

COUNCIL ASSESSMENT PANEL MEETING
12 September 2018
AGENDA

Applicant: M B Johns & K M Paschke	Landowner: M B Johns & K M Paschke
Agent: Matt Johns	Ward: Marble Hill Ward
Development Application: 15/359/473	Originating Officer: Doug Samardzija
Application Description: Replacement of water storage tank roof to create deck area, including associated balustrading	
Subject Land: Lot:4 Sec: P1022 DP:7058 CT:5330/121	General Location: 31 Yanagin Road Greenhill Attachment – Locality Plan
Development Plan Consolidated : 9 January 2014 Map AdHi/1	Zone/Policy Area: Hills Face Zone
Form of Development: Merit	Site Area: 1187m ²
Public Notice Category: Category 3 Merit Notice published in The Advertiser on 20 April 2018	Representations Received: 1 Representations to be Heard: 1

1. EXECUTIVE SUMMARY

The purpose of this application is to replace the existing corrugated iron water storage tank roof with a concrete roof to create a deck area.

The subject land is located within the Hills Face Zone and the proposal is a merit form of development. One representation in opposition was received during the Category 3 public notification period.

As per the CAP delegations, the CAP is the relevant authority for Category 3 applications where representors wish to be heard.

The main issues relating to the proposal is 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:

- Removal of existing corrugated water tank roof
- Construction of concrete roof on the water tank
- Utilisation of the space as deck/entertainment area and
- 1m high balustrade fencing.

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

July 14, 2008 473/1320/08 Council approved alterations and additions to existing two storey detached dwelling.

4. REFERRAL RESPONSES

No referrals were required for this application.

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. One (1) representation was received opposing the proposal. The representation was from an adjacent property.

The following representors wish to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Damien & Sally Schultz	33 Yanagin Road, Greenhill	Damien & Sally Schultz

The applicant may be in attendance.

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

- The deck level will be constructed above the fence line and enable overlooking
- Proposed works will create an extended flat terrace that has already significantly disfigured the natural hill side
- Combined with other newly built works the development does not consider the natural terrain or hills location
- Terracing of the hillside is well away from the predominant built form of the house
- The ongoing tree removal to facilitate the construction activity

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 1187m² in area and rectangular in shape with the allotment facing both Greenhill Road and Yanagin Road. The land slopes down towards Greenhill Road from the high point on Yanagin Road. Current site modifications include a two storey

dwelling with the double garage under main roof, a domestic outbuilding and a large concrete water storage tank located at the rear of the allotment.

ii. The Surrounding Area

There is a pocket of land between Greenhill Road and Yanagin Road divided into smaller holdings with the majority of the allotments being of rectangular shape and of similar size. All of the allotments are utilised for residential purposes containing either a single or two storey dwelling with additional modifications such as domestic outbuildings or water storage tanks located at the rear of the dwelling. To the north are large rural holdings predominantly utilised for grazing purposes and immediately to the south on the opposite side of Yanagin Road is Cleland National Park.

iii. Development Plan Policy considerations

a) *Zone Provisions*

The subject land lies within the Hills Face Zone and these provisions seek:

The Hills Face Zone

- *Preservation and enhancement of natural character of the zone*
- *A zone accommodating low intensity agricultural activities and public/private open spaces where the visual intrusion of development shall be limited, particularly when viewed from roads*

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

Objectives: 1 and 2

PDCs: 1, 3, 4, 7, 8, 12, 13, 15 and 22

It is considered that the proposed development is consistent with the Objectives and Principle of Development Controls of the Hills Face Zone. The proposal does not include any earthworks and is replacing the roof of the existing concrete tank from a corrugated iron roof to a concrete roof. Whilst there have been concerns expressed in the representation relating to the earthworks, retaining walls and vegetation removal, at present those works are under the prescribed size that trigger the need for an application and are not associated with the proposed development. The works are only considered landscaping and are not being assessed as part of this application.

The locality is defined by residences on similar sized allotments with water storage tanks of similar size located at the rear of the allotment. The proposal seeks to utilise existing developed space and turn it into an outdoor deck and entertainment area. This is consistent with the intent of PDC 12 which seeks that number of outbuildings be limited and located in unobtrusive locations. The proposal meets the objectives seeking to preserve the visual amenity of the Hills Face Zone as the tank will not be readily visible from the public realm. The subject land is located below the ridgeline, and the structure should not be visible against the skyline when viewed from public roads.

b) Council Wide provisions

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

- Orderly and economic development
- Buildings or structures unobtrusively sited and of a character and design which blends naturally with the landscape

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

Objectives: 1, 26, 29, 68, 70, 78, 87, 88, 90, 111, 112 and 113

PDCs: 1, 2, 3, 7, 13, 15, 22, 23, 72, 76, 77, 86, 88, 89, 202, 203, 209, 333 and 337

Residential Development

The locality predominantly contains similar developments in the form of detached dwellings of varying styles with large water storage tanks at the rear on similar sized allotments. The Applicant is seeking to replace the existing corrugated iron roof on the water storage tank with a concrete lid and utilise the space as a deck area. The works also include a 1m height balustrade around the tank roof. The proposal is therefore considered to be orderly and economic and therefore in accordance with Objective 1 and PDC 2.

In the representation, the adjoining neighbour has raised concerns relating to the earthworks and the retaining wall that has been undertaken on site and which is not indicated on the plans. As mentioned earlier in the report, whilst these works have been undertaken, at present they do not exceed the prescribed tonnage or heights which would constitute development. They are not associated with the proposed development and therefore have not been considered as part of this application. The work that has been submitted for assessment does not include any earthworks because it is utilising the existing concrete water storage tank which when it was installed was excavated and set into the site. As such the proposal is considered to accord with PDC 7.

PDC 13(d) states that development should not detrimentally affect the character or amenity of its locality or cause nuisance to the community by the loss of privacy which is also further enforced by PDCs 77 and 86(a). The neighbour has raised concerns relating to overlooking with suggestions in terms of how these concerns could be overcome. Suggestions were to provide a privacy screen along the eastern section of the deck and extend the existing fence by approximately 4 to 6m which the applicant was not willing to provide. The other suggestion was for mature plantings along the eastern boundary. Whilst the applicant did consider some planting to provide a level of screening there were concerns relating to bushfire implications if this was done. In assessing the issue of overlooking in this circumstance there were a number of factors taken into consideration. Firstly the nature and the context of the land and surrounding locality allows for extensive views from natural ground level into surrounding properties. As mentioned earlier in the report the locality contains predominantly similar developments on very similar land holdings. The majority of the allotments are open or have open style fencing which allows for neighbours to look into the back yards of other properties. Additionally the topography of the land is such that it makes it difficult to implement privacy measures which would be effective without jeopardising the character of the locality. The second aspect has to do with recent development that was undertaken on the representors' allotment

which also included replacing the water tank lid with a concrete lid and utilising the area as a deck. Based on the site inspection carried out it was evident that there is clear overlooking from the representors' land into the applicant's property, in particular towards the water tank and the rear yard. Taking into account all these matters it is evident that overlooking in this locality is prevalent and in most parts unavoidable given the topography of the land. In consideration of the nature of existing development, bushfire implications of screening and the zoning requirements which discourage high profile structures and solid fences and instead seek post and wire type fencing or similar material that can be seen through, the proposal is largely consistent with the provisions of the Development Plan but it fails to meet PDCs 13(d), 77 and 86(a) in regard to overlooking impacts.

As the relevant authority, Council must make a determination of what it considers unreasonable in context of the locality. Whilst the intent of the PDCs is clear in terms of trying to restrict and manage overlooking, the use of the word should (not "will" or "shall") implies that there could be some degree of flexibility in the application of this principle. It is therefore a question of whether the extent of overlooking from the proposed deck area is excessive and unreasonable. Given how prevalent overlooking is in the locality both due to the topography of the land and also from existing development which also includes the representor's property, in this circumstance the overlooking is not considered to be excessive or unreasonable.

Conservation

The proposed development will have no visual impacts on the public realm given the location of the tank and the minimal building works proposed. Whilst there has been some vegetation removal on site in the past two years as acknowledged by the applicant in the response to representation, this did not include regulated or significant tree removal or native vegetation removal. The proposal is therefore considered to accord with Objectives 68, 70, 78, 87, 88, 90, 111, 112 and 113 as well as PDCs 22, 23, 76, 202, 203, 209, 333 and 337.

7. SUMMARY & CONCLUSION

The proposal is for replacement of an existing corrugated water tank roof with a concrete roof and utilisation of the roof area as a deck. There are no earthworks associated with the development. The existing foundations and walls of the tank are being utilised which eliminates the need for any further earthworks and removal of vegetation. The tank is also located at the rear of the property which preserves the visual amenity of the Hills Face Zone as it will not be readily visible from the public realm. Overlooking from the proposed deck has been discussed in detail and whilst the proposal fails to meet the relevant PDCs in the Development Plan in relation to overlooking, it is considered that the overlooking from the proposed deck is not excessive or unreasonable given how prevalent overlooking is in 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 15/359/473 by M B Johns & K M Paschke for Replacement of water storage tank roof to create deck area, including associated balustrading at 31 Yanagin Road Greenhill 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:

- Site plan date stamped by Adelaide Hills Council 04 May 2015
- Site plan date stamped by Adelaide Hills Council 05/10/2017
- North and west elevation drawings date stamped by Adelaide Hills Council 05/10/2017

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

2. Residential Lighting

All external lighting shall be directed away from adjoining residential development and, shielded if necessary to prevent light spill causing nuisance to the occupiers of those residential properties.

REASON: Lighting shall not detrimentally affect the residential 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) 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) 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.

9. ATTACHMENTS

Locality Plan
Proposal Plans
Representation
Applicant's response to representations

Respectfully submitted

Concurrence

Doug Samardzija
Statutory Planner

Deryn Atkinson
Manager Development Services

COUNCIL ASSESSMENT PANEL MEETING
12 September 2018

AGENDA

Applicant: Ms Michele Edwards	Landowner: P J Edwards & M G Edwards
Agent: Environments by Design	Ward: Torrens Valley
Development Application: 18/702 (473/D38/11)	Originating Officer: Deryn Atkinson
<p>Application Description: Variation to previous Development Authorisation 11/D38/473 to remove two additional significant trees (1 <i>Eucalyptus camaldulensis</i> and 1 <i>Eucalyptus viminalis</i>)[SCAP decision]</p> <p>Variation as part of Land Division to create 43 allotments from one allotment, undertaken in five stages and the removal of six (6) regulated trees (5 <i>Eucalyptus camaldulensis</i> - river red gum and 1 <i>Eucalyptus leucoxylon</i> - SA blue gum) (SCAP decision) - varied by amended plan 16 June 2017 to provide additional Council reserve area and minor changes to Allotments 18, 19 and 20</p>	
Subject Land: Piece 52 CT:6200/949	<p>General Location: Piece 52 Springhead Road (formerly 42 Springhead Road), Mount Torrens</p> <p>Attachment – Locality Plan</p>
<p>Development Plan Consolidated : 24 October 2017</p> <p>Map AdHi/10 & 46</p>	Zone/Policy Area: Township Zone & Township (Mount Torrens) Policy Area
Form of Development: Merit	Site Area: 3.929 hectares
Public Notice Category: Category 1	<p>Representations Received: N/A</p> <p>Representations to be Heard: N/A</p>

1. EXECUTIVE SUMMARY

This application seeks approval to remove two significant trees (*Eucalyptus camaldulensis* and 1 *Eucalyptus viminalis*) on allotments 33 and 34 respectively as a variation to the original land division authorisation. The original development authorisation included approval for the removal of 6 regulated *Eucalyptus camaldulensis* trees.

The State Commission Assessment Panel (SCAP) is the relevant authority as the former Development Assessment Commission was the relevant authority for the original proposal. SCAP have not required a separate application but permitted the further tree removal to be considered as a variation to the original development authorisation. SCAP seek the comments of the Council and in preparing a report, Council is seeking the advice of the CAP on the basis that the further tree removal is a variation to a proposal that involves a land division of more than 10 allotments and a variation to a Land Management Agreement considered by CAP previously.

In the opinion of Council's arborists the trees both make an important contribution to the locality. The applicant's environmental consultant believes the *Eucalyptus viminalis* tree is partially hollow and has suffered damage previously, with loss of a limb. Other than this no evidence has been provided to demonstrate that the trees pose an unacceptable risk to life or property or that the trees have a reduced life expectancy or are diseased or dying. The main reason for the request to remove the trees is related to the restriction the trees present for future buildings on the allotments.

The main issues relating to the proposal are the restriction the trees present for the future development of allotments 33 and 34 and balancing the preservation of significant trees which are important to biodiversity, with the development of these allotments. A development application for a single storey dwelling on allotment 34 within the tree protection zone (TPZ) was placed on hold at the applicant's request in February 2018 pending the outcome of the application for native vegetation clearance. There has been no application lodged with the Council to date for a dwelling on allotment 33.

It is considered there is adequate space for a dwelling in an area with a width of 15m and a depth of 46m on allotment 33, and there is a reasonable alternative to a building envelope in the location of the *Eucalyptus camaldulensis*. The building envelope location proposed is also inconsistent with the draft LMA building envelope. It is acknowledged that the trees on, and adjacent to allotment 34, present a development constraint. However it is not considered that the removal of Tree 34 presents the only option to allow allotment 34 to be reasonably developed in balance with preservation of significant trees.

In addition, the proposal is contrary to the original draft Land Management Agreement which the former CDAP considered with the land division. Both Trees 28 and 34 were proposed to be included and protected by the original LMA.

A native vegetation clearance application for the removal of the two trees subject of this application is to be considered by the Native Vegetation Assessment Panel in early September 2018.

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 SCAP be advised that the proposal is **NOT SUPPORTED** in its current form.

2. DETAILS OF TREE

The trees proposed to be removed are described below:

Tree 28

- *Eucalyptus camaldulensis* – river red gum
- Located on the south-western portion of approved allotment 33
- Mature – life expectancy 10-20 years plus (as assessed in 2012)
- Girth 3.76m
- Significant Tree with high landscape value and high biodiversity value (remnant or semi-remnant tree)
- Health – Average (as per 2012 Dean Nicolle Tree Report) with exposed internal heartwood and some borer evidence but considered sound

Tree 34

- *Eucalyptus viminalis* - Rough Bark Manna Gum or hybrid
- Located on the north-eastern portion of approved allotment 34

- Mature – life expectancy 10-20 years plus (as assessed in 2012)
- Girth 4.26m
- Significant Tree with very high landscape value and high biodiversity value , hollows present (remnant tree)
- Health – Below average (as per 2012 Dean Nicolle Report) with current applicant report stating tree is hollow
- Noticeable loss of significant limb

Both trees were originally proposed to be protected by the Land Management Agreement (LMA) for Stage 2. The LMA was agreed to be registered at the time that the plan of division for Stage 2 was deposited with Lands SA. This is yet to occur and thus the applicant would seek to also remove these trees from the LMA.

The applicant's tree report is included as ***Attachment – Application Information and professional reports*** and the original Dean Nicolle Tree Report which provided the Tree Protection Zones is included as ***Attachment – Original Tree Report***.

The Land Management Agreement is included as ***Attachment – Land Management Agreement*** (including the draft for Stage 2 revised by the applicant and the original LMA).

3. BACKGROUND AND HISTORY

August 10, 2018	Variation to land division 11/D38/473 lodged with SCAP for the removal of two significant trees
February 5, 2018	SCAP approved the variation to land division amending the size of the reserve area created
October 2017	Application made to Native Vegetation Branch for the clearance of 3 native trees (amended 28/6/18 to two trees – tree 28 and tree 34)
September 5, 2017	CAP supported variation to land division amending the size of the reserve area created and minor amendments to allotments 18, 19 and 20
July 25, 2017	Agreement to the Council vesting of the additional reserve area by resolution of Council subject to the approval of the variation to land division 11/D38/473
October 26, 2015	LMA for Stage 1 executed and registered
July 15 2013	Native Vegetation Branch approved the clearance of 7 native trees
March 18, 2013	DAC approved the land division

An LMA to protect the trees was originally proposed. Whilst the LMA for Stage 1 has been registered, the one to protect these two trees is yet to be registered with Lands SA as the completion of civil works are to still be completed and clearance for Stage 2 has not been given to allow the deposit of the plan for Stage 2. Note the draft LMA for Stage 2 was revised by the applicant and Tree 34 was removed in this revision. The draft LMA would need to be amended further if the tree removal was approved, including the plan reflecting building envelopes.

4. REFERRAL RESPONSES

- **AHC ARBORICULTURE & HORTICULTURE**

The application was referred to Council's arborist who concluded that both the trees provide aesthetic or environmental benefit and in his opinion there are reasonable alternative development options available on both allotments to avoid the removal of these trees. The removal of the two trees is not supported.

The response is included as ***Attachment – Referral Response.***

5. CONSULTATION

The application was categorised as a Category 1 form of development by SCAP not requiring formal public notification.

6. PLANNING & TECHNICAL CONSIDERATIONS

Regulated/significant tree legislation applies to the whole of the Metropolitan Area and any part of the Adelaide Hills Council outside Metropolitan Adelaide that is within a Country Township Zone in the Development Plan, in accordance with Regulation 6A (2)(b) of the *Development Regulations 2008*.

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

Council Wide – Significant Trees

Objective 1: The conservation of significant trees in Metropolitan Adelaide which provide important aesthetic and environmental benefit.

Objective 2: The conservation of significant trees in balance with achieving appropriate development.

a) Pursuant to Council Wide Principle of Development Control 1, where a significant tree demonstrates at least one of the following six criteria, development should preserve these attributes:

(i) **Contribution to Character or amenity of the local area**

The reports of Dean Nicolle and Council's staff arborist advised both trees have high landscape value and in the case of *Eucalyptus viminalis* (Tree 34) it considered by the arborists to have very high landscape value. Both trees are considered to contribute to amenity of locality.

- (ii) **Is the tree indigenous to the local area?**
Advice provided shows both trees are indigenous but not listed under the National Parks and Wildlife Act as rare or endangered native species.
- (iii) **Represents an important habitat for native fauna**
The *Eucalyptus camaldulensis* (Tree 28) has no hollows present but the tree may still provide habitat value in other ways.

The *Eucalyptus viminalis* (Tree 34) has two visible large hollows and it is considered to represent an important habitat for native fauna.
- (iv) **Part of a wildlife corridor of a remnant area of native vegetation**
As remnant and semi-remnant vegetation the trees are considered to form part of a wildlife corridor. Tree 34 is the only identified *Eucalyptus viminalis* on the land in the original tree reports.
- (v) **Important to the maintenance of biodiversity in the local environment**
As remnant and semi-remnant vegetation the trees are considered to contribute to the maintenance of biodiversity.
- (vi) **Forms a notable visual element to the landscape of an area**
Council's arborist considers both trees to be dominant features in the landscape of the local area, particularly when viewed from the soon to be constructed public roadway in Stage 2 of the land division.

Based on arboriculture advice, the trees do provide aesthetic or environmental benefit. In *Prestige Wholesale v City of Burnside*, the Environment, Resources and Development Court held that the initial questions to ask in respect to a significant tree are whether the tree makes an important contribution to the local character or amenity of the local area, or whether it forms a notable visual element in the landscape of the local area. In that decision the Court held that if these issues are determined in the negative, it is not necessary to go further with assessment. As this is not the case in this instance, further assessment against other provisions is necessary.

- b) Pursuant to Council Wide Principle of Development Control 3, significant trees should be preserved and tree-damaging activity should not be undertaken unless in the case of tree removal it falls into one of the following four categories and all other reasonable remedial treatments and measures have been determined to be ineffective:
 - (i) **Tree is diseased and its life expectancy is short**
Sufficient evidence has not been provided by the applicant to indicate either tree is diseased or has a shorter life expectancy than originally assessed in 2012. The applicant's Environmental Report states Tree 34 is hollow but in the opinion of Council's arborist hollowing is a normal part of the tree's aging process and this does not necessarily correlate directly with an increase in failure potential. Whilst both trees are now 6 years older than in 2012, there has been no information provided that demonstrates that either tree's life expectancy has been reduced.

(ii) **Tree represents an unacceptable risk to public or private safety**

Sufficient evidence has not been provided by the applicant to indicate that either tree represents an unacceptable risk to public or private safety.

(iii) **Tree presents a bushfire risk**

Tree 28 is located more than 20 metres from the existing dwelling to the rear on allotment 8 and in consideration of the shape and size of approved allotment 33 it is considered that a future dwelling could be positioned between 10-20m from the tree to minimise bushfire risk, noting it has a depth of 46m and a width of approximately 36m in the location of the tree.

Tree 34 is located approximately 20 metres from the existing dwelling to the east on allotment 8 and at present the tree does not present a bushfire risk. The location of Tree 34 is likely to be within 20 metres of a future dwelling on allotment 34 with the retention of Tree 15. However a future dwelling is also likely to be within 10-20 metres of Tree 35 on allotment 9 to the east and highly likely to be within 10 metres of Tree 15 also on allotment 34. The bushfire risk for a future dwelling could be reduced if either Tree 34 or Tree 15 was approved to be removed.

(b) **Tree is causing or threatening to cause substantial damage**

No evidence has been provided by the applicant to indicate either tree is causing or threatening to cause substantial damage to a substantial building or, structure of value.

(c) **All other reasonable remedial treatments and measures have been determined to be ineffective**

No remedial treatments have been proposed.

(d) **It is demonstrated that all reasonable alternative development options and design solutions have been considered to prevent substantial tree damaging activity occurring**

The opinion presented in the Environments by Design Report is that a dwelling and shed cannot be built on either allotment 33 or allotment 34 without the removal of Trees 28 and 34. In relation to the plan shown for allotment 33 it is considered that a building footprint of 20m x 12m (240m²) could be positioned alternatively at the northern portion of the allotment with orientation to the main entrance road and achieve appropriate setbacks to the roads and side boundary. Note the setback to a secondary road does not need to be 5 metres but could be 1.5 or 2 metres. This alternative position would also allow room for a shed outside of the TPZ of Tree 28.

It is acknowledged that allotment 34 is quite constrained by the TPZs of Trees 34, 15 and 35 (on allotment 9). The plan shown in the Environments by Design Report is not considered to be the only option though and the building envelope in the original plans was shown in the south-eastern portion of the allotment. Given the proximity of Trees 34 and 35, if Tree 34 is removed then the TPZ of Tree 35 on the adjoining allotment still presents a constraint for a future dwelling on allotment 34, as does the TPZ of Tree 15. To demonstrate this, a site plan from a dwelling application on allotment 34 that is currently on hold with the Council is included as an attachment for the CAP (Refer **Attachment Site Plan – Allotment 34**).

However, it is considered that a reasonable alternative to the removal of Tree 34, which is the only Significant *Eucalyptus viminalis* tree in the land division and one with high landscape and biodiversity value, would be to apply to remove Tree 15. This has the advantage of providing a wider building envelope than the 12m x 20m envelope suggested. Given the slope of the land it may necessitate a split level design or a raised floor level with deck area overlooking the reserve at the rear of this allotment. This option provides sufficient space for a driveway and double garage outside the TPZ of Tree 34 at the front of allotment 34.

Council Wide provisions – Natural Resources

Objective 8: Native flora, fauna and ecosystems protected, retained, conserved and restored

Objective 14: The conservation and preservation of the rural character, scenic amenity and bushland of the area.

Principles of Development Control: 1, 2, 4, 6, 37, 38, 39, 42, 43, 44, 46

Pursuant to Principle of Development Control 39 where native vegetation, meets any of the following criteria it should be conserved and its conservation value and function not compromised by development:

- (a) **The tree provides an important habitat for wildlife or shade and shelter for livestock**
As indicated above, the trees are considered to provide important habitat.
- (b) **The tree has a high plant species diversity or includes rare, vulnerable or endangered plant species or plant associations and communities**
The trees are not considered to be rare, vulnerable or endangered plant species.
- (c) **The vegetation provides an important seed bank for locally indigenous vegetation**
Tree 34, as a *Eucalyptus viminalis* may be considered to provide an important seed bank for locally indigenous vegetation.
- (d) **The tree has a high amenity value and/or significantly contributes to the landscape quality of an area, including the screening of buildings and unsightly views**
The trees have high landscape value in the opinion of Council's arborists and contribute to the landscape quality of the locality.
- (e) **The tree has high value as a remnant of vegetation associated with a characteristic of a district or region prior to extensive clearance for agriculture**
The trees are remnant or semi-remnant vegetation.
- (f) **The tree is growing in, or is characteristically associated with a wetland environment**
The trees are not associated with a wetland environment.

Comment: The loss of a *Eucalyptus viminalis* which has visible large hollows and which contributes to the amenity of the locality is not consistent with Council wide PDC 41.

Pursuant to Principle of Development Control 42 development that proposes the clearance of native vegetation should address or consider the implications that removing the native vegetation will have on the following:

- (a) Provision of linkages and wildlife corridors between significant areas of native vegetation
- (b) Erosion along watercourses and the filtering of suspended solids and nutrients from run-off
- (c) The amenity of the locality
- (d) Bushfire safety
- (e) The net loss of native vegetation and other biodiversity

Comment: Whilst bushfire safety is always a concern where trees are in close proximity to buildings, it is considered that building setbacks can be established to reasonably manage bushfire risk in this instance and balance biodiversity retention and wildlife habitat. If Tree 34 is considered to provide an unreasonable bushfire risk to a further dwelling on allotment 34 then it is noted that Trees 35 and 15 are also likely to. In regard to Tree 28, the bushfire risk is also likely to be reasonably managed with a 10m plus separation distance possible for a further dwelling.

Pursuant to Principle of Development Control 44 where native vegetation is to be removed, it should be replaced in a suitable location on the site with locally indigenous vegetation to ensure that there is not a net loss of native vegetation and biodiversity.

Comment: The applicant is offering four (4) replacement trees of the same species to be planted in compensation for each tree to be removed. The planting is intended to be undertaken in one of the approved reserve areas in the land division.

Pursuant to Principle of Development Control 46 development should promote the long-term conservation of vegetation by avoiding substantial structures, excavations and filling of land in close proximity to the trunk of trees and beneath their canopies, minimising impervious surfaces beneath tree canopies and taking other reasonable precautions to protect both vegetation and the integrity of structures.

Comment: The establishment of TPZs in the proposed LMA sought to do this.

5. SUMMARY & CONCLUSION

The proposal for the removal of two significant trees is largely focussed on the impact of the trees on future development on allotments 33 and 34. Whilst a possible option involving the removal of the trees has been submitted, it is considered by Council staff that there are other options which permit suitable building envelopes outside the TPZs on these allotments with areas exceeding 1000m². It is acknowledged that the possible building envelope on allotment 34 is constrained by the TPZs of three (3) trees and the size of the allotment was increased in the original proposal in recognition of this.

Whilst predicting further building design can be subjective, this proposal is not considered to have sufficiently balanced the conservation of significant trees with future development as proposed in the original land division. These two trees subject of this variation application are considered to contribute to the landscape amenity of the locality when viewed from the proposed road location and to form notable visible elements in the landscape.

It is considered by staff that the tree removal justification is not sufficiently in accordance with the relevant provisions of the Development Plan and the proposal is considered at variance with a considerable number of the significant tree and natural resource principles of development control. In the view of staff, it is considered that the proposal in its current form does not have sufficient merit to warrant consent. Staff therefore recommend that the SCAP are advised that Council does NOT SUPPORT the proposal in its current form.

6. RECOMMENDATION

- 1. That the Council Assessment Panel considers that the proposal is at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and advises SCAP that it does not support the proposal in its current form.**
- 2. That should SCAP and the Native Vegetation Assessment Panel approve the removal of Trees 28 and 34, CAP agrees to the deletion of Tree 28 and Tree 34 from the Draft LMA for Stage 2 associated with Development Application 473/D38/11.**

7. ATTACHMENTS

Locality Plan
Application Information and Professional Reports
Original Tree Report – Dean Nicolle
Land Management Agreement (including the draft for Stage 2 revised by the applicant and the original LMA)
Referral Response
Site Plan – Allotment 34

Respectfully submitted

Concurrence

Deryn Atkinson
Manager Development Services

Marc Salver
Director Development & Regulatory Services

COUNCIL ASSESSMENT PANEL MEETING
12 September 2018
AGENDA

Applicant: Shirley Tucker	Landowner: S L Tucker
Agent: Hennig & Co. Pty. Ltd.	Ward: Torrens Valley
Development Application: 17/972/473 (473/D047/17)	Originating Officer: Sam Clements
Application Description: Land division (1 into 2) (Non-Complying)	
Subject Land: Lot:432 Sec: P6145 FP:211218 CT:5568/343	General Location: 4 Spring Street Kersbrook Attachment – Locality Plan
Development Plan Consolidated: 24 October 2017 Map AdHi/4 & Map AdHi/91	Zone/Policy Area: Township Zone & Township (Kersbrook) Policy Area
Form of Development: Non-complying	Site Area: 1973m ²
Public Notice Category: Category 3 Notice published in The Advertiser on 6 July 2018	Representations Received: 1 Representations to be Heard: Nil

1. EXECUTIVE SUMMARY

The purpose of this application is to create one additional allotment (1 into 2 allotments). The land division seeks to create one regular shaped allotment for the existing dwelling and a battle-axe shaped allotment.

The subject land is located within the Township Zone and the Township (Kersbrook) Policy Area and the proposal is a non-complying form of development. One representation in opposition to the proposal was received during the Category 3 notification period. The representor does not wish to be heard.

Although the proposed allotments are smaller in area to what is envisaged by the Development Plan, this variance will not be distinguishable from the street or in locality. The proposed allotments are of a size that will still maintain the low density character of the locality. Due to reasons discussed in detail in the body of this report, the proposal does not diminish the desire of the Policy Area to maintain the deep rectangular allotments on either side of Spring Street. The proposed additional vacant allotment is fit for purpose and can be connected to utilities and services.

As per the CAP delegations, the CAP is the relevant authority for non-complying land divisions irrespective of whether representations are received that request to be heard.

The main issues relating to the proposal are the suitability of the infrastructure to support infill development, land use conflicts, the size and shape of the proposed allotments, the desire to retain deep rectangular allotments on either side of Spring Street and the impact of the development upon the character of the locality and the township.

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 and Land Division Consent.

2. DESCRIPTION OF THE PROPOSAL

The proposal is for a land division to create one additional allotment, specifically:

- To create one regular shaped allotment for the existing dwelling of 968 square metres, with a frontage width of 24.88 metres
- To create a battle-axe shaped allotment of 1005 square metres, 867 square metres excluding the access handle. The access handle is 4 metres in width, widening to 5.5 metres at the road frontage where it is splayed
- Proposed allotment 16 will utilise the existing access point from Spring Street
- A new crossover and driveway with a parking area is required for proposed allotment 15
- The eaves of the existing dwelling will be located 2 metres from the proposed southern side boundary with proposed allotment 16

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

There is no background to note and no records of previous development applications on this site.

4. REFERRAL RESPONSES

- **ENGINEERING**
It was confirmed that a piped rural crossover is required for proposed allotment 15 to not impede both the runoff from the road/verge to the north and the downpipe from the neighbouring shed. Also, it was confirmed that the CWMS gravity line was upgraded in the last few years and therefore there is sufficient capacity within the line to cater for an additional CWMS connection.
- **EHU**
An application for an additional CWMS connection is required.
- **SA Water**
Standard requirements relating to an additional mains water connection.

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. One opposing representation from a nearby property owner was received within the public notification period. The representor does not wish to be heard.

The issues raised in this representation are:

- Other subdivided land along Spring Street still has not sold
- Increase in traffic flow
- Incremental development adversely affecting the character of this country town

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 1973m² in area. The allotment is a regular rectangular shape that is 30 metres in width and 64 metres in length/depth. The allotment is used for residential purposes and therefore features a dwelling, which is setback from the road frontage approximately 20 metres. There are domestic outbuilding (sheds) located in the south-eastern portion of the site. There are two regulated trees on the site. One is a multi-trunk native tree (Eucalypt) that is located in the north-eastern portion of the site. The other is a significant English Oak tree located in the north-western (front corner) of the site. This tree is within 20 metres of the dwelling on the subject land and therefore any tree damaging activity does not require consent. Some evidence of part minor pruning to this tree is evident which was required in order to achieve a vertical clearance suitable for a vehicle as this area appears to be a secondary access and parking area. However there is no formal crossover in this location. The existing formal crossover providing access to Spring Street is located in the south-western corner of the site and the driveway runs parallel to the southern boundary up to the outbuildings (shedding).

The subject land is on the high side of the Spring Street and has a mild slope of around 1 in 49.

ii. The Surrounding Area

The subject allotment is located on the eastern edge of the Kersbrook township. The land to the east is rural land used for livestock grazing that is within the Watershed (Primary Production) Zone. Directly to the west of the site is Spring Street. To the north, west and south are low density residential properties. The allotments within the locality range from 860 to 3702 square metres, with the average allotment size being approximately 1500 square metres. The width of allotments within the locality ranges from 5.5 metres (battle-axe) to 46 metres. The predominant width of the deep rectangular regular shaped allotments is in the 20-30m range.

The immediately adjacent/abutting properties and allotments around the intersection of Glover Street, Emma Street and Spring Street are predominantly made up of irregular shaped allotments. These allotments have varying frontage widths and generally have depths less than 70 metres. Further to the south, beyond the immediately abutting allotments the locality has a mixture of regular and irregular shaped allotments. The allotments are more regular on the eastern side of Spring Street and more irregular on the western side. The more regular shaped allotments within this locality still have angled frontages due to the orientation of Spring Street.

Within the locality there are two existing battle-axe shaped allotments to the south and south-west of the site. It is also noted that one additional battle-axe allotment has been approved, but has not yet achieved section 51 clearance. The battle-axe directly adjacent the subject site to the south is 989 square metres in area, with a handle of 4m which splays out to 5.5 metres at the road frontage. The approved battle-axe directly to the south of the existing battle-axe is 895 square metres, which seeks to also utilise the handle of the above mentioned battle-axe allotment to the north (reciprocal rights of way) and has a handle width of 1.56 metres. The battle-axe allotment to the south-west of the subject land on the opposite side of Spring Street is a large allotment with an area of 2879 square metres. The area of all these mentioned battle-axe allotments includes the area of the access handle.

The first bend in Spring Street is near the entrance of the adjacent battle-axe allotment and approximately where the watercourse is piped and passes underneath Spring Street. Beyond the above mentioned battle-axe allotments on either side of Spring Street (further to the south), the allotments are deeper and more regular in shape. The allotments are not truly rectangular until beyond the second bend in Spring Street which is 167 metres from the site. The allotments on the southern edge of the locality and outside the locality beyond this bend in the road have depths of 89 to 101 metres.

A watercourse passes under Glover Street through land on the western side of Spring Street. The watercourse then flows under Spring Street and through the front portion of allotments to the south of the subject site. The locality is known to be flood prone, but there is no flood mapping within the Development Plan for this area.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Township Zone and the Township (Kersbrook) Policy Area and these provisions seek:

Township Policy Area

- *The low to very low density character of Kersbrook being maintained, with only detached dwellings considered appropriate*
- *Allotments sizes will continue to vary substantially within the town, between 950 to 5000 square metres*
- *The original linear pattern featuring deep rectangular allotments will be maintained on either side of Spring Street*

- *Ample staggered setbacks and significant space between buildings, excluding the Memorial Court subdivision area*

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

Objectives: 1 & 2

PDCs: 1

The proposal seeks to create one additional allotment for residential purposes. As detailed above, the allotments are 963 square metres and 867 square metres (1005m² including the access handle). It is considered that the proposed allotments will maintain the low density character of the locality.

Objective 2 and Principle of Development control (PDC) 1 seek development that contributes to and is consistent with the desired character of the Policy Area. The pertinent sections of the Desired Character statement area detailed below:

Kersbrook will be characterised by low to very low-density residential development with a scatter of retail, commercial, business and community buildings.

Comment: As detailed above, the allotment sizes proposed will not detract from the desire to maintain very low and low density residential development.

The original linear land division pattern featuring deep rectangular allotment fronting Scott Street and Glover Street, and either side of Spring Street and High Street will be maintained.

Comment: The proposal seeks to create a battle-axe shaped allotment and therefore will remove a regular rectangular shaped allotment. The deep nature of the allotment will be lost as this will become the battle-axe portion of the additional allotment. Given the front allotment will feature the existing dwelling which is well back from the road frontage, debatably the appearance of the subject land from the street will not be altered significantly, but the allotment shape and depth will be lost and not maintained. However, given the immediate locality is made up of irregular shaped allotments with a mixture of allotment sizes, shapes and depths and the more regular rectangular shaped allotments with depth greater than 80 metres are on the outer edge and outside of the locality, the proposal variance with this desired character is not considered to be significant.

Allotment sizes will continue to vary substantially within the town, ranging between the approximately 950 square metre allotments with Memorial Court to the large 5000 square metre allotments on the north western side of Scott Street.

Comment: The proposal will create allotments within this size range, exceeding 950 square metres. However, if the access handle is precluded, the vacant allotment proposed (lot 16) is 83 square metres less in area than the minimum desired. This variance is minimal and it is considered that the shortfall would not be notable from the streetscape or within the locality.

Buildings in the township will have ample staggered setbacks and significant space between buildings, creating an informal layout which will continue to fit well with the area's topography and significant vegetation.

Comment: As detailed above, the dwelling on the subject land is to be retained and is some 20 metres from the road frontage. It is also noted that there is sufficient space on proposed allotment 15 to site a domestic outbuilding (shed) and/or carport behind the main face of the dwelling. The proposal will therefore not impact building setbacks from the road frontage. The proposal will impact on the desire to have 'significant space between buildings' as the proposal would allow another dwelling to be constructed on this site. Given there would be a reduction in site area per dwelling and a large portion of the rear section of this allotment is currently undeveloped, the space between buildings will be reduced. The setback to the southern side boundary would not be too dissimilar to that of the existing outbuilding in the south-eastern corner of the site. A dwelling and outbuildings on proposed allotment 16 will result in more built form on the site. Whilst the significant space currently between buildings will be impacted upon, the setbacks for any future built form should still meet the requirements of the Zone and should still be generous enough to not significantly alter the perception of density this locality.

In summary, the proposal is consistent with the desired character statement in that it will still achieve low density development, allotments that vary in size and allow ample staggered building setbacks. The significant space between buildings is subjective, but would logically be reduced by infill development. The main area of consideration is in relation to the change in the allotment shape and the deviation from the desire of the character statement to maintain the deep rectangular allotments on both sides of Spring Street. Based on an analysis of this particular locality, this character is considered to be more attributed to the deep rectangular allotments further south along Spring Street on the outer edge of the locality and beyond. The subject locality features a mixture of allotment sizes and shapes with varying depths. The proposal is sufficiently consistent with objective 2 and PDC 1.

Township Zone

- *A zone primarily accommodating residential development*
- *Development that contributes to the desired character of the zone*

The following are considered to be the relevant Zone provisions:

Objectives: 1 & 5

PDCs: 1, 2, 3, 10, 11, 12 & 13

Accordance with the Zone

The proposal seeks to create an additional allotment for residential purposes, specifically a future detached dwelling and is therefore considered to be consistent with Objective 1 and PDC 1.

The proposal is non-complying as it seeks to create an allotment of less than 1000 square metres. The proposal seeks to create allotments of 968 and 1005 square metres. PDC 2 re-emphasizes that development listed as non-complying is generally inappropriate.

Objective 5 and PDC 3 of the zone seek for development to contribute to the desired character or not to be undertaken if inconsistent with the desired character. Relevant extracts of the desired character statement are detailed below:

Residential development within the townships will generally be at very low-densities and will predominantly comprise detached dwellings. However, in some townships, slightly increased densities and a wider range of dwellings will be developed in suitable areas, to cater for changing demographics and to ensure that the population remains stable, where the existing character of the locality is retained and external impacts are managed effectively.

Comment: As mentioned above, the proposal will not impact on the very low density nature of the locality and the character of Kersbrook township. The proposal would create an allotment suitable for a detached dwelling.

Development will retain the relatively formal character of the zone in which allotments are generally of a similar size and dimension, and building setbacks are reasonably consistent. Apart from Lobethal and Birdwood, which have ad hoc street patterns, streets will continue to be laid out in a grid-like manner feeding off a main road. Minor streets will continue to be relatively narrow with equally narrow footpaths in order to provide a low-speed environment. Streets will feature a formal arrangement of upright kerb and gutter followed by footpath then front fence.

Comment: The proposal seeks to create allotments that are of a similar size, shape and dimension to the allotments directly abutting to the south of the site, where allotments exist that are smaller than the prevailing character within the locality. However, the locality features a mixture of allotment sizes, shapes and depths, including a couple of battle-axe allotments. Whilst the average allotment size is in the order of 1500 square metres the policy area seeks a range in allotment sizes and the proposed allotments sizes are within the range detailed (950 to 5000 square metres). The width of the front allotment (allotment 15) is consistent with the locality, but the width of battle-axe allotment is not consistent with the prevailing character. However, it is noted that the provisions within the zone envisage battle-axe allotments.

As mentioned, the proposal will not alter building setbacks in relation to the road frontage. Whilst building setbacks will be less generous, the setbacks will likely be reasonably consistent with development the locality.

Allotment patterns will reflect the layout of the streets and will, generally, be rectangular with areas in the order of 1000 square metres, where the allotment is connected to a sewer or CWMS and 1200 square metres where wastewater is to be disposed of onsite, with frontages typically greater than 15 metres in width. In the Balhannah, Birdwood, Lobethal, Oakbank and Woodside townships, smaller allotments to an absolute minimum of 500 square metres will be created where the existing character of the locality is retained and external impacts are managed effectively.

Comment: The proposal seeks to divide a rectangular shaped allotment, but this allotment is not considered to be one of the deep rectangular shaped allotments referred to in the desired character statement in the policy area. Given this locality is made up of a mixture allotments sizes and shapes, the loss of this rectangular shaped allotment is not considered to be at odds with the desired character and existing character of this locality. The front allotment will be a rectangular shape (with corner cut-offs) and will have a frontage width in excess of 15 metres. The proposal is within the township of Kersbrook and therefore smaller allotments down to 500 square metres are not envisaged. The proposal seeks to create allotments in 'the order of 1000 square metres.' It is considered that the shortfall of 32 square metres for proposed allotment 15 is reasonable and would not be distinguishable in the streetscape and within the locality.

Generally, new allotments will only be created where they will be connected to a mains sewer system or a Community Wastewater Management System (CWMS), and where issues such as access, vegetation removal, stormwater management, and slope as well as the provision of essential services have been appropriately addressed.

Development will respond to the availability and capacity of the essential infrastructure which services the townships. In particular, additional dwellings will only be developed once the wastewater and stormwater management infrastructure has capacity to accommodate this extra growth.

Comment: As detailed in the 'referral responses' section of this report, Council Engineering has confirmed that there is sufficient capacity for an additional connection into the CWMS. Whilst the street stormwater infrastructure is only an open swale in the verge which is piped into the watercourse, Council Engineering has not raised concern with the ability of this infrastructure on Spring Street to cope with this proposed infill development and the resulting increased runoff. Noting the low density nature of the proposed allotments there is sufficient space for on-site detention and even retention to reduce the burden on this limited infrastructure. Given this proposal is for one additional allotment this matter would more appropriately be dealt with at the land use stage.

Many townships are located in close proximity to a watercourse. Development will acknowledge the potential for these watercourses to flood and will either be located outside land prone to flooding or include design solutions to limit the likely impact of flood waters. Over time, land adjoining watercourses may transfer to public ownership to be developed to provide recreational walking and cycling trails while also achieving environmental improvements.

Comment: The subject site is within 45 metres of a mapped watercourse. Whilst this watercourse is known to flood, this flood plain mapping is not within the Development Plan. Based on flood mapping prepared for other development proposals on Spring Street, the subject site is outside of the predicted flood plain.

While dwellings will vary in style and design, a reasonably consistent pattern of built form will be established – particularly in the older portions of the townships. The predominant residential character will comprise single-storey, detached, modest

dwelling sited relatively close to the street on separate allotments of greater than 1000 square metres, unless otherwise described in a policy area.

Comment: The built form pattern within the locality will be retained as the land division proposal should not result in any built-form being sited closer to Spring Street. The proposal indicates that the existing dwelling is to be retained and there is an ample area to accommodate a domestic outbuilding- garage and/or carport behind the main face of the dwelling. Noting the reduced setbacks of built form to the north and south of the subject site a replacement dwelling on this site could be situated much closer to the street frontage.

In summary, the proposal will not impact on the low density nature of the locality and general desire of the zone for this to be retained. There is adequate essential infrastructure to accommodate the additional allotment and the allotment size is suitable. Whilst the proposed allotments are not consistent with the average size of allotments in the locality, the proposed allotments are in the order of 1000 square metres as desired and are consistent with the size range envisaged in the policy area. The dimension and shape of the proposed allotments are considered appropriate given the mixture of allotment sizes and shapes within this locality. The subject site is amongst irregular shaped allotments and it is considered that this allotment is not within the group of deep rectangular shape allotments on either side of the Spring Street, which the Policy Area statement seeks to retain. The proposal is considered sufficiently consistent with Objective 5 and PDC 3.

Land division

The proposed allotments contribute to the desire to have allotments that vary in size in appropriate localities and/or policy areas. It considered that PDC 10 is applicable to proposed allotment 15 and PDC 11 relates to battle-axe allotments. As mentioned, the proposal seeks to create an allotment of slightly less than 1000 square metres that will be connected to CWMS. It is considered that the shortfall of 32 square metres will not be distinguishable from the streetscape or within the locality. Due to the width of the existing dwelling being retained, the rear fence line behind proposed allotment 15 may not even be visible from the street. This allotment has a depth well in excess of 20 metres and the allotment has the ability to connect to other essential infrastructure. The allotment is developed with a dwelling and therefore the requirements pertaining to building envelopes are not applicable. The new crossover and vehicle access should not result in impact to the significant English Oak tree. It is noted there is vertical clearance of 3 metres under the limbs of this tree and this area is already used as an informal access and parking area on the site. Some minor pruning to small branches may be required over time, but the major limbs are an appropriate height above the ground level for a standard vehicle. Given this tree is within 20 metres of the dwelling on the subject land, any damage to this tree is exempt from requiring development approval. The proposal is consistent with PDC 10.

The zone policies envisage battle-axe allotments when not at odds with the policy area provisions. The Kersbrook Township Policy Area does not specifically preclude battle-axe allotments and due to the mixture of allotments sizes and shapes within the locality the proposed allotment configuration is considered appropriate on this site. The battle-axe allotment is required to be 1000 square metres, excluding the access handle as it can be connected to CWMS. The battle-axe allotment is less than 1000 square metres when excluding that access handle. The proposed battle-axe shaped allotment is 1005 square metres and 867 square metres excluding the access handle. Whilst the allotment is less than the desired area, the shortfall in area will not be distinguishable from the streetscape or within the locality. The adjacent and the approved battle-axe allotments on the eastern side of Spring Street are smaller in area. The access handle is not 6 metres as detailed in PDC 6(b), but is only an access handle for one allotment. A domestic driveway for one dwelling is only required to be 3 metres in width. The 4 metre width proposed allows for a landscaping strip down one side. The handle at the road entrance has been splayed to 5.5 metres in width to allow two vehicles to pass. This is consistent with the handle width of the adjacent battle-axe allotment. The handle is marginally longer than 30 metres, but this is not considered to be an issue. There is sufficient area on proposed allotment 16 to have a CFS compliant truck turnaround area. A building envelope of 10 metres by 15 metres can be easily accommodated within the 867 square metres, well outside the tree protection zone of the regulated native tree in the rear portion of this allotment. The building envelope has a very mild slope and the allotment can be connected to mains water, electricity and CWMS. The proposal is sufficiently consistent with PDC 11.

Given the handle of the adjacent battle-axe allotment is on the southern side and not abutting this allotment, combining the access handle with this allotment is not possible. Whilst not consistent with PDC 12, it is not possible in this case. Given the allotment is on high side of the road and the CWMS line is within the road there is no requirement for easements. The proposal is consistent with PDC 13.

b) Council Wide provisions

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

- *Development located and designed to minimise adverse impact and conflict between land uses*
- *Efficient and cost effective use of existing infrastructure*
- *Land divisions that is orderly and create allotments that are suitable for their intended use*

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

Hazards

Objectives: 5

PDCs: 6, 7 & 14

The subject site is located within a medium bushfire risk area (PDC 6). Proposed allotment 16 has adequate dimensions and a suitable size to accommodate a generous building envelope and to achieve fire-fighting vehicle turnaround area. Future development of the proposed allotment should achieve compliance with the

Minister's Code: Undertaking development in Bushfire Protection Areas. The proposal will not prevent future compliance with PDCs 7 and 14.

Infrastructure

Objectives: 1 & 2

PDCs: 1, 6, 8, 16 & 20

As detailed above, the proposed additional allotment will be connected to mains water, CWMS and will have the ability to connect to telecommunications services. Stormwater can be directed to Council's stormwater system, specifically the open swale within the road verge and both allotments will have access to a formed all-weather road. The property will not have access to mains gas, but only a very small portion of the Council area within the eastern suburbs has access to such. The proposed allotments are not within electricity line corridor. Council engineering have not raised issue with the capacity of the street stormwater network, but this can be addressed at the land use stage. As mentioned, detention or retention tanks could be required to slow the release of stormwater into the stormwater network. As also mentioned, the CWMS line within this street has capacity of accommodate an additional connection. The proposal is in accord with Objectives 1 and 2 and PDCs 1, 6, 8, 16 and 20.

Interface Between Land Uses

Objectives: 1, 2 & 3

PDCs: 1, 5, 16 & 17

The proposed land division should not detrimentally affect the amenity of the locality. Any potential amenity impacts to adjacent properties should be able to be dealt with at the land use stage. The proposal accords with PDC 1. The land to the east of the subject land is rural land that sits within the Watershed (Primary Production) Zone. Given this large rural allotment has historically and continues to be used for livestock grazing another dwelling located in closer proximity to this boundary is not considered to be an issue. A dwelling on the proposed battle-axe allotment is not likely to conflict with the continuation of livestock grazing on this allotment, consistent with PDC 5. It is noted that intensive animal keeping is not envisaged in the Watershed (Primary Production) Zone and any horticulture would need a generous separation distance and vegetative buffers irrespective of whether this additional allotment was created. A 40 metre wide buffer as suggested by PDC 17 would have to be provided on the rural allotment if required. Whilst an appropriate setback would not be achieved for a dwelling on the proposed battle-axe allotment inconsistent with PDC 16, due to the above mentioned reasons this is not considered to be an issue. Therefore, the proposal is not at odds with Objectives 1 and 3.

Land division

Objectives: 1, 2, 3, 4 & 5

PDCs: 1, 2, 7, 8, 10, 11 & 14

Given the proposal is only for one additional allotment it is considered that stormwater management requirements can be addressed at the land use stage. The stormwater management system for a dwelling, an outbuilding and associated hard

surfaces could achieve compliance with PDC 1(a). Water supply and efficient disposal of wastewater is achieved. The proposal accords with PDC 1.

As detailed in the zone and policy area assessment, the allotments are considered to be suitable for the intended use. Only very minor cut and/or fill would be required to develop proposed allotment 16 with a dwelling. As mentioned, the land is not identified as subject to flooding on the Council Development Plan maps as this area has not been mapped from a flood prone point of view. However, this locality is known to be flood prone and this issue will be assessed when a development application is received for a dwelling on the subject land. Note that flood mapping prepared for other development applications in the area have shown that this allotment is not subject to flooding. The proposal is consistent with PDCs 2, 7 and 14.

Given the size of this allotment, a dwelling could be designed to achieve optimum solar access, consistent with PDC 8. The requirements of the PDC 10 relating specifically to battle-axe allotments are a repeat of Zone PDC 11. The proposal sufficiently accords with PDC 10.

The proposed land division does not require the removal of native vegetation and a future dwelling on this allotment should not dominate, overshadow or encroach on or detrimentally affect the setting of the locality. However, this is a matter to be determined at the land use stage.

7. SUMMARY & CONCLUSION

Whilst the proposal falls short on some of the quantitative criteria stipulated for allotments both within the Zone and Council-wide provisions, the proposed allotments are considered suitable for their intended use and will maintain the low density character of the locality. The width of the access handle is a suitable width to accommodate a landscaping strip and to achieve safe and convenient movement of vehicles for one dwelling. The shortfall in area for the proposed allotments will not be distinguishable from the street or in locality. As mentioned, the locality features a mixture allotment sizes and shapes, and approved battle-axe allotments exist within the locality. The subject site is a wide rectangular allotment that has a reduced depth in comparison to the narrower, but deep rectangular allotments further south along Spring Street. As the subject site is at the northern end of Spring Street and is surrounded by irregular shaped allotments, the proposal does not diminish the desire of the Policy Area to maintain the deep rectangular allotments on either side of Spring Street. The additional allotments proposed will be connected to adequate utilities and services.

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 and Land Division 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 and Land Division Consent to Development Application 17/972/473 by Shirley Tucker for Land division (1 into 2) (Non-Complying) at 4 Spring Street Kersbrook subject to the following conditions:

Planning 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 land division plan prepared by Hennig & Co. Pty. Ltd. received by Council 21 June 2018

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

Planning Notes

(1) 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.

Council Land Division Requirements

(1) Prior to Section 51 Clearance - Requirement For Demolition Application In Accordance With Building Code Of Australia

Prior to Section 51 clearance of the division approved herein, a separate development application for the demolition of the outbuildings (including slab) and telecommunications (radio) tower shall be lodged and approved by Council.

REASON: To ensure safe demolition in accordance with the Building Code of Australia.

(2) Prior to Section 51 Clearance - Requirement For Demolition Works to be undertaken

Prior to Section 51 clearance of the division approved herein, the demolition of the outbuildings (sheds) and telecommunications tower (once authorised) shall be undertaken to the satisfaction of Council.

REASON: To ensure that land use conflicts do not occur as a result of the land division.

(3) Prior to Section 51 Clearance – Requirement for Stormwater To Be Diverted

Prior to Section 51 clearance to the division approved herein, any stormwater directed over the approved boundaries or infrastructure, such as pipework crossing allotment boundaries, shall be redirected to the satisfaction of the Council.

REASON: To ensure that no trespass of stormwater or infrastructure results from the proposed the land division without providing drainage easements.

(4) Prior to Section 51 Clearance - Requirement For Connection to Community Waste Management Scheme CWMS

Prior to Section 51 clearance, proposed Lot 16 is to be connected to the Community Wastewater Management Scheme to the satisfaction of Council. A separate application is required to be submitted and approved by Council.

REASON: To ensure development is connected to the common effluent system.

(5) Prior to Section 51 Clearance - Requirement For Community Waste Management Scheme Payment – CWMS

Prior to Section 51 clearance, the applicant shall pay Adelaide Hills Council \$4,068.00 per each additional allotment to provide for the upgrading of the Community Wastewater Management Scheme to accommodate the increased effluent load resulting from the land division.

REASON: To ensure development is connected to the common effluent system.

(6) Prior to Section 51 Clearance - Construction of Rural Verge Piped Access Points - SD24

Prior to Section 51 clearance, the vehicle access point(s) and cross-over for proposed Lot 15 shall be constructed in accordance with Adelaide Hills Council standard engineering detail SD24 – piped entrance.

REASON: For safe and convenient movement of vehicles and for efficient drainage of stormwater within the road verge.

(7) Prior to Section 51 Clearance - Construction of Driveway and Parking Area

Prior to Section 51 clearance, a driveway and parking area that is surfaced with a suitable all weather material shall be constructed to the satisfaction of Council.

REASON: To ensure adequate on-site car parking is provided for proposed allotment 15.

(8) Prior to Section 51 Clearance - Installation of Trafficable Lid on Septic Tank

Prior to Section 51 clearance, a trafficable lid shall be installed over the top of the existing septic tank on proposed allotment 15.

REASON: To ensure the parking and manoeuvring of vehicles in close proximity to the existing septic tank does not cause damage to this system and result in water quality impacts.

SCAP Land Division Requirements

(1) Requirement For Payment Into Planning & Development Fund

Payment of \$6830 into the Planning and Development fund (1 allotment @ \$6830/allotment). Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (7109 7018), by cheque payable to the State Planning Commission marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001 or in person by cheque or card, at Level 5, 50 Flinders Street, Adelaide.

REASON: Statutory requirement in accordance with Section 50 and Regulation 56 of the Development Act 1993 and Regulations 2008.

(2) Requirement For Certified Survey Plan

A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.

REASON: Statutory requirement in accordance with Section 51 of the Development Act 1993.

(3) Requirement For SA Water Provisions

The financial requirements of the SA Water Corporation shall be met for the provision of water supply (SA Water H0065884). An investigation will be carried out to determine if the connection/s to the development will be costed as standard or non-standard.

REASON: Statutory requirement in accordance with Section 33 (1) (c) of the Development Act 1993.

(4) Requirement For SA Water Internal Piping Alterations

On approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries to the satisfaction of the SA Water Corporation.

REASON: Statutory requirement in accordance with Section 33 (1) (c) of the Development Act 1993.

NOTES

(1) Land Division Development Approval Expiry

This development approval is valid for a period of three (3) years from the date of the decision 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.

9. ATTACHMENTS

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

Respectfully submitted

Concurrence

Sam Clements
Team Leader Statutory Planning

Deryn Atkinson
Manager Development Services

COUNCIL ASSESSMENT PANEL MEETING
12 September 2018
AGENDA

Applicant: Adelaide Hills Council	Landowner: Adelaide Hills Council
Agent: Bartlett Drafting & Development	Ward: Onkaparinga Valley
Development Application: 17/4/473 16/C50/473	Originating Officer: Marie Molinaro
Application Description: Community title land division (6 allotments into 4), including reserve allotments and common property	
Subject Land: Lot:87 Sec: P5135 FP:4620 CT:5897/519 Lot 88 Sec: P5135 FP:4620 CT:5169/516 Lot:90 Sec: P5135 FP:4620 CT:5897/519 Lot: 101 Sec: P5125 DP:47499 CT:5549/242 Lot:201 Sec: P5135 DP:60535 CT:5897/516 Lot 220 Sec: P5125 DP:117912 CT:6207/789	General Location: Adelaide Hills Business & Tourism Centre 1-22/1 Lobethal Road, 3A/3-2/5A Main Street and 6 Mill Road, Lobethal SA 5241 <i>Attachment – Locality Plan</i>
Development Plan Consolidated : 28 April 2016	Zone/Policy Area: COUNTRY TOWNSHIP (LOBETHAL) ZONE - Woollen Mills Policy Area
Maps AdHi/3, 12 & 55	Site Area: Approximately 2 hectares
Form of Development: Merit	Representations Received: N/A Representations to be Heard: N/A
Public Notice Category: Category 1 Merit -	

1. EXECUTIVE SUMMARY

The purpose of this application is to rearrange the boundaries of the existing allotments of portion of the Adelaide Hills Business and Tourism Centre (AHBTC) located on the northern side of the Lobethal Road to create four community title allotments including reserve allotments and associated common land. The common land comprises the driveway, car parking area and toilet block.

The subject site is currently comprised of 6 allotments that are owned by Council. The AHTBC functions as a multi-use site, with separate buildings being leased out under Council management for light industrial, manufacturing, warehouse, winery and storage purposes.

The AHTBC site formerly operated as the Onkaparinga Woollen Mills, and several of the allotments are listed as State Heritage Places.

The subject land is within the Woollen Mills Policy Area of the Country Township (Lobethal) Zone. The proposed division of land is a merit form of development in the Zone, and is assigned as Category 1 for public notification purposes.

The proposal is the initial primary division to create the community title super lots. A separate, secondary community title land division to further divide the larger building on the proposed allotment comprising pieces 201* and 202* is under assessment, and will be further considered pending the decision made on this proposal.

The purpose of further dividing the larger building on the proposed allotment comprising pieces 201* and 202* is to allow each tenant within the building to occupy separate allotments. Thus, the boundary lines will follow the floor plate areas occupied by each of the tenants.

Considering both proposals as a whole the purpose is to facilitate better management and more regular boundary configurations.

The main issues relating to the proposal include whether the division will inhibit further development, or growth of the AHTBC or impact upon the heritage values of the State Heritage Place.

Issues relating to required building fire safety upgrade matters triggered by the proposal are only required to be assessed as part of the secondary community title land division as all allotments in the primary land division are separated by common land of adequate distance.

As per the CAP delegations, the CAP is the relevant authority for the proposal, as it relates to land owned by Council which will be on sold and was called in by the Director of Development & Regulatory Services.

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 seeking to re-align existing boundaries to create four allotments (including two reserve allotments) and common driveway, car-parking area and toilet block. At present there are six allotments, which will decrease to four.

Existing Allotments

Allotment	Area	Currently containing
88	675m2	Gravel surface car-parking area.
90	675m2 approx.	Portion of grassed common area to become reserve area as part of the proposal, and part of an existing area.
101	3345m2 approx.	Car park area and building. Right of way easement over portion of adjoining site to the north.
220	1822m2	Drainage reserve (watercourse) and portion of car parking area. Easements in favour of the Minister for Infrastructure (SA Water) and Commonwealth of Australia.
221	2870m2	Northern portion of larger building on proposed allotment comprised of pieces 201 & 202 and storage shed. Easement in favour of the Minister for Infrastructure (SA Water).
222	1.36ha	Bulk of the larger building on proposed allotment comprised of pieces 201 & 202 Easement in favour of the Minister for

		Infrastructure (SA Water).
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Proposed Allotments

Allotment	Area (ha)	Containing
Comprising pieces 201 & 202	8904 m2	Large building, and separate smaller building, outdoor seating area associated with one of the tenancies and gravel car-parking area on piece 201. Storage shed on piece 202. The storage shed on piece 202 is used by one of the business tenants occupying the larger building on piece 201. The pieces are separated by the common driveway.
203	8671m2	Multiple buildings
204	1072m2	Grassed reserve
205	1494m2	Drainage reserve

The plan of division includes:

- Common property - featuring driveway, car parking area and toilet block.
- A new service easement “D” over portion of allotment containing piece 202 and allotment 203 in favour of Council for drainage maintenance purposes. This easement will be limited in height to below the underside of the concrete floor above, noting that there are buildings built over the watercourse flowing through the western portion of the subject site.
- A new service easement “E” (T/F) in favour of the Distribution Lessor Corporation (SA Power Networks) for electricity supply purposes. This easement will protect existing SA Power Networks infrastructure.
- A new support easement “F” over portion of allotment containing piece 202 in favour of proposed Lot 203. The purpose of this easement is to allow for possible further future development on Lot 203 over the service drainage easement.

The proposed plans are included as ***Attachment – Proposal Plans***. An existing and proposed boundary location plan is also included as ***Attachment – Boundary Location Plan***.

3. BACKGROUND AND HISTORY

There are numerous development applications that have been approved across the multiple subject allotments.

None of these are of particular relevance to the proposal under consideration.

Earlier this year portions of closed road along the Mill Road frontage were incorporated/merged into some of the subject allotments.

4. REFERRAL RESPONSES

- **CFS**

The CFS advised that they have no objection to the proposal.

However, the CFS did recommend general standard conditions of consent relating to access, water supply and vegetation. In this regard, the recommended CFS conditions are not considered necessary. A formal referral to the CFS was not required under Schedule 8 of the Development Regulations (2008), so they do not have the power of direction for conditions of consent.

The recommended CFS condition for access whilst considered to be pertinent, is also not considered to be necessary as the existing line-making layout within the shared car parking area allow for large trucks to exist the site without conflicting with vehicles parked in the line-marked parking bays. Instead, recommended Development Plan Consent Condition (2) requires that the existing sealed driveway surface and line-markings be maintained in good condition at all times.



Note that service trucks currently circulate through the site by entering the site from the existing access point to the south of the large building on proposed allotment comprised of pieces 201 & 202, turning around the corner of this building in a northerly direction and exiting via the existing northern access point onto Main Street.

The CFS also made comment on the required building fire safety upgrade matters triggered by the proposal. As per above, these matters are only required to be assessed as part of the secondary land division proposal to further divide the large building on proposed lot comprised of pieces 201 and 202.

- **EPA**

EPA advised that they have no comment to make on the proposal.

- **SA WATER**

SA Water advised that they have no requirements.

- **DPTI – Transport Services**

DPTI – Transport Services noted that the proposal will create shared access and car parking areas on the site.

However, as no new access is proposed onto the arterial roads (Lobethal Road and Main Street) DPTI – Transport Services had no in-principle objections to the plan of division, subject to recommending their standard condition of consent that all vehicles must enter and exit in a forward direction. Refer recommended Development Plan Consent condition (3).

- **DEWNR – State Heritage**

State Heritage has advised that they have no objections to the proposal, noting that the physical fabric of the heritage buildings will be unaffected as a result of the proposed boundary locations.

However State Heritage have recommended one condition that the final location and details of any required signage, and potential fire detection and firefighting services over existing openings as per the BuildSurv report, be confirmed to the satisfaction of Council in consultation with the Department of Environment and Water.

As discussed above, required building fire safety upgrades triggered by the proposal are only required to be assessed as part of the second, separate application.

- **AHC Rates**

AHC Rates provided advice that street numbering will not change in the short term.

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

5. **CONSULTATION**

The application was categorised as a Category 1 form of development not requiring formal public notification in accordance with Part 1 of Schedule 9 of the Development Regulations (2008).

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 comprised of 6 allotments, with a combined irregular shaped area of approximately 2 hectares.

The allotments are bound by Main Street to the east, Lobethal Road to the south and Mill Road to the west. Main Street and Lobethal Road are arterial roads.

There are five existing access points to the site – two from Main Street, one near the intersection of Main Street and Lobethal Road, one on Lobethal Road and one on Mill Street near the intersection of Lobethal Road.

The subject site contains multiple buildings forming the northern part of the Council owned Adelaide Hills Business & Tourism Centre (AHTBC).

The majority of the site is listed as a State Heritage place, as the site formerly operated as the Onkaparinga Woollen Mills.

Buildings on the land are clustered together predominately towards the creek that traverses the site. The northern portion of the site is used as a sealed and line-marked car-parking area.

A tree lined watercourse (Lobethal Creek) flows through the western side of the site, in a southerly direction under Lobethal Road. As the watercourse passes through the site, it is contained within a concrete culvert.

The site is relatively flat, with the main driveway, manoeuvring, storage and car parking areas being hard sealed.

The site is clear of any regulated or significant trees.

ii. The Surrounding Area

Surrounding the subject site are various sized allotments and land uses.

To the east of the site are residential township allotments and to the west of the site are larger rural residential allotments.

To the south of the subject site, across Lobethal Road are large industrial buildings. An application to divide these buildings onto separate allotments was considered by CAP last year and these have recently been sold by Council.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Woollen Mills Policy Area of the Country Township (Lobethal) Zone. The relevant Development Plan provisions seek:

Woollen Mills Policy Area

- *Provision for the expansion of the Onkaparinga Woollen Mills.*
- *Predominant land uses being industrial development, with residential and retail development discouraged unless it is an integral part of the industrial development.*

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

Objectives: 1

PDCs: N/A

Objective 1 of the Woollen Mills Policy Area seeks to ensure that provision is made for the expansion of the Onkaparinga Woollen Mills. The proposed division of land will separate existing buildings onto separate allotments and formalise the use of existing shared areas involving the driveway, carpark and toilets as common property.

This is not considered to inhibit future expansion of the AHTBC, and is considered to provide greater flexibility and certainty in relation to the existing shared access.

The proposal is considered to be sufficiently consistent with Objective 1 of the Woollen Mills Policy Area

Country Township (Lobethal) Zone

- *The AHTBC to be the focus for future expansion of business and community facilities*
- *Conservation and enhancement of historic buildings and areas, particularly the old area abutting Lobethal Creek and environs.*
- *Expansion of the Woollen Mills on nearby vacant land.*

The following are considered to be the relevant Zone provisions:

Objectives: 1, 3, 5 & 7

PDCs: 1

Objectives 1 and 5 of the Country Township (Lobethal) Zone are similar to Objective 1 of the Woollen Mills Policy.

As discussed above, the proposed division of land is not considered to inhibit the expansion of the AHTBC. Existing commercial land uses will remain, with the proposal designed to cater for existing tenant operations within the buildings on the subject site. Therefore, the existing land use status quo will be maintained. Objectives 1 and 5 of the Country Township (Lobethal) Zone are considered to be sufficiently satisfied.

In regards to Objective 3 which seeks the conservation and enhancement of historic buildings and areas, particularly those abutting Lobethal Creek, State Heritage advise that the proposed division of land will not affect the heritage value of the subject site. In this regard, the proposal is considered to be sufficiently consistent with Objective 3 of the Country Township (Lobethal) Zone.

The existing and intended use of the allotments proposed in the plan of division will remain consistent with the Lobethal Structure Plan, in accordance with Principle of Development Control 1 of the Country Township (Lobethal) Zone.

b) Council Wide provisions

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

- *Orderly & economic development.*
- *The retention of the country town character and protection of the surrounding watersheds and primary production land from urban development.*
- *Land in appropriate localities divided into allotments in an orderly and economic manner.*
- *The safe and efficient movement of people and goods.*
- *The conservation and enhancement of places of State Heritage value.*

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

Objectives: 1, 4, 10, 20, 99, 100

PDCs: 1, 2, 3, 17, 28, 29, 32, 35, 37, 39, 43, 53, 68, 286

Orderly Development

Council Wide Objective 1 and Principle of Development Control 1 seek to ensure that development, including land division, is undertaken in an orderly and economic manner.

The proposed division of land is considered to be orderly and economic as the allotment boundaries will follow the existing physical arrangements on the ground. There will be no change in the way the land is used, with the proposal providing formal common access to existing shared areas being a driveway, carpark and toilet block.

Land Division

Land division Objective 1 seeks the division of land to occur in an orderly and economic way. As discussed above, the proposal is considered to be orderly and economic.

Further to this, the proposal will resolve an encroachment issue as existing Lot 90 partly encroaches over an existing building. As part of this proposal, this building will be fully contained on proposed Lot 203.

The boundary of existing Lot 220 also extends into the sealed car parking area, so this boundary has been re-aligned to ensure the car parking area is fully contained within the common property area and resolves this encroachment issue.

Principle of Development Control 28 is similar in intent to Objective 1 as it seeks resulting allotments to be suitable for their intended purpose, which relates back to the orderliness of the proposal.

Transportation (Movement of People & Goods)

Objective 20 seeks the safe and efficient movement of people and goods.

As a result of the proposal there will be no change to access arrangements, the way that vehicles move within the subject site or parking arrangements.

The common driveway and car parking area are already sealed and line marked. Recommended condition (2) will reinforce the need to ensure that these areas are maintained on an on-going basis.

The CFS is satisfied that the common driveway is suitable for fire-fighting access, so the proposal is considered to be sufficiently consistent with Objective 20.

Principle of Development Control 53 seeks service vehicles to enter and leave sites in a forward direction.

This is consistent with the DPTI – Transport Services recommended condition that all vehicles enter and exit the site in a forward direction. (Refer Development Plan Consent recommended condition (3).

Adoption of this condition will ensure consistency with Principle of Development Control 53.

Public Utilities

Principle of Development Control 68 seeks new allotments to be serviced economically by accessible public utilities.

There will be no change to the provision of services to the buildings on the proposed allotments.

As the proposal is a community title land division there will be implied easements for the provision of services and stormwater drainage crossing allotment boundaries.

Heritage

Objective 99 and Principle of Development Control 286 both seek the conversion of Heritage places. State Heritage has advised that the proposed land division will not materially affect the State Heritage Place.

The proposal is considered to be consistent with Objective 99 and Principle of Development Control 286

Other Matters

The secondary separate land division proposal to further divide the larger building contained on pieces 201 and 202 will be presented for consideration at a future CAP meeting, subject to Development Approval being granted to the current application under consideration.

The relevant Objectives and Principles of Development Control are included as ***Attachment – Development Plan Provisions.***

7. SUMMARY & CONCLUSION

The proposal is for the division of land to create four allotments, including two reserve allotments and common property comprised of driveway, car parking area and toilet block.

This is the initial community title division, and a separate application has been lodged to further divide the larger building on allotment comprised of pieces 201 and 202 in a way that is consistent with current business tenant floor areas.

This proposal is the first step in rationalising boundary locations at the site, which will rectify encroachments and provide guaranteed common property access to existing shared areas being the driveway, car parking area and toilet block.

The proposal will not change the way that uses at the subject site function, and the common driveway is suitable for CFS fire-fighting vehicle access.

Building fire safety upgrades triggered by the proposal are not required to be addressed as part of this application, but as part of the secondary division.

No heritage impacts result from this application.

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 and Land Division Consent to Development Application 17/4/473 (16/C50/473) by Adelaide Hills Council for Community title land division (6 allotments into 4), including reserve allotments and common property at 1-22/1 Lobethal Road, , 3A/3-2/5A Main Street and 6 Mill Road, Lobethal subject to the following conditions:

Planning 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 plan of Division (Ref. GB2199/PL7597, Drawing No. GB2199DA CP1), Sheets 1-4 of 4 by Bartlett Drafting & Design dated 23 July 2018.

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

(2) Maintenance of the sealed common driveway and car parking area

The surface treatment detail and line-marking within the common driveway and car parking area shall be maintained in good condition at all times. The common driveway and car parking area shall be kept clear of obstructions at all times.

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

(3) Vehicle Movement

All vehicles must enter and exit Lobethal Road and Main Street in a forward direction.

REASON: For safe and convenient traffic movement.

Planning Notes

(1) Development Plan Consent

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.

Council Land Division Statement of Requirements

Nil

Council Land Division Notes

Nil

SPC Land Division Statement of Requirements

- (1) A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.

SPC Land Division Notes

Nil

9. ATTACHMENTS

Locality Plan
Boundary Location Plan
Proposal Plans
Referral Responses
Development Plan Provisions

Respectfully submitted

Concurrence

Marie Molinaro
Statutory Planner

Deryn Atkinson
Manager Development Services