

COUNCIL ASSESSMENT PANEL MEETING

11 July 2018

AGENDA

Applicant: Danny Holland	Landowner: S L Pearson & G R Sweeney
Agent: Danny Holland	Ward: Onkaparinga Valley Ward
Development Application: 17/951/473	Originating Officer: Susan Hadley
Application Description: Change of use of cellar door to include restaurant (75 seats), ancillary special events (maximum 12 per year), associated building alterations and additions, including extension to deck, additional car parking, associated earthworks, retaining walls, landscaping and signage	
Subject Land: Lot:1 Sec: P72 FP:130155 CT:5744/863	General Location: 166 Harris Road Lenswood Attachment – Locality Plan
Development Plan Consolidated : 24 October 2017 Map AdHi/3	Zone/Policy Area: Watershed (Primary Production) Zone & Lenswood Policy Area
Form of Development: Merit	Site Area: 9.70 hectares
Public Notice Category: Category 2 Merit	Representations Received: 1 Representations to be Heard: 1

1. EXECUTIVE SUMMARY

The purpose of this application is to change the use of an existing cellar door to include a restaurant with a maximum capacity of 75 persons and to undertake building alterations and additions to both create further space for dining and a new wine tasting area. The proposal also includes ancillary special events with a maximum frequency of 12 per year, as currently permitted, a deck extension, additional car parking and associated earthworks, retaining walls, landscaping and new signage.

The subject land is located within the Watershed (Primary Production) Zone and the Lenswood Policy Area, and is a merit form of development. One representation in opposition to the proposal was received during the Category 2 public notification period.

As per the CAP delegations, the CAP is the relevant authority for Category 2 development where representors wish to be heard.

The main issues relating to the proposal are the potential negative amenity impacts to properties in the locality from noise, light spill, increased wastewater and traffic congestion from roadside 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 are recommending that the proposal be **GRANTED** Development Plan Consent, subject to conditions.

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- Building alterations and additions and a change to the use of the existing cellar door to include a restaurant with a maximum capacity of 75 persons and a separate new space for wine tasting

- The restaurant's operating hours are proposed to be 10:00am to 11:00pm Sunday through to Thursday with extended trading until midnight on Friday and Saturday
- Operating hours for the cellar door are proposed to commence one hour earlier than the existing retail hours, with trading to be from 10:00am to 6:00pm Monday to Sunday
- Maintain the approved 12 ancillary special events per year but increase the maximum capacity of such special events to 100 persons
- Extension of the existing deck on the northern and eastern elevations
- Increase the on-site car parking area to accommodate the increased patronage which includes retaining walls of less than 1 metre in height and landscaping
- The proposal includes one sign that is not illuminated
- Upgrade the existing on site waste water system to accommodate the additional capacities

Note, the development is partially retrospective with the restaurant already operating in the existing cellar door.

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

January 13, 1998	1997/155/DG/563 Council issued planning consent for cellar door sales
January 1, 2000	1999/1137/473 Council issued development approval for a dwelling extension.
July 4, 2012	2012/35/473 Council issued development approval for alterations and additions to existing cellar door sales outlet including deck (maximum height 900mm) to be undertaken in stages. Stage 1 being underfloor and Stage 2 the remainder of the works.
January 29, 2013	2013/31/473 Council issued development approval for variation to development authorisation 2012/35/473 for a change to the opening hours. The cellar door currently has approval for a maximum of twelve special events per year with a capacity of 70 persons at any one time. Currently, the cellar door has approved opening hours from 11:00am to 6:00pm with the exception of the special events that are not to exceed midnight.
July 15, 2014	2014/344/473 Council issued development approval for alterations and additions to existing cellar door including verandah and deck (maximum height 1.8m above natural ground).
January 8, 2015	2014/984/473 Council issued development approval for internal alterations to existing cellar door – new toilet.

4. REFERRAL RESPONSES

- **AHC EHU**
Council's Environmental Health Officer has granted approval to install a new waste water treatment system (refer 18/W073/473).
- **AHC Engineering**
Council's Engineering section reviewed the proposal and was satisfied with the revised stormwater management plan provided for the additional car parking area and stormwater management.

5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with Zone PDC 72 requiring formal public notification. One (1) representation was received and 1 submission was received out of time. Of these one (1) representation was opposing the proposal, and one (1) was in support of the proposal. Both were from adjacent properties.

The following representors wish to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Todd & Nikola Thompson	190 Harris Rd, Lenswood	Todd & Nikola Thompson

The applicant, Danny Holland will be represented by Peter Meline from Peter Meline & Associates. The landowners, Sharon and Gary Sweeney may also be in attendance.

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

- Increased impact on the amenity of the area
- Impact on the watershed as within a water catchment area
- Noise impact and increased traffic impact

The representation received from the adjoining property owner raised issues relating to trading hours, noise, light spill, vibration and traffic impacts as points of concern with the current activities on site already posing a negative impact on amenity and that an expansion of existing trading hours and special events would amplify those impacts.

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

A copy of the representation submission is included as **Attachment – Representations** and the applicant's response is provided in **Attachment – Applicant's Response to Representations**. A copy of the plans and information 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 9.7 hectares in area and comprises an existing dwelling and cellar door located toward the southern boundary adjacent to Harris Road. An existing

shed is located approximately 120 metres to the north of the dwelling and cellar door, adjacent to the western boundary.

The allotment is a sloping site which falls to the north from Harris Road down to a low point approximately one third of the way into the property where a watercourse and two dams are located. The land rises quite steeply from the watercourse to a high point in the north western corner.

An existing vineyard covers approximately 60 percent of the site with a large area of native vegetation on the northern side of the watercourse.

The subject land is located in Priority Area 2 of the Mount Lofty Ranges Watershed.

ii. The Surrounding Area

Harris Road is located within a rural locality extending from Lobethal Road to Mawson Road with the section of Harris Road comprising the subject land located along a ridgeline. Four properties within a 200 metre radius of the subject land have a median area of approximately 9.9 hectares. The surrounding area predominantly comprises a mixture of both viticultural and horticultural land uses with areas of dense native vegetation appearing throughout. The undulating topography is considered to have high landscape value that is picturesque with its many valleys, ridgelines and distant views.

Both adjoining allotments to the immediate east and west comprise dwellings, associated outbuildings, natural bushland and horticultural orchards. The adjacent allotment to the south comprises a dwelling, horticultural buildings and a vineyard with dense bushland along the northern section of the allotment fronting Harris Road.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Watershed (Primary Production) Zone - Lenswood Policy Area and these provisions seek:

Lenswood Policy Area

- *The retention of orchards and bushland as the dominant uses.*

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

Objectives: 1

The proposal is to change the use of an existing cellar door to include a restaurant which involves building alterations and additions, including extending the deck, a new wine tasting area, additional car parking, retaining walls and landscaping. The proposed built form does not require removal of native vegetation to facilitate the development. There will be no impacts on the current viticulture operations on the land, other than the removal of several rows of vines to create the proposed car parking area. It is therefore considered that the proposal is in accordance with Objective 1 which seeks the retention of orchards and bushland as the dominant land uses.

Watershed (Primary Production) Zone

- *The maintenance and enhancement of the natural resources of the south Mount Lofty Ranges with long-term sustainability of rural production.*
- *The enhancement of the amenity and landscape for 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 & 6

PDCs: 1, 2, 3, 4, 9, 11, 14, 15, 29, 31, 36, 37, 39, 66, 69, 70 & 72

Accordance with Zone

One element of the proposal is to change the use of an existing cellar door to include a restaurant with a maximum capacity of 75 persons. The cellar door is proposed to have a reduced maximum capacity of 25 persons. Both the cellar door and the restaurant are proposed to operate seven days per week, with the approved 12 special event capacity per calendar year expanded to allow a maximum capacity of 100 persons with no change to the operating hours for those special events.

Daily operating hours for the cellar door are proposed to commence one hour earlier with trading from 10:00am to 6:00pm Monday to Sunday. The restaurant's operating hours are proposed to be 10:00am to 11:00pm Sunday through to Thursday with extended trading until midnight on Friday and Saturday to provide a mixture of dining experiences for visitors to the Adelaide Hills. Due to the extended trading hours for the restaurant it is possible that there may be two sittings on a Friday and Saturday, being lunch and dinner service. As the restaurant is to be established on the same site as an existing cellar door the proposal is in accordance with Zone PDCs 66 and 69.

The increase in capacity requires an upgrade to the existing onsite wastewater system which has been designed to cope with the capacity of the restaurant, cellar door and the ancillary special events. The new wastewater system has been approved by Council's Environmental Health Unit. The allotment is located within the Priority Area 2 of the Mount Lofty Ranges Watershed, where it is important to ensure development minimises the impact on water quality. Whilst there will be increase to wastewater generation on the site, the upgraded wastewater system will ensure there is no increased impact on the water quality within the Mount Lofty Ranges Watershed. The proposal is therefore considered to accord with Objectives 1 and 2 as well as PDC 36 of the zone which seek to maintain and enhance the natural rural resources of the south Mouny Lofty Ranges.

Form of Development

The subject land has existing use rights to operate as a cellar door. The establishment of a restaurant will provide increased opportunities for residents and visitors to take advantage of the scenic natural landscape within the region and the zone. Cellar doors and restaurants are envisaged forms of development within the zone and

considered to be a suitable expansion of the existing land use on the subject land. The proposal is not considered to detrimentally affect the character of the locality.

The proposed built form is adjacent to the existing cellar door building and does not impact on existing bushland. Due to the topography of the land the building will appear as an elevated construction within the northern and eastern elevations. Existing vegetation behind the dwelling associated with the cellar door provides a partial screen of the existing cellar door building from the representor's dwelling located to the west. The additions to the built form are proposed on the eastern side of the existing cellar door building therefore it is unlikely to intensify the impact of the built form within the western elevation. It is also noted the proposed additions will not be visible against the skyline due to the dense bushland located along Harris Road. The proposed addition will match the floor level of the existing cellar door which is at ground level from Harris Road. The additions do not require extensive earthworks and have been designed to blend with the existing dwelling and cellar door building. The skillion roof profile matches that of the existing cellar door and is oriented to the north east to maximise the view. The proposal is considered to be unobtrusive and to not impair the character of the locality or region and therefore in accordance with zone PDCs 1, 2, 11 and 39.

Appropriateness of Proposal in Locality

As previously discussed the proposed development seeks to establish a restaurant in association with an existing cellar door. The cellar door has existing use rights for a capacity of 70 persons at any one time and for a maximum of 12 ancillary special events per year operating up to midnight for those special events. The application proposes to reduce the capacity of the cellar door to 25 and to separate the wine tasting from the dining area. Whilst proposing a maximum capacity of 75 for the restaurant, the applicant also seeks an increase to the maximum capacity of the ancillary special events to 100 persons, to allow for large events up to 12 times per year.

Dining is proposed to be limited to within the restaurant, the deck area and on a small lawn area adjacent to the north eastern section of the deck. Cellar door activities are to be limited to the tasting/sales area and a small adjacent section of the deck on the eastern side of the building.

The increased numbers require an upgrade to the on-site wastewater system which has been approved by Council's Environmental Health Unit.

In addition to the existing 17 car park spaces, the proposed development includes an additional 28 car park spaces on-site to cater for the increased number of visitors. Located to the south eastern boundary of the subject land, the additional car park area requires removal of approximately three rows of vines which should not have a detrimental impact to the existing primary production activities on the land. As such the proposal is considered to accord with Objective 3 and PDCs 16 and 17 of the zone.

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. The proposed mixture of land uses including cellar door and a restaurant are encouraged by number of provisions within

the zone where they are associated with viticulture. The proposed development seeks to further capitalise on those provisions by seeking to increase the capacity of special events within the operations of the business. The proposed development is considered to accord with zone PDC 66 for the establishment of a restaurant on the same allotment as a winery or shop where the tasting of wine and retail sales of wine are the predominant activities with no more than 75 seats for dining.

To cater for the additional numbers a new wastewater system had to be designed and is approved by Council's EHU. The restaurant is to be used for a variety of dining purposes and other pre-booked functions with a maximum capacity of 75 persons. However on up to 12 occasions throughout the year there is an intention to continue to hold ancillary special events but with a greater maximum capacity of 100 persons. Special events are increasingly becoming integral to operating a cellar door and restaurant and are considered to contribute to a sustainable tourism industry within the Adelaide Hills region. The proposal is therefore considered to satisfy zone Objective 6.

Appearance of Land and Buildings

Refer to previous discussion in Form of Development with regard to the scale of the proposed building additions. The external materials are proposed to match the existing cellar door building which is clad in galvanised iron and timber with large expanses of glass windows on the northern and eastern elevations. The proposal does not require removal of native vegetation and the scale of the proposed addition is designed to blend with the scale of the existing buildings which are set down lower than road level. The development is not considered to impair the character of the rural locality and therefore accords with zone PDCs 37 and 39.

b) Council Wide provisions

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

- *Orderly and economic development*
- *Protection of productive primary production land from conversion to non-productive or incompatible uses*
- *Sensitive tourism development that sustains or enhances local character, visual amenity and appeal of the area.* The following are considered to be the relevant Council Wide provisions:

Advertisements

Objectives: 1, 2, 3 and 4

PDCs: 1, 2, 3, 5, 6, 7, 8, 11 and 13

The proposal includes one sign that is not illuminated, to be fixed to the front wall of the building. The sign is proposed for identification purposes and shall provide clear identification of the cellar door and restaurant. The landscape will not be disfigured from the location of the sign, therefore the proposal is considered to accord with Council Wide Objectives 1, 2, 3 and 4 and PDCs 1, 2, 3, 5, 6, 7, 8, 11 and 13.

Design and Appearance

Objectives: 1, 2

PDCs: 1, 3, 5, 8, 9, 20, 21, 22, 23, 28 and 29

The proposed built form is a contemporary design adjacent to the existing cellar door building that does not impact on existing bushland. Due to the topography of the land the building will appear as an elevated construction within the northern and eastern elevations. As previously mentioned, existing vegetation behind the dwelling associated with the cellar door provides a partial screen of the existing cellar door building from the representor's dwelling located to the west. The additions to the built form proposed on the eastern side of the existing cellar door building are unlikely to intensify the impact of the built form within the western elevation. It was also noted that the proposed additions will not be visible against the skyline due to the dense bushland located along Harris Road. This vegetation acts as a backdrop from within the northern elevation and screens the buildings from within the immediate landscape. The proposal is considered to be unobtrusive and does not impair the character of the locality or region by reinforcing positive aspects of the local environment and built form, therefore the proposal is considered to accord with Council Wide Objectives 1 and 2.

The overall height of the building in the northern elevation from ground level to the roof apex is proposed to be 6.38 metres. Within the eastern elevation the building is proposed to reflect the height of the existing building with a height of 4.24 metres within the southern elevation facing Harris Road. The building has a 15.2 metre setback from Harris Road which results in an unobtrusive design due to the gradient of the site. The proposed addition will match the floor level of the existing cellar door which appears at ground level from Harris Road. The design of the additions is considered to be of high standard and appearance that does not require extensive earthworks and will blend with the existing dwelling and cellar door building. The skillion roof profile matches that of the existing cellar door and is oriented to the north east to maximise the view. The design elements included within the proposed building are visually appealing, complement the existing building and minimise alteration to the existing land and therefore the proposal is considered to accord with PDCs 1, 2, 8, 9, 21 and 22.

Interface Between Land Uses

Objectives: 1, 2 and 3

PDCs: 1, 2, 5, 9 and 10

The subject land has existing use rights to operate as a cellar door with twelve ancillary special events per year for a maximum capacity of 70 persons. PDCs 1 and 2 state that development should not detrimentally affect the amenity of the locality or cause unreasonable interference through noise nuisance, vibration, hours of operation, traffic impacts or stormwater runoff.

As previously discussed the applicant proposes to increase the existing trading hours for the cellar door in addition to operating a restaurant with extended trading until midnight on Friday and Saturday. The applicant also proposes to increase the capacity of the ancillary special events to 100 persons.

The majority of the activities will be contained within the existing building and deck area. However, the outdoor lawn area immediately adjacent to the building will also be used for outdoor dining during daytime special events. The applicant has

confirmed that special events would only include acoustic entertainment. Any entertainment and music associated with functions and special events after 5pm would be indoors. During special events of a regional focus such as Crush and Winter Reds, music may be included outdoors, generally on the deck but would cease by 5pm.

The existing cellar door building as well as the outdoor entertainment area is somewhat visible from the representor's dwelling which is approximately 220 metres to the west. The representation received from the adjoining property owner raised issues relating to trading hours, noise, light spill, vibration and traffic impacts as points of concern with the current activities on site already posing a negative impact on amenity and that an expansion of existing trading hours and special events would amplify those impacts.

Refer to attachment Applicant's response to representations that has addressed the issues raised by the representor. A summary of the applicant's response is provided below:

- All special events will cease by midnight in accordance with the current liquor licence.
- The applicant has cited that the proposed addition is more than 220 metres from the representors' dwelling which is situated 19 metres higher than the site of the development, making overlooking by patrons of the cellar door and restaurant into private open space of the representor's land somewhat difficult.
- Only acoustic music is proposed with no amplification as currently provided by the existing cellar door during special events.
- The impact from increased traffic movements on the amenity of the locality will be minimised with the additional car parking area proposed within the boundaries of the subject site.
- Issues relating to existing light spill have been resolved. A condition addressing further potential light spill has been recommended to reinforce any issues that may arise in this regard (refer condition 2).
- A new wastewater system has been proposed with the effluent disposal area located in the section of bushland to the north west of the subject land which is sited well away from the adjoining boundary of the representor's land.
- Submissions in support of the proposal from other landowners within the locality have been provided.

Considering the proposal and existing use rights associated with the subject land against the issues raised by the representor, the proposal is considered to be a reasonable expansion to the existing land use. The issue of light spill has been addressed by the land owner and reinforced by recommended condition 2. The applicant has advised that only acoustic music is proposed as entertainment with no amplification and this is reinforced by recommended condition 7. The hours of operation are considered to be reasonable with extended trading proposed for the restaurant until midnight only on Friday and Saturday nights and during the 12 special events. On other nights all patrons will be off-site by 11pm. As the owners live on-site this is not envisaged to be every night but rather to allow booking flexibility for the restaurant.

Overlooking is not generally considered a concern where the separation distance between the site of the development and an adjacent dwelling is greater than 30 metres. As previously mentioned there is approximately 220 metres separation between the representors' dwelling and the existing cellar door. The representors' dwelling is also in an elevated position from the cellar door which may explain the conduction of noise carrying to the dwelling. External entertainment is not proposed after 5pm and is reinforced by recommended condition 7. The proposal is considered to generally accord with PDCs 1, 2, 5 and 9 as the proposal does not include amplified music and the proposed extended trading hours are considered to be reasonable.

Natural Resources

Objectives: 1, 2, 4, 6, 10, 13 and 14

PDCs: 1, 2, 3, 4, 5, 6, 11, 13, 15, 17, 22, 37, 38, 39, 41, 46, 48 and 49

The proposal does not require removal of native vegetation. As previously discussed the site of the proposed development requires minimal earthworks due to the design of the construction. Adequate measures have been proposed to cater for stormwater runoff from the building and car park area as detailed in the stormwater management plan prepared by Lelio Bibbo Consulting Engineers. Stormwater run-off from the additions is to be connected to the existing stormwater disposal system which is directed to a water tank with overflow dispersed on-site via a spreader pipe for protection against scouring. The surface of the additional car parking area has been designed with compacted gravel which is reasonably permeable with any surface run-off to be directed to low points designed to disperse the run-off onsite with protection from scouring via rockwork trenches. It is considered that the proposed development will not have a negative impact on the scenic amenity and bushland of the area. Therefore the proposal is consistent with Objectives 1, 2, 10 and 14 and PDCs 1, 2, 6, 11, 13, 17, 22 and 38.

Tourism Development

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

PDCs: 1, 2, 3, 4, 7, 8, 11, 12, 13, 14 and 17

Objectives 1, 3 and 6 seek to encourage tourism development that sustains and enhances the local character, visual amenity and appeal of the area. The proposal to expand the cellar door and include a restaurant will provide additional dining experiences in which locals and visitors will be able to enjoy the picturesque landscape along with contributing to local communities by adding vitality to neighbouring townships and the region.

The site currently operates what could be considered as a small scale tourist facility when considered against other similar combined restaurant and cellar door facilities in the Council area. The proposal to include a 75 seat restaurant operating seven days per week with ancillary special events of up to 100 persons is considered to be within the scale envisaged by the Development Plan within the zone. Council wide provisions seek to ensure that 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. Due to the scale and unique dining experiences proposed, along with the restrictions on entertainment, the proposal is considered to be consistent with PDC 3.

The Development Plan encourages tourism development to add to the range of services and enhance the character of the locality in which they are located. Staging of tourism developments is encouraged in a co-ordinated manner ensuring consistency in the appearance of buildings and materials, vehicle parking and ancillary uses. The proposed addition to the cellar door building has been designed to complement the existing building without requiring any major modification to the land form with the exception of the additional car parking area and the on-site waste system which are considered to be of minimal impact. Additionally there would be no impacts on the operations of the land for viticulture purposes. The proposal is therefore considered to be consistent with Objectives 2 and 4 and PDCs 1, 2, 4, 7, 8, 11, 12, 13, 14 and 17.

Transportation and Access

Objectives: 2

PDCs: 25, 32, 33, 34, 35, 36 & 38

The site is located along Harris Road which is a sealed road. The property access to the car park area as well as the car park itself, are intended to be fully gravelled as part of the development. Car parking areas are well separated from dwellings and any dust generated from the traffic is unlikely to have any major impact on the neighbouring properties.

The proposal includes an extension to the on-site car parking to provide an additional 28 car parking spaces. The subject land has adequate space to accommodate the additional car parking requirements. The existing cellar door comprises 17 car parking spaces therefore the site would have a total of 45 car park spaces. Based on Table AdHi/4, if restaurant car parking requirements are applied the applicant is required to provide one car parking space for every 3 seats provided or able to be provided and based on the maximum number of 100 guests proposed during a special event the nominated number of car parking spaces is considered sufficient. A cellar door is considered to be a shop and therefore requires 5.5 per 100 square metres total floor area. The proposed cellar door floor space is 34.42 square metres therefore 45 car park spaces is more than adequate.

The additional car parking spaces are proposed east of the cellar door/restaurant building immediately in front of the vineyard and well away from any of the neighbouring properties. The proposal will require removing three rows of vines to create the additional parking area with a crushed rubble driveway.

Recognizing the above the proposal is considered to be consistent with Objective 2 and PDCs 25, 32, 34, 35 and 36(f)(g)(h)(i)(l).

Waste

Objectives: 1 and 2

PDCs: 1, 2, 3, 4, 5, 11, 12, 13, 14, 15 and 16

To accommodate the additions and increased number of patrons there was a need to install a new commercial sized onsite wastewater system for the restaurant which would be capable of handling the additional load. Council was the relevant authority in assessing the wastewater application. The existing domestic wastewater system is to be retained for use by the existing residence with the cellar door toilet being connected to that system. Council's EHU have approved the wastewater application.

The proposal is therefore considered to accord with Objectives 1 and 2 as well as PDCs 1, 2, 3, 4, 5, 11, 12, 13, 14, 15 and 16.

7. SUMMARY & CONCLUSION

The proposal is for the change of use of an existing cellar door to include a restaurant with a maximum capacity of 75 persons and 12 ancillary special events with a maximum capacity of 100 persons associated with the cellar door and restaurant. The proposed building alterations and additions include extending the deck and creating a separate area for wine tasting.

The on-site car parking area is to be expanded to accommodate the increased patronage. The parking area includes retaining walls less than 1 metre in height that will not be visible from the public realm. The car-parking area and vehicle manoeuvring areas are sufficient to ensure increased traffic does not detrimentally impact on the locality.

The subject land is located within the Watershed (Primary Production) Zone, and both restaurant and cellar door land uses are anticipated in this zone. There are existing use rights for 12 ancillary special events and combining events with wine tasting is a common trend in the wine industry.

To accommodate the increased capacity a larger onsite wastewater system will be required. A wastewater application was lodged with Council's Environmental Health Unit. The new wastewater system is supported by Council and considered sufficient to ensure a neutral impact to water quality.

Accordingly, the expansion to include a restaurant as well as increasing the maximum capacity of the special events to 100 persons as part of the existing business operations is not anticipated to further intensify negative impacts on the locality.

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 17/951/473 by Danny Holland for Change of use of cellar door to include restaurant (75 seats), ancillary special events (maximum 12 per calendar year), associated building alterations and additions, including extension to deck, additional car parking, associated earthworks, retaining walls, landscaping and signage at 166 Harris Road Lenswood 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 submission dated 28/6/2018 by Peter Meline & Associates**

- Amended plans prepared by Holland Building Solutions (Drawing No 1 to 7 Dated October 2017) received by Council 6/03/2018
- Stormwater Management Plan and Details prepared by Lelio Bibbo Pty Ltd (Ref No 180475, Dated 22.06.18) dated received by Council 26/06/2018
- Amended wastewater report prepared by Ron Selth & Associates Consulting Engineers (Date amended 9/05/18, Job Number W2057) dated received by Council 28/06/2018

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

(2) 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 prior to operation of the approved restaurant to the reasonable satisfaction of the Council.

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

(3) External Finishes To Match Existing Building

External finishes shall be of materials and colours to match or complement those of the existing (building) to the reasonable satisfaction of Council.

REASON: To maintain and enhance the visual amenity of the locality.

(4) Gravel Carparking Designed In Accordance With Australian Standard AS 2890.1:2004

All car parking spaces, driveways and manoeuvring areas shall be designed, constructed, and delineated in accordance with Australian Standard AS 2890.1:2004. Delineation and directional arrows 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 operation of the approved restaurant 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.

(5) Unloading And Storage Of Materials And Goods

All materials and goods shall at all times be loaded and unloaded within the confines of the subject land. 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.

(6) Car Parking Directional Signage

Directional signs indicating the location of car parking spaces shall be provided on the subject land and maintained in a clear and legible condition at all times.

REASON: To identify the location of off-street parking and ensure the free flow of traffic.

(7) Entertainment

Entertainment in the form of a range of acoustic music shall predominantly be contained within the restaurant and cellar door building. Any outdoor entertainment associated with the restaurant, cellar door and special events shall be limited to between 10am and 5pm on any day.

REASON: To maintain the rural amenity of the locality.

(8) Restriction on Where Special events Are Held

Special events are to be restricted to the cellar door, restaurant, deck and the lawn areas as depicted on plans prepared by Holland Building Solutions, date stamped as received by Council on 06/03/2018 .

REASON: To ensure the proposed development is undertaken in accordance with the approved plans and to minimise amenity impacts on the locality.

(9) Entertainment Noise Levels

Noise levels generated by the development shall not exceed 57dB(A) between 10am and 10pm and 50dB(A) from 10pm and 12am (midnight) within habitable rooms of nearby dwellings.

REASON: To maintain the amenity of the locality and to ensure compliance with Environmental Protection (Noise) Policy 2007.

(10) Restriction On Number Of Special Events

The number of special events as described in the submission by Peter Meline shall not exceed 12 per calendar year. Any increase in the number of special events or their 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.

(11) Operating Hours for Special Events

Special events shall not commence before 10:00am and all patrons and staff must be off-site by 12 midnight.

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

(12) Opening Hours Cellar Door

The opening hours of the cellar door shall be:
10:00am to 6:00pm Monday to Sunday

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

(13) Opening Hours Restaurant

The opening hours of the restaurant shall be:
10:00am to 11:00pm Sunday to Thursday
10:00am to 12 midnight Friday and Saturday

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

(14) Overall Capacity

- (a) The restaurant shall be limited to a maximum capacity of 75 persons at any one time
- (b) The cellar door shall be limited to a maximum capacity of 25 persons at any one time
- (c) The capacity of the 12 special events and the overall capacity of the premises, including outdoor areas shall be limited to a maximum of 100 persons at any one time.

Any increase in capacity will require separate development approval.

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.

(15) Restriction On Display/Sale Non-Beverage/Food Items

A maximum area of 25m² shall be used for the display and sale of any non-beverage or non-food item within the cellar door.

REASON: To ensure the tasting of wine and retail sale of wine are the predominant activities of the cellar door

(16) Stormwater Roof Runoff To Be Dealt With On-Site

All roof runoff generated by the development hereby approved shall be managed on-site to the satisfaction of Council using design techniques such as:

- Rainwater tanks
- Grassed swales
- Stone filled trenches
- Small infiltration basins

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

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

(17) Installation of Waste Water System

The new waste water system shall be installed within three months from the date of Development Plan Consent.

REASON: To ensure the on-site waste control system caters for the increased capacity and potential water quality impacts within the Watershed are reduced.

(18) Removal Of Solid Waste

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. The container shall be stored in a screened area so that it is not visible within the public realm.

REASON: To maintain the amenity of the locality.

(19) Regular Removal Of Solid Waste From The Site

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 8:00am and 5:00pm on any day.

REASON: To maintain the amenity of the locality.

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
Publically Notified Plans
Representations
Applicant's response to representations

Respectfully submitted

Concurrence

Susan Hadley
Statutory Planner

Deryn Atkinson
Manager Development Services