of the micro-brewery shall be restricted to 30,000 litres of beer production per annum.

REASON: To ensure the development is undertaken in accordance with the approved plans and documentation.

(11) Hours of Operation

The hours of operation for the micro-brewery shall be:

Monday to Friday 7.30am to 6.00pm (excluding the fermentation process)

The hours of operation for the shop (tap/tasting room and outside area) shall be:

Monday to Friday- 10.00am to 9.00pm

Saturday- 10.00am to 9.00pm

Sunday- 12.00pm to 5.00pm

The hours of operation for the twelve (12) functions or special events per calendar year shall be:

Monday to Sunday- 10.00am to 10.00pm

REASON: To minimise amenity impacts (noise) to adjacent residential properties.

(12) Service Vehicles and Forklift Operations

No service/delivery vehicles shall enter the site and no forklifts shall be used other than between:

Monday to Friday 7.00am to 6.00pm

REASON: To minimise amenity impacts (noise) to adjacent residential properties.

(13) Outside of Hours of Operation

Any staff that visit the site outside the micro-brewery hours of operation shall use the front entrance to Building 10.

REASON: To minimise amenity impacts (noise) to adjacent residential properties.

(14) Functions or Special Events

A maximum of twelve (12) functions shall be held per calendar year.

A register shall be kept of all events/functions held and made available to the Council on request.

Note that any increase in the number of functions will require a separate development approval.

REASON: To minimise amenity impacts (noise) to adjacent residential properties.

(15) Capacity of Shop and Functions

The overall maximum capacity (inside and outside) of the licensed premises shall be 75 persons.

REASON: To ensure there is sufficient car parking provided on-site.

(16) Restriction on Entertainment for Function

Entertainment shall be restricted to functions only and shall be acoustic or pre-recorded music only. Entertainment shall only be within the tap/tasting room and the tenancy front door and the roller door shall be kept closed for the duration of the entertainment.

REASON: To minimise amenity impacts (noise) to adjacent residential properties.

(17) Noise Attenuation

Noise within the habitable rooms (windows closed) of the adjacent residential properties shall not exceed 47 dB(A) between the 'day' hours of 7.00am to 10.00pm.

REASON: Noise emission that results from the development should not detrimentally affect the amenity of the adjacent residential properties and be in accordance with the Environment Protection (Noise) Policy 2007.

(18) Buses/Tour Groups

No vehicle larger than a commuter/mini-bus (5.3m in length) shall enter the car park area.

REASON: For safe and convenient movement of people and goods, and to ensure no loss of parking due to large vehicles (i.e. buses) occupying multiple car parks.

(19) Wet Area Construction

The Wet Area within the proposed micro-brewery shall be bunded to achieve a holding capacity of at least 120% of the total holding waste tank capacity. The bunds, floor drain and grated sump and 2000L waste tank as depicted on the amended floor plan received by Council 03 Oct 2017 shall be installed prior to any brewery operations/processes occurring within the building.

REASON: To ensure wastewater is appropriately managed and no water quality impacts result.

(20) Trade Waste Discharge

The trade waste shall be discharged to the SA Water sewer main in accordance with the approval granted by SA Water (ref no: 666364). All works shall be undertaken to the satisfaction of SA Water.

REASON: To ensure wastewater is appropriately managed and no water quality impacts result.

(21) Air-conditioning plant

Air-conditioning plant and equipment associated with the subject tenancy must be positioned on the roof and, in any case, must be acoustically shielded in accordance with recommendations from an acoustic engineer to ensure that noise emissions do not exceed the indicative noise levels provided by Clause 20 of the Environment Protection (Noise) Policy 2007 when measured and adjusted in accordance with the Policy.

REASON: Noise emission that results from the development should not detrimentally affect the amenity of the adjacent residential properties and be in accordance with the Environment Protection (Noise) Policy 2007.

(22) Waste Management

Spent grains shall be stored in sealed vermin proof containers until taken off the site.

REASON: To ensure the amenity of the locality is maintained.

NOTES

(1) Development Plan Consent Expiry

This Development Plan consent (DPC) is valid for a period of twelve (12) months commencing from the date of the decision (or if an appeal has been commenced the date on which it is determined, whichever is later). Building Rules Consent must be applied for prior to the expiry of the DPC, or a fresh development application will be required. The twelve (12) month time period may be further extended by Council agreement following written request and payment of the relevant fee.

(2) EPA Environmental Duty

The applicant is reminded of his/her 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.

9. ATTACHMENTS

Locality Plan
Proposal Plans
Application Information
Representations
Applicant's response to representations

A Link to the previous consolidated version of the Development Plan will be provided separately.

Respectfully submitted

Concurrence

Sam Clements
Team Leader Statutory Planning

Deryn Atkinson
Manager Development Services

COUNCIL ASSESSMENT PANEL MEETING
10 January 2018
AGENDA

Applicant: KeyInvest Ltd	Landowner: KeyInvest Ltd
Agent: Jensen Plus – Andrew Kaspar	Ward: Onkaparinga Valley
Development Application: 17/649/473	Originating Officer: Melanie Scott
Application Description: Expansion of existing retirement village (Stage 4), including the construction of 15 dwellings (6 two storey & 9 single storey), associated retaining walls (maximum height 2.1m), internal driveway & removal of 1 regulated tree (<i>Eucalyptus camaldulensis</i>) and 1 significant tree (<i>Eucalyptus camaldulensis</i>) and associated earthworks	
Subject Land: Lot:100 Sec: P5029 DP:58144 CT:6007/536	General Location: 18 Tolmer Road Woodside
	Attachment – Locality Plan
Development Plan Consolidated : 28 April 2016 Map AdHi/57	Zone/Policy Area: Country Township (Woodside) Zone - Residential Policy Area
Form of Development: Merit	Site Area: portion of 2.2hectares
Public Notice Category: Category 2 Merit	Representations Received: Nil
	Representations to be Heard: Nil

1. EXECUTIVE SUMMARY

The purpose of this application is to secure planning consent for stage 4 of the Woodside Lodge Village, which consists of 15 independent living residences for senior community members. It is of note that this is the final stage of a project that began in 2004 and will result in 81 residences in total. The proposal includes civil works in the south eastern portion of the site (road, stormwater and services), various tree remedial works including the removal of one regulated and one significant tree, retaining walls and four different dwelling designs with associated earthworks.

The subject land is located within the Country Township (Woodside) Zone - Residential Policy Area and is a merit form of development. No representations were received during the Category 2 public notification period. In accordance with clause 6 of the CAP Delegations Policy regarding the number of aged accommodation units and the value of the work proposed, the CAP is the decision authority for determining the application.

Stage 4 of the development, in particular the south western corner of the land is the most challenging on the site in terms of site works due to the undulating nature of this portion of the land. Stage 4 also has much potential to be a feature of the site with its elevation and the statuesque trees on the land. With the benefit of experience of tree management and earthworks on the rest of the site, and experience of the type of residence in demand in the market, the proposed residences will enhance the balance of the village and significant measures will be in place to ensure the continued health of the trees on site.

The main issues relating to the proposal are ongoing tree management issues and the potential for overlooking.

In consideration of all the information presented, and following an assessment against the relevant zone and Council Wide provisions within the Development Plan, staff are recommending that the proposal be **GRANTED** Development Plan Consent, subject to conditions.

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- 14 semi-detached dwellings(6 two storey).
- 1 detached dwelling.
- Removal of one significant and one regulated Eucalyptus camaldulensis (River Red Gums) trees
- Pruning of two significant Eucalyptus camaldulensis (River Red Gums) trees
- Decks to the rear of dwellings 26 & 27 with maximum height above natural ground level 3.2m
- New internal roads (roads A and B) and associated civil works.
- Various retaining walls to a maximum height 2.1m.

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Applicant’s Professional Reports**.

3. BACKGROUND AND HISTORY

July 16, 2001	01/D39/473	Council approved a land division to create one additional allotment. Land was part of a larger parcel to south which was Watershed Primary Production and had the part divided off that was zoned Country Township Woodside.
February 3, 2003	02/D21/473	Council granted DPC for a land division for 37 allotments. No building rules application submitted. Application lapsed.
June 16, 2004	04/179/473	Council granted DPC for construction of a retirement village - 87 units & associated residential community centre, and the removal of six significant trees.
July 13, 2006	06/139/473	amendment of DA 473/179/04; reduction of number of residential units from 87 to 83; alteration to landscaping plan retaining five (5) additional trees and removing one (1) significant gum tree, granted DPC.
January 10, 2007	06/1131/473	advertising signage - 1 (one) sign (measuring 3.6m x 1.6m with 3m overall height).
March 19, 2008	08/74/473	erection of a fence (combination minorb with timber posts and tubular steel) extending full length of front property boundary of existing retirement village (south of main entrance only).

December 16, 2009	09/1026/473 masonry wall (measuring 2.65m height) enclosing service area.
January 20, 2010	09/293/473 for variation to development authorisation 04/179/473 to remove two dwelling sites within stage 2, alter roadways and to establish a screened caravan parking area in association with an existing retirement village.
June 7, 2011	11/235/473 removal of 2 x significant trees (Eucalyptus leucoxylon) and pruning of 10 significant trees.
August 5, 2011	10/823/473 Variation to 473/179/2004 - to vary Stage 2a, layout of units & roadways, retaining walls (maximum height 1m) and associated earthworks.
January 19, 2012	11/1111/473 variation to development authorisation 473/823/10 to vary layout of units 24 & 25.
July 13, 2012	12/502/473 community use outbuilding 6.2m x 9.2m x 3.0m.
November 23, 2012	12/785/473 Verandah (8.3m x 3m x 2.5m).
October 15, 2015	13/920/473 Construction of 32 dwellings in association with retirement village, removal of 3 regulated trees & associated earthworks to be constructed in four stages; Stage 2B ten dwellings, Stage 3A eight dwellings, Stage 3B six dwellings and Stage 3C eight dwellings to be completed in five years.
October 15, 2015	14/622/473 Variation to development authorisation 13/920/473 to stage development - to vary the stage described as 2B (ten dwellings) to Stage 2B four dwellings and stage 2C six dwellings. Stage 2B (4 Dwellings Only) Approved 22/7/2014. Stage 2C (6 Dwellings - houses 55, 56, 78, 79, 80, 81) approved 15/10/2015. Stage 3A (8 dwellings - houses 63, 64, 65, 66, 67, 68, 69, 70) approved 17/11/2016.
August 13, 2016	15/499/473 Regulated tree removal (Eucalyptus camaldulensis).

The original application for the site was the subject of intense public scrutiny. In response to the global economic situation a number of extensions of time were granted to the original application and a number of minor variations approved. Early in 2013 an approach was made to Council regarding an additional tree removal to enable the relocation and reorientation of one cluster of dwellings. Council and the applicant agreed it was time to reassess the application, including an opportunity for public comment and provide some clarity around the likely completion date. There were no representations at that time. This application for stage four, the final fifteen residences was foreshadowed in 2013.

4. REFERRAL RESPONSES

- **AHC Engineering**
Council's Engineering department have no issues with the proposal and have no requirements.

- **AHC EHU**
Department of Health (DOH) approved a wastewater management system to connect five (5) septic tanks to the Council CWMS in December 2017. DOH conditioned the requirement that the permanent occupancy of the units shall not exceed 2 persons.

5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with Zone PDC 9 requiring formal public notification as there are retaining walls on the boundary. No representations were received.

The applicant or their representative – Andrew Kaspar from Jensen Plus, may be in attendance.

6. PLANNING & TECHNICAL CONSIDERATIONS

This application has been evaluated in accordance with the following matters:

- i. The Site's Physical Characteristics
The subject land is 4.3 hectares in area and is partially developed as a retirement village. The land slopes upwards from the north western corner to its highest point in the south eastern corner. Completed development is concentrated in the western half of the site. Stage 3 along the eastern boundary is nearing completion. The land adjacent to the southern boundary contains a number of large native trees and is the subject site of this application.

- ii. The Surrounding Area
The site is on the edge of the Country Township Zone Woodside with Watershed Primary Production Zoned land directly to the south and east. The northern and western boundaries adjoin residential properties in Woodside with an average lot size of around 900m².

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Residential Policy Area of the Country Township Woodside Zone and these provisions seek:

Residential Policy Area

- to protect the amenity of the entrance to Woodside along Onkaparinga Valley Road
- ensure safe and convenient access to major roads is not impacted and services are provided in a safe and convenient manner.

The following are considered to be the relevant Policy Area provisions:

Objectives: 2

PDCs: 1

The Country Township Woodside Zone

- expansion of residential areas to include a range of allotment sizes and some medium density development.
- protection of the amenity of the Onkaparinga Valley Road gateway to the township

The following are considered to be the relevant Zone provisions:

Objectives: 2, & 7

PDCs: 1

The proposal is to construct dwelling units of almost identical nature on the site which were previously approved in the original 2004 proposal.

As the proposal offers a range of dwelling types on smaller allotments than usual in Woodside it is in accordance with Objective 2. As the proposal has no frontage to the southern gateway to the township it is in accordance with Objective 7.

PDC 1 shows the land proposed for the development as living and as such the proposal is in accordance with PDC 1.

b) *Council Wide provisions*

The Council Wide provisions of relevance to this proposal seek (in summary):

- Orderly and economic development with a variety and choice of dwelling types to meet the needs, preferences and budgets of many competing needs.
- Further they seek a pleasant environment enhancing urban development within existing township boundaries.

The following are considered to be the relevant Council Wide provisions:

Objectives: 1, 2, 4, 5, 14, 19, 20, 22, 24, 26, 27, 28, 29, 30, 31, 32, 33, 34, 66, 67, 73, 77, 78, 87, 106, 107, 111, 112, 113, 119, 121, 122, 126, 128

PDCs: 1, 2, 3, 4, 7, 8, 9, 10, 13, 15, 16, 18, 19, 20, 21, 22, 46, 47, 49, 63, 65, 67, 69, 71, 75, 76, 77, 78, 80, 82, 87, 91, 94, 97, 100, 101, 194, 198, 201, 202, 208, 209, 227, 28, 229, 230, 232, 233, 234, 236, 237, 239, 243, 300, 302, 305, 306, 332, 333, 334, 336, 337, 338, 339, 358, 366, 369, 374

Form of Development

The subject land is in the area envisaged for residential development in accordance with Objective 1 of the policy area provisions. Further as the land is not located on Onkaparinga Valley Road the proposal is in accordance with Objective 7 of the Zone and Council Wide Objective 1 regarding orderly and economic development.

The proposal is an extension of the existing use of the land and was envisaged in the original approval for the land in 2004. Economic realities have led to a more sedate development of the project than originally envisaged. A total of 87 dwellings were given Development Plan Consent originally and subsequently amended to 83 and finally 81. Sixty six (66) dwellings have been built over the past 10 years, 34 over the first seven years of the project and 32 in the past 3 years. This application proposes the final 15 residences. By offering a range of dwelling styles on smaller allotments the proposal is in accordance with Objective 2 of the zone provisions.

The proposed 15 dwellings are similar in nature to those already on site and offer a range of layouts in accordance with Council Wide Objectives 26, 27, 28, 66 and 67. Of note, six of the proposed dwellings are two storey. Units 26 and 27 had some revisions during the assessment process to include opaque glass and slat screening to ensure the continued privacy and amenity of other residences in the development in accordance with Council Wide PDCs 77 and 78. The chosen finishes and styles of building will blend with those already constructed and with the surrounding myriad of building styles in Woodside in accordance with Council Wide PDCs 22, 76 and 77. The site is undulating and the proposal has been modified from the previous approval to better work with the undulations in accordance with Council Wide PDCs 82 & 87. Arguably the site area for stage 4 is the most difficult slope wise and the proposed two storey residences assist in working with the slope on the steepest part of the site. The proposed changes have also ensured a level of privacy for the residents. The gentle slopes and leafy nature of the locality is enhanced by underground power in accordance with Council Wide PDCs 80 & 198.

Residential Development

Council Wide PDCs 94, 97, 100 & 101 require consideration of the needs of aged and disabled persons. By clustering the development, aged persons will be close to a similar aged network whilst a short walk away are other residential properties, a significant sporting complex and shopping and service centre, making the proposal compliant with these provisions.

The provision of 3 different dwelling layouts, including some two storey, ensures choice in both design and cost, in accordance with Council Wide PDC 16.

The site is gently sloped and the internal roads and proposed walking paths generally run along contour lines minimising the potential for steep gradients. The proposal is within the boundary of the Country Township of Woodside and is therefore compliant with Council Wide PDC 194.

Stormwater Management & any potential for Flooding, Subsidence or Erosion of the land

There has been no change to the stormwater layout previously approved. The applicant provided a letter of support from Tonkin Engineering which detailed their analysis of the proposed amendments for both earthworks and stormwater management - "It was found that variations to the development will not compromised the stormwater design and no alterations are required to the existing drainage system." The proposal is therefore in accordance with Council Wide PDCs 4, 7, 10, & 13. Council engineering reviewed the proposal and revisited the stormwater system and reported no issues.

Water Supply & Effluent Disposal

The proposal previously had approval to connect via three main septic tanks to Council's CWMS as per an approval by Department of Health (DOH) dated July 2007. During the assessment of this application Council's Environmental Health Unit identified an additional number of septic tanks associated with Stage 3 and Stage 4 which required approval. There will be a total of 15 septic tanks on the site varying in size from 4000kl to 30000kl and a 20000kl balance tank. This amended system was granted approval by DOH on 20 December 2017. The proposal is in accordance with Council Wide PDCs 19, 20, 21 & 69.

Solid Waste Disposal

The site is serviced by the Council's waste collection service. No changes are proposed and the proposal is therefore in accordance with Council Wide PDCs 63 & 75.

Transportation issues

The proposal is in accordance with Council Wide PDCs 46, 47 & 49 as the existing single access point is being used. The proposed 15 further dwellings will utilise the existing access point to Tolmer Road.

Fire Protection issues

The site is in a BAL 12.5 bushfire area. The original application had a water and fire services plan approved by the CFS and SA Water which included four hydrants that have been installed. The proposal is in accordance with Council Wide PDCs 300, 302 & 306.

Vegetation & Land Management

The site has been a construction site for some 10 years. The area of the subject land affected by stage 4 contains regulated trees and significant trees. The trees on the site were historically the reason the public got involved in this development early in its history. Over the last three years there has been some accidental damage to trees on this site which has been the cause of some enforcement between the developer

and Council. This proposal has an emphasis on tree management in an effort to ensure no further damage to trees on the site. The developer and Council are particularly keen to ensure tree 8 (*Eucalyptus camaldulensis*) is not damaged as it is a visually impressive landmark in the development site.

Consideration of the tree reports submitted by the applicant from The Adelaide Tree Surgery details the relationship between each of the trees and the requirements of Council Wide Objectives 111, 112 and 113.

This application includes the removal of one significant and one regulated *Eucalyptus camaldulensis* (River Red Gum) trees (trees 7 and 9). On balance the two trees to be removed have a short life expectancy, represent a potential risk to public safety and their removal is considered reasonable to allow the development. Neither of the trees recommended for removal are considered a significant contribution to the amenity of the area. The tree removal and proposed replacement planting (as required by recommended condition 5) is considered in accordance with PDCs 334 and 338

Furthermore the application proposes management strategies for two additional significant *Eucalyptus camaldulensis* (River Red Gum) trees (trees 8 and 6). In addition to pruning of trees 6 and 8, the dwelling design in the location of these trees includes substantial decks to minimise the impact on tree root zones. There is an additional regulated tree (tree 10) and two significant trees (trees 27 & 11), all *Eucalyptus* species, in the south eastern corner of the site which have construction management strategies recommended in the tree reports. The management proposals which include pruning, tree protection zones and limited and controlled use of machines amongst other recommendations are considered to be in accordance with PDCs 333, 335, 337, 338b and 339.

The management strategies for trees 6, 8, 10, 11 and 27 are considered reasonable and will form conditions for any approval granted for the site. Replacement planting has been proposed in the landscaping plan including 5 trees. The landscaping plan proposed meets the requirements of Council Wide PDC 202 as it proposes significant replanting, consolidating and enhancing the remaining significant and regulated trees on site. It is noted a total of 13 trees requiring Council approval have now been removed across the whole site and this proposal is to remove an additional two trees.

7. SUMMARY & CONCLUSION

Tree protection measures including pruning and construction management, along with the significant design modification to residences 26 & 27 to include decks 3.2m high, will ensure the final 15 residences in Woodside Lodge, the associated landscaping and earthworks are an asset to the community. The proposal finalises a retirement village envisaged in 2004 with 81 residences. There are three different dwelling layouts amongst the final 15 residences, including 6 two storey. Two of the residences are single storey but include decks to protect the significant trees in their vicinity. These decks will have opaque glass and slat screening to ensure the privacy of other residences in the village.

The proposal is sufficiently consistent with the relevant provisions of the Development Plan, and it is considered the proposal is not seriously at variance with the Development Plan. In the view of staff, the proposal has sufficient merit to warrant consent. Staff therefore recommend that Development Plan Consent be **GRANTED**, subject to conditions.

8. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent to Development Application 17/649/473 by KeyInvest Ltd for Expansion of existing retirement village, including the construction of 15 dwellings (6 two storey & 9 single storey), associated retaining walls (maximum height 2.1m), internal driveway & removal of 1 regulated tree (*Eucalyptus camaldulensis*) and 1 significant tree (*Eucalyptus camaldulensis*) and associated earthworks at 18 Tolmer Road Woodside subject to the following conditions:

(1) Development In Accordance With The Plans

The development herein approved shall be undertaken in accordance with the following plans, details and written submissions accompanying the application, unless varied by a separate condition:

- Plans from Walter Brooke Architect job number 04-4104F SK100, SK101 Revision & SK102 Revision A dated 19 July 2017,
- Landscape Concept Plan from Jensen Plus dated July 2017
- Plans from FMG Engineering Job number S02104-239912 drawing number C001 , C002, C003A, C004, C005 & C006 Revision A
- Tree reports from Adelaide Tree Surgery dated 2 June 2017, 26 June 2017 and 22 July 2017

REASON: To ensure the proposed development is undertaken in accordance with the approved plans.

(2) Protection of Trees

The works in relation to the trees outlined in the Arborist's Reports prepared by Adelaide Tree Surgery and submitted as part of this application as a strategy for management of the trees are to be undertaken simultaneously with any building works on the site.

REASON: To protect the regulated/significant tree from the impact of the development.

(3) Tree Protection Zone

A tree protection zone (TPZ) around each of the trees 6, 8, 10, 11, 27 and 32 to be retained is required. The protection zone is to encompass the critical root zone of the tree and should be determined by an arborist. During construction each tree protection zone is to be fenced with 2.0 metre high chain mesh material with posts at 3 metre intervals and incorporate on the east and south sides a clearly legible sign displaying the words "Tree Protection Zone". The following restrictions apply to each tree protection zone:

- a) No machine excavation is permitted.

- b) If any major roots (roots with a diameter greater than 25mm) found outside the tree protection zone during construction an Arborist shall be contacted immediately to assess the situation.
- c) The works adjacent tree 10, 11, 27 and 32 are to be supervised by the project Arborist.
- d) Tree 11 has a large TPZ, it is recommended that the open area at the front of unit 40 remain at natural ground level.
- e) A layer of organic mulch to a depth of 100mm shall be placed over all root systems so as to assist with moisture retention and to reduce the impact of compaction.
- f) No material, equipment or temporary buildings shall be placed with zone.
- g) No items shall be attached to each tree including temporary service wires, nails, screws or any other fixing device.
- h) Supplementary watering shall be provided to the trees through any dry periods during and after the construction process. Each tree is to be provided with a circular dripper system comprising 19mm polypipe, 4 litre per hour drippers spaced every 2 metres.
- i) Only landscaping can occur in the tree protection zone, and only when all construction of the proposed dwelling has been completed. The area within each zone shall be retained at natural ground level and no additional soil or fill shall be placed within the zone.
- j) No other works can occur within tree protection zone without the consent of Council's Arborist during the life of the retained trees.
- k) Only hand digging is permitted at all times.
- l) Any services such as stormwater, sewer and electrical that enter the TPZ are to be excavated using non-destructive methods such as Hydro vac[®] or directional boring systems. This work is to be supervised by a project arborist. If any tree roots are discovered at this time, the project arborist is to assess and address accordingly.

REASON: To protect the 'regulated' tree/s from the impact of the development.

(4) Tree Pruning Standards

Any pruning that is to be undertaken, as recommended for trees 6,8, 10, 11 and 27 shall be done in consultation with a qualified Arborist and in accordance with the Australian Standard AS 4373-2007 "Pruning of Amenity Trees".

REASON: To ensure no tree damaging activity is administered to the tree during pruning works.

(5) Timeframe for Landscaping to be Planted

Landscaping detailed in the plan "Landscape Concept Plan" from Jensen Plus dated July 2017 shall be planted in the planting season following occupation of the new dwellings and maintained in good health and condition at all times. Any such vegetation shall be replaced if and when it dies or becomes seriously diseased in the next planting season.

REASON: To maintain and enhance the visual amenity of the locality in which the subject land is situated and ensure the survival and maintenance of the vegetation.

(6) Soil Erosion Control

Prior to construction of the approved development 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 periods of rainfall.

REASON: Development should prevent erosion and stormwater pollution before, during and after construction.

NOTES

(1) Development Plan Consent Expiry

This Development Plan consent (DPC) is valid for a period of twelve (12) months commencing from the date of the decision (or if an appeal has been commenced the date on which it is determined, whichever is later). Building Rules Consent must be applied for prior to the expiry of the DPC, or a fresh development application will be required. The twelve (12) month time period may be further extended by Council agreement following written request and payment of the relevant fee.

(2) Erosion Control During Construction

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

(3) EPA Environmental Duty

The applicant is reminded of his/her 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.

(4) Works On Boundary

The development herein approved involves work on the boundary. The onus of ensuring development is in the approved position on the correct allotment is the responsibility of the land owner/applicant. This may necessitate a survey being carried out by a licensed land surveyor prior to the work commencing.

(5) Native Vegetation Council Requirements

The applicant is advised that any proposal to clear, remove limbs or trim native vegetation on the land, unless the proposed clearance is subject to an exemption under the Regulations of the Native Vegetation Act 1991, requires the approval of the Native Vegetation Council. For further information visit:
www.environment.sa.gov.au/Conservation/Native_Vegetation/Managing_native_vegetation

Any queries regarding the clearance of native vegetation should be directed to the Native Vegetation Council Secretariat on 8303 9777. This must be sought prior to Full Development Approval being granted by Council.

9. ATTACHMENTS

Locality Plan
Proposal Plans
Application Information
Applicant's Professional Reports

Respectfully submitted

Concurrence

Melanie Scott
Statutory Planner

Deryn Atkinson
Manager Development Services