

COUNCIL ASSESSMENT PANEL MEETING
14 November 2018
AGENDA – 8.1

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| Applicant: Dechellis Homes Pty Ltd | Landowner: J T Harris & M J Visser |
| Agent: Access Planning | Originating Officer: Marie Molinaro |
| Development Application: 18/596/473 | |
| Application Description: Two storey, split level detached dwelling including balcony, combined fencing & retaining walls (maximum height 2.4m) & associated earthworks | |
| Subject Land: Lot:26 Sec: P626 DP:115594 CT:6190/265 | General Location: 17 Buchanan Drive Woodforde <i>Attachment – Locality Plan</i> |
| Development Plan Consolidated : 24 October 2017 Maps AdHi/11 & 96 | Zone/Policy Area: Residential Zone - Glen Stuart Policy Area |
| Form of Development: Merit | Site Area: 375m ² |
| Public Notice Category: Category 2 | Representations Received: 5 Representations to be Heard: 3 |

1. EXECUTIVE SUMMARY

The purpose of this application is to construct a two storey, split level detached dwelling with associated combined fencing & retaining walls (maximum height 2.4m) and associated earthworks.

The subject land is located within the Glen Stuart Policy Area of the Residential Zone and the proposal is a Merit Category 2 form of development. Five opposing representations were received during the Category 2 public notification period.

As per the CAP delegations, the CAP is the relevant authority where there are representors who wish to be heard.

The main issues associated with the proposal relate to bulk and scale, the associated impact on visual amenity and overshadowing for adjoining properties. Overlooking potential is also a concern.

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:

- Construction of a two storey, split-level detached dwelling.
- Single storey at street level, with the two storey element including a balcony at the rear.
- 3m wall height at street level, increasing to 5.8m at the rear.
- Two storey wall height ranging from 4.5m above natural ground level to 5.5m above natural ground level.
- Front setback – 4.080m measured from the front façade & 5.5m measured from the garage.
- Rear setback – upper level component 8.4m & lower level component 4.7m.
- Northern side boundary setback – 1m for both upper level and lower levels.
- Southern side boundary setback – upper level 1.7m & lower level component – 1m with garage on the boundary for a length of 6.01m.
- Upper level - comprising double garage, home theatre room, toilet, open plan kitchen, dining and family room with covered semi-enclosed balcony.
- Lower level - comprising laundry, four bedrooms (master with ensuite), bathroom and living room.
- Combined floor area totalling 319 square metres, with a site coverage of 54 per cent.
- Private open space at ground level totalling 68 square metres.
- Private open space above ground level (balcony) totalling 8.49 square metres (3.72m x 4.77m)
- Upper level windows on the northern side elevation to be 1.7m above floor level, with no upper level windows on the southern side boundary and balcony to be enclosed with a full height solid wall on this side.
- West facing upper level living room window and balcony glass balustrade to be fitted with Koolshade mesh screening to a height of 1.5m above floor level.
- Excavation to a depth of approximately 1.3m and filling to a depth of approximately 350mm.
- Stormwater to Council drainage easement located at the rear of the subject site.
- Construction of associated combined fencing & retaining walls, maximum height 2.4m.
- External stairs connecting the upper and lower portions of the land between the dwelling and the northern side boundary.
- Roof material to be Colorbond® sheeting in 'Monument' (black).
- Walls to be a mixture of exposed Austral brickwork 'Liquorice' (black) and render to match Colorbond® 'Paperbark' (beige/brown).
- Fencing to be Colorbond material, and retaining walls to be concrete sleeper design (combined height 2.4m).

The proposed plans are included as **Attachment – Proposal Plans**.

3. BACKGROUND AND HISTORY

| APPROVAL DATE | APPLICATION NUMBER | DESCRIPTION OF PROPOSAL |
|------------------|--------------------|---|
| 25 February 2016 | 15/1007/473 | Land division (2 into 288) in four stages with associated roads and other civil infrastructure and creation of reserves (DAC relevant authority) as varied by a number of variations. |

4. REFERRAL RESPONSES

- AHC Engineering**
 Council Engineering have advised that they have no objections to the proposal.
- SA Water**
 SA Water have given consent for the filling encroachment over the easement at the rear of the subject site.

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

5. CONSULTATION

The application was categorised as a Category 2 form of development due to the combined fence and retaining wall height exceeding 2.1m in accordance with the public notification section of the Residential Zone procedural matters, requiring formal public notification. Five opposing representations were received during the public notification period. All were from adjacent property owners.

The following representors wish to be heard:

| Name of Representor | Representor's Property Address | Nominated Speaker |
|-------------------------|--------------------------------|-------------------|
| Tianyu Ma & Shutong Liu | 34 Buchanan Drive, Woodforde | TBA |
| Wei Yang Tan | 15 Buchanan Drive, Woodforde | Su Ching Lim |
| Stefano Deieso | 36 Buchanan Drive, Woodforde | TBA |

The applicant or their representative, Access Planning may be in attendance.

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

- Construction of a two storey dwelling will obscure views and result in overlooking and overshadowing. Because of this a single storey dwelling should be constructed instead.
- Associated retaining walls will impact on development of adjoining sites.

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

Copies of the submissions are included as **Attachment – Representations**, and the response is provided in **Attachment – Applicant’s Response to Representations**.

A copy of the plans which were provided for notification is included as **Attachment – Publically Notified Plans**.

Since the public notification period the applicant has provided amended shadow diagrams. The shadow information has not been altered, but the shadow diagram has been updated to include more detail in the form of an indicative dwelling and roof layout plan with solar panel design for the adjoining allotment to the south.

The applicant has also amended the proposal to change the privacy treatment to the upper level living room and balcony from obscure film to Koolshade mesh screen. This change is considered to be of a minor nature, not requiring re-notification.

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 a vacant, regular-rectangular shaped allotment with an area of 375 square metres.

The subject site has width of 12.5m and depth of 30m.

The subject land is located on the western side of Buchanan Drive. Buchanan Drive is a sealed Council road with rollover kerb & gutter. The western side of Buchanan Drive is on the low side of the road.

The developer has constructed the driveway to the subject land.

The land slopes down to the rear, with a slope of approximately 1 in 10 from front to rear.

The subject site is serviced by mains water, sewer and electricity supply.

A 4m wide combined SA Water sewer and Council stormwater drainage easement is registered on the Certificate of Title and is located along the rear boundary.

A developer encumbrance is also registered on the Certificate of Title. Encumbrance approval has been granted for the proposal.

The encumbrance approval is included as ***Attachment – Encumbrance Approval.***

ii. The Surrounding Area

The surrounding area is comprised of the newly created residential estate 'Hamilton Hill'. Allotments on the western side of Buchanan Drive are similar in depth, but with varying frontages to accommodate detached dwellings.

Allotments on the eastern side of Buchanan Drive are smaller and intended for the townhouse style dwellings which are currently under construction.

A number of the allotments on the western side of Buchanan Drive are vacant.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Glen Stuart Policy Area of the Residential Zone and these provisions seek:

Glen Stuart Policy Area

- *A residential policy area comprising a range of medium density dwellings.*
- *Development that minimises the potential impact of garaging of vehicles on the character of the area.*
- *Development reflecting good design principles.*
- *Development that contributes to the desired character of the policy area.*

Relevant sections of the desired character statement seek:

- *Development in the policy area comprising a range of dwelling types that respond to the topography of the area.*
- *Buildings of up to three storeys in height to be developed where the potential impacts on adjoining properties such as overlooking and overshadowing have been appropriately addressed.*
- *Separation between buildings to provide visual interest, visual and acoustic privacy, and adequate sunlight to dwellings.*
- *Buildings to be set relatively close to the primary street frontage to create a compact urban form.*
- *Development providing articulated and varied facades which feature balconies, increased setbacks to upper levels and a range of materials in order to create visual interest and reduce the scale of buildings.*
- *The visual impact of garaging and driveway crossovers on the streetscape to be minimised.*

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

Objectives: 1, 2, 3 & 4

PDCs: 1, 2, 4, 8, 10, 11, 12, 15 & 17

Land use

The proposal is considered to be consistent with Objective 1, PDC 1 and PDC 2 as it is for a detached dwelling.

Form & Character

PDCs 10-12 provide setback, site coverage, off-street parking and private open space guidance.

PDC 10 sets out the following:

Dwellings should be designed within the following parameters:

Minimum setback from primary road frontage – 3 metres

The proposed dwelling is setback 4.080m from Buchan Drive

Minimum setback from side boundaries – 0 metres

The side boundary setbacks range from 0 metres, being the garage component to 1m and 1.7m for the upper level component of the southern side wall.

However, this setback is considered to be more applicable to the more densely divided allotments on the eastern side of Buchanan Drive. These allotments are 3m wide and boundary to boundary townhouse style dwellings are under construction on these allotments. Further discussion regarding the side boundary setbacks is detailed later in the report.

Minimum setback from the rear boundary – 4 metres

The single storey component is setback 4m from the rear boundary, and the upper level component is setback 8m from the rear boundary.

Maximum site coverage – 60 per cent

The proposed dwelling has a site coverage of 54 per cent.

Maximum building height (from natural ground level) – 3 storeys

The proposed dwelling is both single storey and two storey in height.

Minimum number of on-site car parking spaces (one of which should be covered) – 2

A double garage is provided, and this is setback 5.5m from the front boundary allowing for vehicles to be parked in front of the garage, resulting in a possible four on-site parking spaces.

The proposal is consistent with all of the criteria set out in PDC 10.

PDC 11 sets out the following:

Private open space should be provided as follows:

Detached dwelling – 20 square metres for one bedroom dwelling, plus an additional 5 square metres per additional bedroom. The private open space area/s must include an area/s with minimum dimensions of 3m x 5m.

The proposal provides 68 square metres of private open space at ground level, with dimensions greater than 3m x 5m. Additional private open space is also provided from the above ground balcony.

The proposal is consistent with PDC 11.

PDC 12 sets out that walls of dwellings sited on side boundaries should be designed in accordance with at least one of the following:

- a) Be located immediately abutting the wall of an existing or simultaneously constructed building on the adjoining land to the same or lesser length and height.*
- b) Constructed in accordance with any approved building envelope plan.*
- c) The exposed section of the wall is less than 8m in length and 3.5m in height.*

The garage wall is the only wall of the dwelling located on a boundary. It has a length of 6m and height of 3m, so is consistent with criterion c) of PDC 12.

The proposal complies with PDC 12.

PDC 17 states that where the natural gradient of the allotment is 1 in 7 or greater, dwellings should be in the form of single or two storey detached dwellings, or have a split level design to minimise the height above the natural ground level.

Whilst the subject site has a gradient of less than 1 in 7, PDC 17 is considered to be a useful guide for the development of sloping sites in the Policy Area.

The proposal accords with PDC 17 as it is a two storey detached dwelling, incorporating a split level design. The two storey component is at the rear of the dwelling, excavated into the site. At street level the proposed dwelling will present as a single storey building.

The Policy Area clearly expresses that a two storey building height is appropriate providing impacts relating to bulk and scale, overlocking and overshadowing are addressed.

The following are considered to be the relevant Zone provisions:

Residential Zone

- *A residential zone comprising a range of dwelling types.*
- *Development that protects the visual and environmental assets which characterise the zone.*
- *Development that contributes to the desired character of the policy area.*

Objectives: 1, 2 & 3.

PDCs: 1, 6, 7 & 8.

Relevant sections of the desired character statement seek:

- *Development in the zone generally comprising a variety of housing types at a variety of low and medium densities depending on the policy area in which they are located.*
- *Housing of contemporary design incorporating the use of verandahs, eaves, pitched roofs and a mixture of building materials to ensure that dwellings are attractive, visually interesting and well adapted to suite the local environment.*

Land Use

Objective 1 and PDC 1 of the Zone repeat Objective 1 and PDCs 1 and 2 of the Policy Area.

Form and Character

PDC 7 seeks that development of more than one storey take into account the height and bulk of the proposed building relative to adjoining buildings by:

- a) incorporating stepping in the design in accordance with the slope of the land and;
- b) where appropriate stepping back the upper storey of a dwelling a greater distance from side and rear boundaries than the lower storey.

The proposal is considered to be consistent with part a) as it is a split level design that follows the contours of the land.

The proposal is partly consistent with part b) noting that the upper level of the northern elevation is not recessed from the lower level. The upper level of the southern elevation is recessed from the lower level by a maximum of 700mm, and the upper level west elevation is recessed from the lower level by 3.7m.

As discussed earlier in the Policy Area section a 0m side boundary setback is anticipated. However, this is considered to be more applicable to the more densely divided allotments to the east of the subject site, on which townhouse style dwellings are currently under construction.

Using the Residential Code (the Code) as a guide instead, the upper level of the proposed dwelling would need to be setback 1.8m from the northern side boundary and 2.8m from the southern side boundary to satisfy the Complying development criteria.

A greater setback to southern side boundaries is sought in the Code to minimise overshadowing.

Relative to the Code, the reduced upper level setback from the northern side boundary is considered to be reasonable as the bulk will be reduced to some extent in the following way:

- The two storey component of the dwelling is to be cut into the land, reducing its visual impact
- Only a portion of the dwelling is two storey, for a maximum length of 8.8m
- The lower level of the dwelling will be mostly obscured by side boundary fencing, and
- The upper level façade will be broken up by the use of exposed and rendered brickwork in contrasting black and brown/beige colours.

In addition, the adjoining allotment to the north is 15m wide therefore allowing potential for greater separation between buildings.

For largely the same reasons detailed above, the reduced upper level setback from the southern side boundary is considered to be reasonable in relation to visual impact.

In regards to overshadowing impact the applicant has provided scaled shadow diagrams to demonstrate the anticipated level of overshadowing expected as a result of the proposed dwelling.

The shadow diagrams have been prepared using data available from the Australian Geosciences Department website.

Using the Good Residential Design Guide SA as a guide, the proposed dwelling should ensure the following:

1. Sunlight to at least 50 per cent (or 35 square metres with a minimum dimension of 2.5m, whichever is the less area) of the ground level private open space of existing adjacent properties is not reduced to less than two hours between 9am and 3pm on 21 June [Winter solstice]: and
2. North facing windows to living areas of neighbouring dwellings do not have the amount of sunlight received over a portion of their surface reduced to less than 3 hours between 9am and 5pm on 21 June.

The adjoining site to the south is considered to be the most likely to be negatively impacted upon by overshadowing resulting from the proposal.

A development application for a dwelling on the adjoining allotment to the south has not yet been received, so the potential overshadowing impact is difficult to gauge.

However, the applicant has overlayed an indicative dwelling design, including floor plan layout for the adjoining site to the south on the shadow diagram.

The indicative dwelling is setback 4m from the front boundary (measured from the front façade) and 900mm from the shared boundary with the subject land.

The proposed dwelling has dimensions of 9.3m wide and 23m deep, containing three bedrooms, open plan kitchen and living room with verandah on the northern side and a single width garage.

In consideration of the setbacks provided and the dwelling dimensions, the indicative layout is considered to be a reasonable representation of how a future single dwelling on this site may be positioned and designed, so therefore it is considered to be a useful tool in gauging the potential overshadowing impact.

The shadow diagrams show that the proposal should allow adequate provision for sunlight to the ground level private open space of the adjoining site to the south that is consistent with point 1 of the Good Residential Design Guide SA.

At 9am on June 21, only 20 square metres of the private open space is left unshadowed, however by 12pm the rear yard is free of any shadow.

In regards to point 2, using the indicative floor plan layout again as a guide, the proposal does demonstrate consistency with point 2 as the north facing living room opening (door slider) should receive direct sunlight between 12pm and 5pm on 21 June.

In consideration of the information above, and in the absence of construction of a dwelling on the adjoining allotment to the south the proposal is considered to be sufficiently consistent with PDC 7.

PDC 8 seeks garaging to be 6m in width, or less than 50 per cent of the site frontage, whichever is the lesser distance. The garage width is 6m facing the street, which is less than 50 per cent of the 12.5m site frontage.

The proposal is consistent with PDC 8.

Consistency with this PDC also signals consistency with the desire of the Glen Stuart Road Policy Area to minimise the impact of garaging.

b) Council Wide provisions

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

- *Land uses designed to facilitate community surveillance.*
- *Development of a high design standard and appearance that responds to and reinforces positive aspects of the local environment and built form.*
- *Development designed and sited to conserve energy.*
- *Functional fences and wall that enhance the attractiveness of development.*
- *Orderly and economic development that creates a safe, convenient and pleasant environment in which to live.*

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

Crime Prevention

Objective: 1

PDC: 2

PDC 2 seeks buildings to be designed to overlook public and communal streets to allow casual surveillance.

The proposed dwelling has been designed to have the home theatre living room window facing the street, allowing for casual surveillance of Buchanan Drive.

The proposal is consistent with PDC 2.

Design And Appearance

Objectives: 1

PDCs: 1. 2. 3. 5, 7, 9, 17, 18, 19, 20, 22 & 23

PDC 2 relates to setbacks and seeks walls sited on or close to a side or rear boundary to minimise the visual impact of the building from adjoining properties, and to allow adequate sunlight to neighbouring buildings, especially those on which solar panels have been installed.

As discussed earlier the proposed upper level side setbacks are less than what is sought by the Residential Code, however the reduced setback relative to the Code is not considered to have an unreasonable visual impact upon adjoining properties.

Based on the information available, as a dwelling has not yet been constructed on the adjoining site to the south, the proposal is considered to allow adequate sunlight to neighbouring dwellings.

For clarification the interpretation of 'adequate' is relative to the overshadowing standards set out in the Good Residential Design Guide SA.

A discussion on the impact of overshadowing on solar panels is detailed further in the Energy Efficiency section of the report.

PDC 7 states that development should not cause amongst other matters unreasonable loss of sunlight or views from existing or proposed development.

Unreasonable loss of sunlight has been discussed previously.

In relation to unreasonable loss of views, representors to the east of the subject site have raised concern that the proposed two storey design will block or impair scenic views west towards the city skyline.

The proposal is not considered to result in unreasonable loss of views as it has a single storey presentation to the street, with the two storey component being cut into and stepped into the land.

The proposal is considered to be sufficiently consistent with PDC 7.

PDC 17 relates to overshadowing and has the same intent as PDC 2 as discussed above.

PDCs 18 & 19 relate to visual privacy.

PDC 18 seeks amongst other matters for development to minimise direct overlooking of the main internal living areas and private open spaces of dwellings through design measures such as permanent screening devices (including fencing, obscure glazing, screens, external ventilation blinds, window hoods and shutters). The devices should be designed to integrate into the building design by complementing the associated building's external materials and finishes.

The applicant is proposing to screen the upper level west facing living room window and balcony with black Koolshade screening to minimise direct overlooking.

Further discussion on the Koolshade screening device and overlooking is contained later in the report in the Residential Development section.

Energy Efficiency

Objective: 1

PDCs: 1, 2 & 3

PDC 1 aims to ensure that development should provide for efficient solar access to buildings and open space all year round,

Further to this, PDC 2 states that buildings should be sited and designed:

- a) to ensure adequate natural light and winter sunlight is available to the main activity areas of adjacent buildings, and
- b) so that open spaces associated with the main activity areas face north for exposure to winter sun.

The shadow diagrams provided by the applicant with an indicative building envelope and floor plan layout for the adjoining allotment to the south indicates that the proposed dwelling complies with part a) as the north facing living room area and verandah of the indicative floor plan are shown to receive at least 2 hours of sunlight between 9am and 3pm on 21 June.

The proposal is inconsistent with part b) as the home theatre room at the front of the dwelling will face east towards Buchanan Drive and the living areas at the rear of the dwelling, including balcony will face west.

However, the allotment is east-west orientated and this is the layout of the Hamilton Hill estate to take advantage of scenic views west towards the city skyline.

PDC 3 seeks development to facilitate the efficient use of photovoltaic cells (solar panels) by taking into account overshadowing from neighbouring dwellings.

The shadow diagrams provided by the applicant include an indicative roof layout plan with solar panel layout for an indicative dwelling on the adjoining allotment to the south.

The number of panels depicted is 18 and the shadow diagram indicates that at 12pm on 21 June all of the panels will be free from shadow. However, by 3pm half of the panels will be in shadow.

PDC 3 however, does anticipate that new development should take into account overshadowing from existing dwellings so an interpretation of this PDC would suggest that the land owner of the adjoining allotment to the south will need to design a solar panel layout that takes into account overshadowing resulting from the proposed dwelling.

The design of the solar panel system is variable as the number of panels could be reduced and still provide the same energy output and each household has different energy usage requirements determining the size of the system required.

Landscaping, Fences And Walls

Objective: 2

PDC: 4

The proposal includes combined Colorbond fencing and concrete sleeper retaining walls on the northern and southern side boundaries and a Colorbond fence on the rear boundary.

PDC 4 provides design guide criteria specifically for fences and walls, including retaining walls.

The most pertinent criteria are that fencing and walls:

- b) Be compatible with the associated development and with existing predominant, attractive fences and walls in the locality

- g) In the case of side and rear boundaries, be of sufficient height to maintain privacy and/or security without adversely affecting the visual amenity or access to sunlight of adjoining land.

The construction of combined fencing and retaining walls on side and rear boundaries in the Hamilton Hill estate is common, and constructed materials largely consist of Colorbond fence sheeting and concrete retaining walls.

The side and rear boundary fencing is at least 1.7m above the lower floor level as demonstrated on the retaining wall/fencing elevations plan, and is of a sufficient height to obscure views from the lower level of the proposed dwelling.

The combined fencing and retaining walls have a maximum height of 2.4m on the side boundaries, with retaining walls being proposed at a maximum height of 1.4m. The combined height of these structures is not considered to adversely affect the visual amenity, or access to sunlight of adjoining land as the retaining walls are primary retaining excavation, and will not be visible from the adjoining sites to the north and south.

The proposal is consistent with PDC 4.

Residential Development

Objective: 1

PDCs: 7, 9, 10, 17, 18, 19, 20, 23 & 27

PDCs 9 and 10 relate to design and appearance and seek residential development to be designed to ensure living rooms have an external outlook and entries to dwellings are to be clearly visible from the street.

The home theatre living room at the front of the dwelling has a window facing Buchanan Drive, and the entrance to the dwelling faces Buchanan Drive and is highlighted by a feature portico.

The proposal is consistent with PDCs 9 & 10.

PDC 17 relates to site coverage and seeks that site coverage allows sufficient space for:

- a) pedestrian and vehicle access and vehicle parking
The proposed dwelling includes a double garage, setback 5.5m from the front boundary allowing for additional uncovered vehicle parking in front of the garage.
- b) domestic storage
The yard area at the rear of the dwelling is constrained by the easement, with the proposed dwelling abutting the easement. This means that any future domestic storage sheds would encroach over the easement. It may be possible to construct over the easement provided it can be achieved without impacting on the infrastructure contained in the easement and SA Water and Council Engineering agree to this encroachment.

Regardless, a portion of the double garage could be used for domestic storage purposes without impacting upon on-site parking requirements of the Policy Area, noting the Policy Area only requires one on-site parking space to be covered.

c) outdoor clothes drying

There is space on the northern side wall of the dwelling to attach a clothesline to the dwelling if the occupants choose to do so, either directly next to the laundry door, or adjacent to the air-conditioning unit next to the living room wall.

d) rainwater tanks

A slimline water storage tank is to be located on the northern side of the dwelling, abutting the side boundary fence.

e) private open space and landscaping

As detailed earlier in the report, the proposal exceeds the minimum private open space area as sought in the Residential Zone. There is minimal space forward of the dwelling for landscaping between the dwelling and the front boundary, however the Residential Zone seeks reduced front boundary setbacks to provide a compact urban form.

f) convenient storage of household waste and recycling receptacles.

The dwelling is setback 900m from the northern side boundary, and it is expected that household waste and recycling bins will be stored on this side of the dwelling, out of view from Buchanan Drive.

PDC 18 relates to private open spaces and seeks that the private open space for dwellings be sited and designed:

a) to be accessed directly from the internal living areas of the dwelling

Ground level private open space is directly accessible from a living room and the upper level private open space, being the balcony is accessible from a living room.

b) to be generally located at ground level and to the side or rear of a dwelling and screened for privacy

The majority of the private open space is at ground level, located to the rear of the dwelling. Fencing on the side and rear boundaries will screen the rear yard area.

c) to take advantage of, but not adversely affect, natural features of the site

The upper level balcony private space area has been designed to face west to take advantage of scenic views towards the city skyline.

d) to minimise overlooking from adjacent buildings

Refer to point b) above.

- e) to achieve separation from bedroom windows on adjoining sites
The adjoining sites to the north and south of the subject land have not yet been developed with dwellings. The adjoining site to the rear (west) has living areas at the rear, facing towards the subject land.
- f) to have northerly aspect to provide for comfortable year round use
The private open space proposed has a westerly aspect at the rear of the dwelling. The subject site has an east-west orientation, with limited width so achieving a more northerly aspect is difficult to achieve.
- g) not to be significantly shaded during winter by the associated dwelling or adjacent development
The shadow diagrams provided by the applicant show that the private yard area of the dwelling on the subject land will be free from shadow between 12pm and 3pm on 21 June. This is consistent with the Good Residential Guide. See discussion earlier in the report regarding potential shading/overshadowing of the private open space area of the adjoining site to the south.
- h) to be partly shaded in Summer
The upper level balcony is covered with a solid roof.
- i) to minimise noise or air quality impacts that may arise from traffic, industry or other business activities within the locality
The private open space areas are located at the rear of the dwelling, away from Buchanan Drive. There are no business activities within the locality.
- j) to have sufficient area and shape to be functional, taking into consideration the location of the dwelling, and the dimension and gradient of the site.
The private open space provided exceeds the minimum size standard and dimensions sought by the Zone, so is considered to be sufficient. A small amount of filling is required to level the ground floor private open space area. The future development of the ground level private open space area in the form of a verandah or similar is constrained by the combined SA Water sewer and Council drainage easement at the rear. However, it is anticipated that the occupants of the dwelling will do most of their outdoor entertaining on the covered upper level balcony area.

PDC 27 relates to visual privacy and states that:

“Except for buildings of 4 or more storeys, upper level windows, balconies, terraces and decks that overlook habitable room windows or private open space of dwellings should maximise visual privacy through the use of measures such as sill heights of not less than 1.5 metres or permanent screens having a height of 1.5metres above finished floor level.”

The southern side upper level of the proposed dwelling does not have any windows or openings, and the northern side upper level windows are at least 1.7m above finished floor level.

The rear facing upper level openings are a living room window and the balcony.

The applicant proposes to treat the living room window and the glass balustrade of the balcony with externally fitted Koolshade mesh screening to a height of 1.5m above floor level.

The Koolshade mesh screening is generally understood to have application as a product to minimise sunlight and glare, with the applicant maintaining that the Koolshade mesh screening can also function as a privacy screen.

The use of the Koolshade mesh screening is an amendment by the applicant, as initially obscure film installed to these openings was the preferred privacy treatment.

Staff sought that the applicant amend the obscure film screening to obscure glazing as this is considered to be a more permanent solution as obscure film has the potential to peel off, or to be removed resulting in compliance issues. Obscure glazing was also sought in recognition that obscure film is not listed as permanent screening device as per PDC 18 of the Council Wide Design & Appearance provisions.

Staff are of the opinion that the Koolshade mesh screening does not resolve the permanency matter of the privacy treatment as initially raised. In addition, there is also unresolved certainty as to the effectiveness of the Koolshade matter screening to act as a privacy screen.

The applicant contends that the Koolshade privacy screen is only a pre-cautionary measure though; relying on the cross-section line of sight diagram to demonstrate that overlooking potential from the balcony towards the west is minimal.

The line of sight diagram indicates that a person of 1.5m in height standing approximately 500mm from the end of the balcony should only have a direct line of sight down to the eave height of the lower level of the dwelling located on the adjoining allotment to the west.

The adjoining dwelling to the west is two storey in design. The lower level openings facing east towards the subject land are full height glass windows and sliding doors associated with a living room and dining room, and the upper level openings facing east towards the subject land are one window associated with a stairwell.

The stairwell is less than 1.5m above floor level, but is not considered to be a habitable room that needs privacy screening.

The applicant seeks to address the matters raised in regards to the Koolshade mesh screening and ensure consistency with PDC 27 via condition – see recommended condition 7.

For information, the applicant has also provided a sample of the Koolshade mesh screening product, and manufacturer advice regarding its block-out ability.

Siting And Visibility

Objective:

PDC: 4 & 5

PDC 4 states that the excavation and/or filling of land should:

- a) be kept to a minimum and be limited to no greater than 1.5 metres in height to preserve the natural form of the land and the native vegetation, unless the built form obscures views of the earthworks from adjoining land.

The depth of excavation and filling is less than 1.5m in height, with the dwelling obscuring the excavation.

Excavation is greater than filling and will assist in reducing the visual impact of the proposed dwelling. The earthworks proposed will be retained by the dwelling itself and associated retaining walls on the side boundaries.

In regards to representor concern raised about the retaining walls impacting on development of adjoining sites it is not clear in what this impact relates to.

If the matter relates to stability of adjoining land, the engineering of the retaining walls will be assessed as part of the following building rules assessment.

Recommended note 2 signals to the applicant and owner that the retaining walls should be constructed prior to the dwelling, noting the limited side boundary setbacks which would hinder construction of the retaining walls if not undertaken prior to construction of the dwelling.

7. SUMMARY & CONCLUSION

The proposal is for the construction of a two storey split level detached dwelling, with associated combined fencing and retaining walls in the Glen Stuart Policy Area of the Residential Zone.

The main issues relating to the proposal are the bulk and scale of the dwelling, and its associated impact on visual amenity (including loss of views), overshadowing and overlooking from the upper level rear facing balcony and living room. In the Glen Stuart Policy Area two storey buildings are clearly anticipated, provided associated amenity issues are addressed.

The proposal is not considered to have an unreasonable impact on visual amenity given its articulated, split level design with single storey presentation to the street.

The adjoining site to the south is the most affected by the bulk and scale of the proposed dwelling, and the resulting overshadowing impact. It is difficult to gauge though to what extent this site will be affected as it is currently undeveloped. However, the applicant's indicative shadow diagrams with example floor plan layout suggest that the level of overshadowing to the adjoining site to the south should not be unreasonable having regard to the qualitative provisions of the Development Plan interpreted in the context of the quantitative advice from the Good Residential Design Guide SA .

Overlooking potential has largely been addressed through design, with the applicant seeking privacy treatment to the upper level west facing living room and balcony to be conditioned.

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 18/596/473 by Dechellis Homes Pty Ltd for Two storey, split level detached dwelling including balcony, combined fencing & retaining walls (maximum height 2.4m) & associated earthworks at 17 Buchanan Drive Woodforde 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 by Dechellis Homes (Sheet 1 of 25), dated 6 July 2018**
- **Lower floor plan by Dechellis Homes (Sheet 2 of 25), dated 6 July 2018**
- **Amended upper floor & upper split plan by Dechellis Homes, (Sheet 3 of 25) dated 6 July 2018**
- **East & west elevation plan by Dechellis Homes (Sheet 4 of 25) dated 6 July 2018**
- **Amended north & south elevation plan by Dechellis Homes (Sheet 5 of 25), dated 6 July 2018**
- **Retaining wall/fencing elevations plan by Dechellis Homes, dated 6 July 2018**
- **Section and levels elevations plan by Dechellis Homes, dated 6 July 2018**
- **Amended shadow diagrams – addressing private open space/windows to main living areas and addressing solar panels by Dechellis Homes, received by Council 16 October 2018**
- **Site layout plan by Intrax Engineering, revision B, dated 11 July 2018**

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

(2) Vehicle Access Point(s) Line Of Sight

The vehicle access point(s) and cross-over(s) shall be kept free of any obstructions that may obscure the line of sight of a driver e.g. vegetation, letterboxes, fences.

REASON: For safe and convenient movement of vehicles.

(3) Residential Lighting

All external lighting shall be directed away from 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.

(4) External Finishes

The external finishes to the building herein approved shall be as follows:

WALLS: Mixture of exposed Austral brickwork in 'Liquorice' colour and rendered brickwork to match Colorbond® 'Paperbark' or similar

ROOF: Colorbond® 'Monument' or similar

REASON: The external materials of buildings should have surfaces which are of a low light-reflective nature and blend with the natural rural landscape and minimise visual intrusion.

(5) Soil Erosion Control

Prior to construction of the approved development straw bales (or other soil erosion control methods as approved by Council) shall be placed and secured below areas of excavation and fill to prevent soil moving off the site during periods of rainfall.

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

(6) Stormwater Overflow

All roof runoff generated by the development hereby approved shall be directed to a rainwater tank with overflow to the Council drainage easement to the satisfaction of Council within one month of the roof cladding being installed. All roof and hard paved water runoff shall be managed to prevent trespass onto adjoining properties and into the effluent disposal area where an on-site waste control system exists.

Overflow from rainwater tanks is to be directed to the street (via a pump if necessary) or managed on-site to the satisfaction of Council using design techniques to the satisfaction of Council.

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

(7) Window & Balcony Screening

The north facing upper level windows shall have a sill height of at least 1.5m above finished floor level. Where the sill height is less than 1.5m above finished floor level, the window shall be fixed, unable to be opened and provided with obscure glazing to a height of 1.5m above finished floor level.

In addition, the upper level west facing window and balcony balustrade shall be fitted with fixed screening comprising obscure glazing, or Koolshade fabric screening, or other similar method to a minimum height of 1.5m above floor level. The screening shall be installed prior to occupation of the dwelling, and thereafter maintained in good condition and repair at all times.

The screening shall obscure views to adjoining properties to the reasonable satisfaction of Council.

Other forms of privacy screening may be a suitable alternative to the above, provided it can be demonstrated to Council that the alternative screening solution will prevent overlooking.

REASON: Buildings should be designed to not cause potential for overlooking of adjoining properties.

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) Requirement For Retaining Wall To Be Constructed Prior To Works Commencing

The retaining walls on the side boundaries of the property, as described on the site plan stamped as part of this authorisation, shall be constructed prior to the commencement of the construction of the dwelling.

(3) Public Utility Services

Public utility services including light poles and conduits may be present in the road reserve area and it is the property owner's responsibility to ensure these services are not damaged as a result of the development. It is the property owner's responsibility to negotiate the alteration of services in the road reserve. All services within the road reserve should be located prior to any excavation.

(4) Works On Boundary

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

(5) Land Subject To Encumbrance

The development herein approved involves work on land subject to an encumbrance not associated with the Council. The onus of ensuring development is in accordance with the encumbrance is the responsibility of the land owner/applicant.

9. ATTACHMENTS

Locality Plan
Proposal Plans
Referral Responses
Representations
Applicant's response to representations
Publically Notified Plans
Encumbrance Approval

Respectfully submitted

Concurrence

Marie Molinaro
Statutory Planner

Deryn Atkinson
Manager Development Services

COUNCIL ASSESSMENT PANEL MEETING
14 November 2018
AGENDA – 8.2

| | |
|--|--|
| Applicant: Service Stream Ltd | Landowner: M P Dallwitz & J A Dallwitz |
| Agent: Graeme Lane | Originating Officer: Marie Molinaro |
| Development Application: 17/710/473 | |
| Application Description: AMENDED - Telecommunications facility, comprising a lattice tower (maximum height 48.95m, including antennae), associated equipment shelter (maximum height 2.75m), security fencing (maximum height 2.4m), retaining walls (maximum height 6m) & associated earthworks (non-complying) – Amended proposal | |
| Subject Land: Lot:102 Sec: P644 DP:19712 CT:5917/890 | General Location: 1293 Montacute Road Cherryville Attachment – Locality Plan |
| Development Plan Consolidated : 28 April 2016 Map AdHi/3 | Zone/Policy Area: Watershed (Primary Production) Zone - Water Protection (Marble Hill) Policy Area |
| Form of Development: Non-complying | Site Area: 2.39 hectares |
| Public Notice Category: Non Complying Notice published in The Advertiser on 22 June 2018 | Representations Received: 12 Representations to be Heard: Representors heard at previous CAP meeting – 10 October 2018 |

1. EXECUTIVE SUMMARY

The purpose of this application is to construct a telecommunications facility.

The telecommunications facility is proposed by Telstra, but partly funded by the Federal Government through its Mobile Blackspot Funding Program. The Blackspot Program identified that there is a service coverage deficiency in the Cherryville area.

The application was submitted to the Council Assessment Panel (CAP) at its meeting of 10 October 2018.

At the 10 October meeting, CAP resolved to DEFER consideration of the application, to allow the applicant to consider alternative locations and alternative structures for the telecommunications facility.

Please refer to previous agenda document. The 10 October 2018 CAP minutes are included as **Attachment – Minutes From October 10 2018 CAP Meeting.**

Following the above resolution, the applicant has responded with advice regarding consideration of alternative locations, being a two-site solution and alternative structures.

In consideration of alternative locations, the applicant has advised that a two-site solution is not feasible.

However, a reduced structure has been proposed, being a lattice tower of 48.95m in height. This is a height reduction of 5m. No other parts of the proposal are changed. The amendment is included as ***Attachment – Amended Proposal Plans***.

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

2. DISCUSSION OF THE APPLICANT'S RESPONSE

Consideration of alternative locations

The applicant considered a two site solution, that being construction of a reduced height tower at the subject site and a second relay tower at a separate site, set further down in the valley to the east of the subject site.

The two site solution was not considered feasible for the following reasons:

- Using the subject site for a radio transmission tower only, and constructing a second relay tower down in the valley to the east would still require a tower of 45m in height at the subject site to support the radio transmissions.
- The second relay tower would need to be of a similar height to maintain the required line of sight to overcome the topography of the land.
- The second tower would most likely be positioned closer to residences than the existing site.
- The relay method may not achieve the target objectives of black spot coverage reduction.
- The mobile black spot funding is allocated for a single site solution only.

Comment:

Construction of a second facility is considered to be at variance with Council Wide Objective 115, and Council Wide PDC 342.

Council Wide Objective 115 seeks telecommunication facilities to be sited and designed to minimise visual impact on the character and amenity of the local environment, and Council Wide PDC 342 seeks co-location of telecommunications facilities where technically feasible.

Co-location of telecommunication facilities is encouraged as a method to reduce visual impact. It is considered that construction of multiple telecommunication facilities to achieve similar coverage levels will have greater impact than that of a single facility.

The applicant has considered co-location with existing telecommunication facilities in the surrounding area, these facilities being at Norton Summit and Ashton.

However, the applicant's technical data shows that the existing facilities would not transmit into the Cherryville blackspot area, therefore defeating the purpose of the proposal.

Consideration of alternative structures

The applicant considered the following alternative structure changes, that being construction of a monopole, either steel or concrete or reducing the height of the tower.

- Construction of a monopole tower, either being steel or concrete

Construction of a monopole is not technically feasible. Steel monopole designs have a maximum height of 35 metres due to the way that they are constructed. The applicant advises that a 35m high tower would not reduce the black spot coverage in the Cherryville area. Concrete monopole designs can be constructed at heights of more than 35 metres but in sections of 12 metre lengths. However the applicant advises that it would not possible to transport the 12m long section lengths to the subject site for construction due to the narrowness of the adjoining road network and physical constraints of the site.

Comment:

Construction of a lattice tower is considered by staff to be the preferred design method in reducing visual impact of the facility. This is noting that a lattice tower is open in design allowing for permeability, whilst a monopole is solid in design.

- Tower height reduction

The applicant has amended the height of the tower to a maximum of 48.95m. This is a height reduction of 5m.

The applicant has provided a photo montage comparison which shows the site currently, then with representation of 53.95m high tower and finally with the 48.95m high tower as now proposed.

The reduction in height is not considered to require re-notification of the proposal as the essential nature of the proposal has not changed.

Comment:

The reduced height tower is still clearly visible in the photo montage.

However, as discussed in the previous CAP report, the visual impact of the facility is considered to be minimised, or confined to some extent by the following measures:

- Siting of the facility in a cleared and disturbed area of the subject site.
- Excavating the pad area for the base compound area into the subject site.
- The restriction of the base compound to a relatively small area of 150 square metres.
- Construction of associated retaining walls used to retain the excavation being of a gabion natural stone wall design.
- Construction of fencing around the compound area being of open chainmesh/wire design in powder-coated black finish.
- Construction of associated storage facilities within the compound area of non-reflective materials in dark natural colours.
- Planting of native landscaping around the base compound area to screen this and the lower level of the tower from the nearby Heysen Trail.
- The tower being of an open lattice design, as opposed to solid monopole design.
- The tower being constructed of a non-reflective material and finished in a grey colour.

- The associated antenna attached to the tower being compact and close to the tower.

3. SUMMARY & CONCLUSION

The applicant has investigated alternative sites and designs, and provided additional information to assist the CAP make a determination of this proposal. The additional information is advice regarding consideration of alternative locations and alternative structures.

The applicant has advised that alternative locations are not feasible. However, an alternative structure has been proposed with a reduced height of 48.95m. This is a height reduction of 5m.

The proposed facility is responding to a community need as identified by the Federal Government Blackspot Program, and justification has been provided to support the height of the tower. Technical data has also been provided to demonstrate that co-location with existing telecommunications facilities in the area is not feasible in reducing the identified blackspot coverage.

The inherent visual amenity impact associated with the proposal is considered difficult to mitigate and balance with the functional requirements of the facility. The Development Plan does envisage telecommunication facilities in rural areas/zones. The siting and design of the facility is considered to assist in minimising the visual impact of the facility as much as practicably possible, and the proposed new landscaping will provide screening of the compound and tower base from the closest section of the Heyden Trail and the closest representor.

The proposal is considered to be sufficiently consistent with the relevant provisions of the Development Plan, despite its non-complying nature, and it is considered the proposal is not seriously at variance with the Development Plan.

In the view of staff, the proposal has sufficient merit to warrant consent. Staff therefore recommend that **CONCURRENCE** from the State Commission Assessment Panel be sought to **GRANT** Development Plan Consent, subject to conditions.

4. RECOMMENDATION

The Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and seeks the **CONCURRENCE** of the State Commission Assessment Panel to **GRANT** Development Plan Consent to Development Application 17/710/473 by Service Stream Ltd for Telecommunications facility, comprising a lattice tower (maximum height 48.95m, including antennae), associated equipment shelter (maximum height 2.75m), security fencing (maximum height 2.4m), retaining walls (maximum height 6m) & associated earthworks (non-complying) at 1293 Montacute Road Cherryville subject to the following conditions:

(1) Development In Accordance With The Plans

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

- Amended drawing No. S107294, Sheet S1 Overall Site Plan Issue 3 dated 23 October 2018
- Amended drawing No. S107294, Sheet S1-1 Site Layout Plan Issue 3 dated 23 October 2018
- Amended drawing No. S107294, Sheet S1-2 Antenna Layout Plan Issue 3 dated 23 October 2018

- Amended drawing No. S107294, Sheet S3 North East Elevation Plan Issue 3 dated 23 October 2018
- Amended drawing No. S107294, Sheet S3-1 South West Elevation Plan Issue 1 dated 23 October 2018
- Amended drawing No. S107294, Sheet S3-2 East Elevation Plan Issue 1 dated 23 October 2018
- Landscape Plan, 18ADL-0202 Revision 2 dated 5 June 2018
- Sheet A3L Key Plan by CMW Geosciences Revision 1 dated 27 April 2018
- Sheet A3L Long-section and Layout Plan by CMW Geosciences Revision 1 dated 27 April 2018
- Sheet A3 L Typical Section & Specifications by CMW Geosciences Revision 1 dated 27 April 2018

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

(2) Commercial Lighting

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

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

(3) External Finishes

The external finishes to the building herein approved shall be as follows:

Lattice Tower: Galvanised grey steel or similar

Associated Infrastructure: Grey, brown, green or similar

REASON: The external materials of buildings should have surfaces which are of a low light-reflective nature and blend with the natural rural landscape and minimise visual intrusion.

(4) Prior to Building Rules Consent Being Granted - Requirement for Soil Erosion And Drainage Management Plan (SEDMP)

Prior to Building Rules Consent being granted the applicant shall prepare and submit to Council a Soil Erosion and Drainage Management Plan (SEDMP) for the site for Council's approval. The SEDMP shall comprise a site plan and design sketches that detail erosion control methods and installation of sediment collection devices that will prevent:

- a. soil moving off the site during periods of rainfall;
- b. erosion and deposition of soil moving into the remaining native vegetation; and
- c. soil transfer onto roadways by vehicles and machinery.

The works contained in the approved SEDMP shall be implemented prior to construction commencing and maintained to the reasonable satisfaction of Council during the construction period.

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

(5) Timeframe For Landscaping To Be Planted

Landscaping, of semi-mature plant species as detailed in the approved landscaping plan (Landscape Plan, 18ADL-0202 Revision 2 dated 5 June 2018) shall be planted in the planting season immediately following the completion of the telecommunications facility. Any such vegetation shall be replaced if and when it dies or becomes seriously diseased, in the next planting season.

REASON: To maintain and enhance the visual amenity of the locality in which the subject land is situated and ensure the survival and maintenance of the vegetation and comply with the requirements of Section 42(4) of the Development Act 1993.

NOTES

(1) Development Plan Consent Expiry

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

(2) EPA Information Sheets

Any information sheets, guideline documents, codes of practice, technical bulletins, are referenced in this decision can be accessed on the following web site:
<http://www.epa.sa.gov.au/pub.html>

(3) Environment Protection (Water Quality) Policy 2015

The applicant is advised that the Environment Protection (Water Quality) Policy 2015 came into effect on 1 January 2016. Therefore, all reasonable and practicable measures must be put in place to prevent or minimise environmental harm during the construction process.

(4) EPA Environmental Duty

The applicant is reminded of his/her general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes, or may cause, environmental harm.

(5) 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.

(6) Native Vegetation Council Requirements

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

www.environment.sa.gov.au/Conservation/Native_Vegetation/Managing_native_vegetation

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

5. ATTACHMENTS

Locality Plan
Minutes from 10 October 2018 CAP Meeting
Amended Proposal Plans

Respectfully submitted

Concurrence

Marie Molinaro
Statutory Planner

Deryn Atkinson
Manager Development Services

COUNCIL ASSESSMENT PANEL MEETING
14 November 2018
AGENDA – ITEM 8.3

| | |
|---|--|
| Applicant: Shire Homes | Landowner: S G Seppelt |
| Agent: N/A | Ward: Onkaparinga Valley Ward |
| Development Application: 18/6/473 | Originating Officer: Susan Hadley |
| Application Description: Two storey dwelling, attached deck (maximum height 2.4m), carport (freestanding) & associated earthworks – Amended proposal | |
| Subject Land: Lot:4 Sec: P4208 CP:40917 CT:6192/178 | General Location: 4/ 11 Junction Road Balhannah |
| | Attachment – Locality Plan |
| Development Plan Consolidated : 24 October 2017 Map AdHi/20 & AdHi/61 | Zone/Policy Area: Township Zone - Township (Balhannah) Policy Area |
| Form of Development: Merit | Site Area: 689m ² |
| Public Notice Category: Category 2 Merit | Representations Received: 9 Representations Heard Previously: 7 |

1. EXECUTIVE SUMMARY

This application seeks Development Plan Consent for a two storey dwelling with a deck, a freestanding carport and associated earthworks.

The subject land is located within the Township Zone and the Township (Balhannah) Policy Area and the proposal is a merit form of development. Nine representations were received during the Category 2 public notification period. Of the representations received two were in support and the other representations were conditional support should their concerns be overcome.

The application was submitted to the Council Assessment Panel (CAP) at its meeting of 10 October 2018.

At the 10 October meeting, CAP resolved to DEFER consideration of the application, to allow the applicant to consider alternative design techniques to reduce overshadowing of the dwellings on the property to the south due to the proposed height of the dwelling and setbacks from the adjoining boundaries.

Please refer to previous agenda document. The 10 October 2018 CAP minutes are included as **Attachment – Minutes From October CAP Meeting**.

Following the above resolution, the applicant has responded by providing amended plans which include an amended colour scheme, additional fixed privacy screens, obscure glazing to southern windows, removal of the eaves from the southern side of the dwelling, landscape planting and revised shadow diagrams for further consideration by the CAP. The amended plans and shadow diagrams are included as **Attachment – Amended Proposal Plans**.

In consideration of the amended plans and amended shadow diagrams and following an assessment against the relevant zone and Council Wide provisions within the Development Plan, staff consider the amended proposal addresses the previous issues raised. Staff are recommending that the proposal in its amended form be **GRANTED** Development Plan Consent.

2. DISCUSSION OF APPLICANT'S RESPONSE

Details of the amended proposal

The applicant provided amended plans that include:

- An amended floor layout whereby the laundry, store, kitchen and pantry on the northern side of the building has been re-arranged
- Slight modifications to the position of the access doors to bedrooms 3 and 4
- A change in the roof colour to Colorbond Dune, a light neutral colour and a change to external cladding to Dulux Tranquil Retreat, a soft grey colour
- The eastern and western verandah ends enclosed with a 1.7 metre high fixed horizontal blade louvered screen
- Clarification that the floor space of the courtyard area is proposed as a suspended floor with a solid privacy screen included at the fence line adjacent the courtyard on the southern side of the building
- Amendment to three windows on the southern side of the building and opaque glazing to these
- A 1.7 metre high privacy screen along the verandah at the rear of the building from the southern end which wraps around and along the length of the verandah for a distance of 5.39 metres
- Removal of the 300mm eaves on the southern side of the building
- A landscaping plan has been provided that includes planting of mature Lilly Pilly trees 1 metre from the southern boundary opposite Units 2 & 3 to form a hedge to assist with potential overlooking issues
- Amended overshadowing plans have been provided to reflect the reduction in the amount of shadow cast after removing the eaves on the southern side of the building.

Comment:

Modifications to the floor plan layout are considered negligible and do not alter the assessment in any way as there are no additional impacts to be considered.

The amended colour scheme is considered to be less obtrusive and the more subdued tones should not detract from the character or amenity of the locality.

The amended proposal is considered to accord with Council Wide Design and Appearance PDCs 1, 3 and 18.

The inclusion of opaque glazing to the windows on the southern elevation, 1.7 metre high fixed privacy screens along the southern side of the building and to the rear verandah and proposed landscape planting adjacent to the southern boundary are considered appropriate design techniques to minimise potential overlooking into the adjacent units to the south.

In consideration of the additional screening techniques included, the amended proposal has adequately addressed the potential for overlooking and therefore accords with Council Wide PDC 27 for Residential Development.

The original plans received by Council, dated 3 January 2018 detailed a finished floor level of 100.20 metres. Subsequent amendments to the proposal received by Council, dated 28 June 2018 reduced the finished floor level by 200 millimetres to reflect a finished floor level of 100.00 metres. This latter finished floor level was considered in the previous report and is included as **Attachment – Superseded Proposal Plans**

The shadow diagrams presented to the Panel at the meeting on 10 October 2018 reflected an amended roof line to correlate with the floor plan layout that had been amended earlier in the proposal. The shadow diagrams provided on 10 October 2018 were based on the finished floor level of 100.00 metres.

Whilst there has not been a further reduction to the height of the building or the finished floor level, the amended shadow diagrams received by Council 29 October 2018, reflect the altered roof line without the 300 millimetre eaves along the southern side of the building. As a result of removing those eaves from the southern side of the building the diagrams demonstrate the impact from overshadowing on the adjacent southern property (unit 1 of the adjoining retirement village), is significantly improved. Unit 1 comprises a private open space of approximately 32m² within the rear courtyard adjacent the proposed development. The amended shadow diagrams demonstrate sunlight reaches approximately 29m² of the private open space at 9:00am and approximately 20m² at 11:00am which is reduced to 12.5m² by 12:00pm before being entirely overshadowed by 3:00pm.

Based on performance criteria which address sunlight standards for private open space within the Good Residential Design SA Guidelines, the amended proposal is considered to adequately balance the new development with retention of sunlight access for the dwellings to the south. Whilst there is not the desired minimum of 35m² of open space with access to sunlight for a minimum of two hours on the winter solstice there is a minimum of 20m². This is considered an acceptable improvement and a reduction in the impact of the development on the adjoining dwelling's private open space.

In consideration of the amended proposal, the external impacts on the amenity of adjacent land has been adequately addressed and is considered to reasonably accord with Council Wide provisions Design and Appearance PDC 2(b), 7(a) and (b) and 17(b).

3. SUMMARY & CONCLUSION

The applicant has provided amended plans in response to the comments and concerns raised regarding the proposal.

The amended plans are considered to adequately address the issues previously associated with the proposal. The visual impact of the building has been addressed by amending the colour scheme and the proposed new screening elements have adequately mitigated the potential for overlooking.

Whilst the overall height of the building has not been further reduced, the shadow diagrams demonstrate that the impact of overshadowing on the adjacent private open space for unit 1/13 Junction Road has been substantially reduced. As a result of the reduced overshadowing, the impacts on the amenity of the adjacent property are considered to have been adequately addressed and therefore the proposal satisfies the desired character for the Zone and Policy Area.

The amended proposal is therefore considered to be sufficiently consistent with the relevant provisions of the Development Plan relating to amenity, overshadowing and overlooking.

In the view of staff, the proposal in its amended form has sufficient merit to warrant consent. Staff therefore recommend that Development Plan Consent be **GRANTED**, subject to conditions.

4. RECOMMENDATION

The Council Assessment Panel considers that the proposal in its amended form is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent to Development Application 18/6/473 by Shire Homes for Two storey dwelling, attached deck (maximum height 2.4m), carport (freestanding) & associated earthworks at 4/ 11 Junction Road Balhannah subject to the following conditions:

(1) Development In Accordance With The Plans

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

Plans prepared by Shire Homes Pty Ltd:

- Amended floor plan (sheet 1 of 5, Amended 26.10.18) received by Council 1 November 2018
- Carport elevations & floor plan (sheet 1A of 5, Amended 26.10.18) received by Council 29 October 2018
- Amended southern side, rear and front elevation plan (sheet 2 of 5, Amended 26.10.18) received by Council 1 November 2018
- Amended northern side elevation plan (sheet 3 of 5, Amended 26.10.18) received by Council 29 October 2018
- Amended site plan (sheet 4 of 5, Amended 29.10.18) received by Council 29 October 2018
- Landscape plan received by Council 29 September 2018

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

(2) Verandah/Courtyard/Balcony Screening

The verandah, courtyard and balcony of the dwelling shall be fitted with fixed screening on the southern, northern and rear elevation plans to a minimum height of 1.7 metres above the finished floor level. The screening shall be maintained in good condition at all times.

REASON: Buildings should be designed to not cause potential for overlooking of adjoining properties.

(3) Obscure Glazing To Windows

The southern elevation windows of the dwelling shall be glazed with fixed obscure glass to a minimum height of 1.7 metres above finished floor level. The glazing in these windows shall be maintained in good condition at all times.

REASON: Buildings should be designed to not cause potential for overlooking of adjoining properties.

(4) External Materials And Finishes

All external materials and finishes shall be of subdued colours which blend with the natural features of the landscape and are of a low-light reflective nature.

NOTE: Browns, greys, greens and beige are suitable and galvanised iron and zincalume are not suitable.

REASON: The external materials of buildings should have surfaces which are of a low light-reflective nature and blend with the natural rural landscape and minimise visual intrusion.

(5) Enclosing Of Under Floor Area

The space between floor and natural/existing ground level reflected on elevations drawing (amended northern side elevation plan (sheet 3 of 5, Amended 26.10.18) received by Council 29 October 2018 and amended southern side, rear and front elevation plan (sheet 2 of 5, Amended 26.10.18) received by Council 1 November 2018) shall be enclosed prior to occupation of the approved dwelling with the same external cladding as for the walls of the dwelling.

REASON: To maintain the residential amenity of the locality, buildings raised above ground level on poles or other supports should have the space below floor level enclosed in fire resistant material.

(6) Timeframe For Landscaping To Be Planted

Landscaping detailed in the landscaping plan dated received by Council 29 September 2018 shall be planted in the planting season following occupation and maintained in good health and condition at all times. Any such vegetation shall be replaced if and when it dies or becomes seriously diseased in the next planting season.

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

(7) Firefighting Water Supply - Mains Water Supply Available

A supply of water independent of reticulated mains supply shall be available at all times for fire fighting purposes:

- a minimum supply of 2,000 (two thousand) litres of water shall be available for fighting purposes at all times; and
- the water supply shall be located such that it provides the required water; and
- the water supply shall be fitted with domestic fittings (standard household taps that enable an occupier to access a supply of water with domestic hoses or buckets for extinguishing minor fires); and
- the water supply outlet shall be located at least 400mm above ground level for a distance of 200mm either side of the outlet; and
- a water storage facility connected to mains water shall have an automatic float switch to maintain full capacity; and

- where the water storage facility is an above-ground water tank, the tank (including any support structure) shall be constructed of non-combustible material.

REASON: To minimise the threat and impact of fire on life and property as your property is located in a MEDIUM Bushfire Prone Area

(8) Stormwater Directed To Council Stormwater Point

All roof runoff generated by the development hereby approved shall be directed to a rainwater tank with overflow to the stormwater headwall in the Reserve at the rear of the allotment (via a pump if necessary) to the satisfaction of Council within one month of the roof cladding being installed. All roof and hard paved water runoff shall be managed to prevent trespass onto adjoining properties.

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

NOTES

(1) Works On Boundary

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

(2) Sewer Connection

The dwelling shall be connected to SA Water mains sewer supply in accordance with the approval granted by SA Water. All work shall be to the satisfaction of SA Water.

(3) 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.

(4) EPA Environmental Duty

The applicant is reminded of his/her general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes, or may cause, environmental harm.

- 5. ATTACHMENTS**
Locality Plan
Minutes from October CAP Meeting
Amended Proposal Plans

Respectfully submitted

Concurrence

Susan Hadley
Statutory Planner

Deryn Atkinson
Manager Development Services

COUNCIL ASSESSMENT PANEL MEETING
14 November 2018
AGENDA – ITEM 8.4

| | |
|---|---|
| Applicant: Reginald Fiora | Landowner: C Fiora |
| Agent: Jeff Smith- Planning Chambers | Originating Officer: Sam Clements |
| Development Application: 15/1014/473 (15/D044/473) | |
| Application Description: Land division: 1 into 2 allotments and Boundary Realignment: 3 into 2 allotments (non-complying) (SCAP decision authority) | |
| Subject Land: Lot:45 Sec: P3932 FP:129499 CT:5465/524 Lot:101 Sec: P3927 DP:77335 CT:6020/59 Sec: 505 CT:5666/31 Lot:42 Sec: P110 FP:217949 CT:5885/776 Lot:10 Sec: P110 FP:129464 CT:5809/533 Lot:1 Sec: P107 FP:129455 CT:5274/987 Lot:4 Sec: P110 FP:129458 CT:5809/663 Lot:1 Sec: P3926 DP:18164 CT:5701/727 | General Location: Lot 45 Gallasch Road, 83 & 143 Beaumont Road, 34 Ambulance Road, 19 & 39 Grivell Road, and Lot 1 Onkaparinga Road, Verdun Attachment – Locality Plan |
| Development Plan Consolidated : 9 January 2014 Map AdHi/3 & 42 | Zone/Policy Area: Watershed (Primary Production) Zone & Onkaparinga Slopes Policy Area |
| Form of Development: Non-complying | Site Area: Boundary re-alignment site- 35.76 Ha Additional allotment site- 9.25 Ha |
| Public Notice Category: Category 3 Non Complying Notice published in the Mt Barker Courier 3 October 2018 by SCAP | Representations Received: 5 Representations to be Heard by SCAP: 4 |

1. EXECUTIVE SUMMARY

The purpose of this application is for two land divisions combined into the one application, namely a boundary realignment (3 into 2 allotments) and a land division to create one additional allotment (1 into 2 allotments) at Verdun. The purpose of the proposal is essentially to relinquish the claimed residential development rights on existing allotment 45 Gallasch Road in order to justify the creation of an additional allotment some 1.2km to the south-west on existing allotment 1. Hence the reason for combining the boundary re-alignment and land division proposals within the one application. Both of the allotments are in the ownership of Reginald Fiora.

The subject land is located within the Watershed (Primary Production) Zone and the Onkaparinga Slopes Policy Area and the proposal is a non-complying form of development as it results in the creation of an additional allotment. Five representations in opposition were received during the Category 3 public notification undertaken by the State Planning Commission (SCAP).

The proposal does not increase development potential within the Zone as the claimed residential development rights on existing allotment 45 are to be relinquished in this proposal and essentially shifted to the proposed new allotment. It is therefore considered that the overall proposal therefore does not further increase impacts on water quality within the Mount Lofty Ranges Watershed Area. However, the proposal seeks to create an additional allotment in a Zone that does not envisage this. The proposal also increases the number of allotments within an area of native vegetation and places development potential in closer proximity to hazardous vegetation, specifically on a property that features native bushland. The overall land division does not improve the management of the land for primary production and/or for the conservation of its natural resources.

As per the Council Assessment Panel (CAP) delegations, CAP is the relevant authority to provide comments to the SCAP as the decision authority on this matter. The SCAP is the relevant authority as the proposal seeks to create an additional allotment within the Mount Lofty Ranges Water Protection Area. As the proposal is non-complying the SCAP must obtain the concurrence of the Council if it was to consent to the proposal.

The main issues relating to the proposal are whether allotment 45 is developable in its own right, bushfire matters, vegetation and water quality impacts, site contamination, impact on primary production, amenity impacts (dust and traffic movements), the creation of an additional allotment within the subject Zone and an increase to the number of allotments that are solely reliant on rights of way for access.

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 Council Assessment Panel **DOES NOT SUPPORT** this application and that the State Commission Assessment Panel are advised accordingly.

2. DESCRIPTION OF THE PROPOSAL

The proposal is for both a boundary re-alignment and the creation of one additional allotment. The below table summarises the two distinct proposals.

Existing Allotments

| Allotment | Area (ha) | Currently containing | Access | Proposal |
|----------------------|-----------|--|--|--|
| 101 | 30.7 | House and cattle dairy/livestock grazing | Via Beaumont Road | Boundary re-alignment |
| 45 | 0.946 | Vacant | No access- 'land locked' | Boundary re-alignment |
| 1 (Beaumont Road) | 5 | House and livestock grazing | Via Beaumont Road | Boundary re-alignment |
| 1 (Onkaparinga Road) | 9.25 | Vacant, abandoned quarry and bushland | Via a right of way over allotment 6 (30A Onkaparinga Road) | Site for the creation of an additional allotment |

The other allotments included in the land division (Section 505, lot 42, lot 10 and 204) are only 'in-between' parcels which are not altering aside from the change in title references and lot numbers by virtue of the proposed deposit plan.

Proposed Allotments

| Allotment | Area (ha) | Containing | Access | Proposal |
|-----------|-----------|--|--|-------------------------------------|
| 200 | 31.3 | House and cattle dairy/livestock grazing | Via Beaumont Road | Boundary re-alignment |
| 199 | 4.46 | House and livestock grazing | Via Beaumont Road | Boundary re-alignment |
| 206 | 2.54 | Vacant, bushland | Via a right of way over allotment 6 (30A Onkaparinga Road) | Creation of an additional allotment |
| 205 | 6.71 | Vacant, abandoned quarry | Via a right of way over allotment 6 (30A Onkaparinga Road) | Creation of an additional allotment |

The plan of division includes:

- The watercourses on the proposed new allotments, contour data, and indicative building envelopes and effluent disposal areas on proposed new allotments 205 and 206

Supplementary documentation that has been provided includes:

- A plan for allotment 45 showing a proposed dwelling, a CFS truck turnaround area including an indicative right of way, an effluent disposal area, setback to watercourses, private open space and an indicative acoustic fence
- A report on the potential on-site wastewater system for the land division and a surface soil bore log
- Photos of the bore logs being undertaken on each of the sites
- An Environmental Site History Report prepared by Mott MacDonald
- A proposed access plan to demonstrate where passing bays are likely to be located along the right of way and driveway for proposed new allotment 205
- The statement of effect which states the agreement of the owner of allotment 101 has been given to a right of way appurtenant to allotment 45

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

| APPROVAL DATE | APPLICATION NUMBER | DESCRIPTION OF PROPOSAL |
|--------------------|--------------------|--|
| Not yet determined | 10/D064/473 | Boundary re-alignment (7 into 7) (non-complying) |

In 2010 the original land division application 473/D064/10 was lodged that involved these titles. This was lodged as a boundary re-alignment (7 into 7) and was originally treated as an on-merit development by the Development Assessment Commission (DAC now SCAP) and referred to Council for comment. The then CDAP advised DAC that it did not support the proposal. The resolution from the 6 December 2011 meeting is detailed below:

That the Council Development Assessment Panel considers the proposal to be at variance with the relevant provisions of the Adelaide Hills Council Development Plan and does not support the proposal for boundary realignment (DAC Decision) by R M Fiora & M Fiora at 143 Beaumont Road, 34 Ambulance Road, 19 & 39 Grivell Road and Lots 45 Gallasch Road and Lot 1 Onkaparinga Valley Rd, Verdun for the following reasons:

- (1) *The Land Division will not improve management of the land for primary production purposes and does not correct a boundary anomaly, which is contrary to Watershed (Primary Production) Zone Principles of Development Control 20(b).*
- (2) *It has not been adequately demonstrated that current Lot 45 and proposed Lots 205 and 206 are suitable for rural residential use without impacting on primary production having regard to location and size of the allotments, which is contrary to Watershed (Primary Production) Zone Principles of Control 16 and Council Wide Principles of Development Control 3 and 28.*

Following receipt of Council's comments it is understood that the DAC later determined the proposed boundary re-alignment to be non-complying development as the proposal created an additional allotment in the Watershed (Primary Production) Zone. This determination was then challenged in the Environment, Resources and Development Court (ERD) and was considered at a hearing on 20 October 2015. The Court upheld the decision to treat this proposal as non-complying and further advised that the proposal was not a boundary re-alignment in the order made on 28 October 2015 by His Honour Judge Costello. His Honour determined that 'there were several factors pointing to the proposal being for two discrete developments, as opposed to one composite development.' He concluded that the 'essential nature of the proposed development represented two discrete, independent land divisions, one of which seeks to divide a single allotment into two.'

For reasons unknown, the applicant abandoned the above mentioned application (not yet formally withdrawn) and lodged the subject application 15/D044/473 (15/1014/473) on 9 October 2015. It is noted that the lodgement was prior to a determination by the Court on whether the original application 10/D064/473 had been determined correctly as non-complying development.

The applicant then appealed the decision made by the ERD Court to the Supreme Court. The Supreme Court found that both the DAC and the ERD Court were correct in treating the proposal as non-complying as the application represented two discrete, independent land divisions.

Since these judgements, the proposal itself has not been amended but acknowledging that since these orders the development has now been described differently by the SCAP. Whilst the proposals have been determined to be discrete from one another, the SCAP has allowed the two land divisions to be processed in the one application. The proposal is now re-termed as a boundary re-alignment (2 into 3) and a land division to create an additional allotment. The SCAP resolved to proceed with an assessment, re-referred the proposal to the relevant agencies and have undertaken category 3 public notification.

Further to the above, the land division plan has been updated to show more detail, mostly on allotments 205 and 206. The plan now shows contour data, watercourses, and indicative building envelopes and effluent disposal areas but the proposal remains the same as that lodged on 9 October 2015.

4. REFERRAL RESPONSES

- **EPA**

Comments on this proposal have not yet been provided.

However, the EPA's previous comments on 10/D064/473 are of some benefit as the proposal has only changed by virtue of its nature in that it is now described as two distinct proposals applied for in the one application. Also, it is noted and the EPA now only comment on water quality impacts in relation to the non-complying proposals that are not activities of environmental significance within the Mount Lofty Ranges Watershed. Their water quality comments and concerns on the original application are summarised below:

The plan of division has indicated where a dwelling could be located on proposed allotments 205 and 206 and where an associated wastewater disposal area would be located more than fifty metres from the nearest watercourse. This is satisfactory to the EPA.

Concerns on other matters unlikely to be included in comments on this proposal:

The EPA were concerned that the creation of two new residential allotments near the South Eastern Freeway may result in poor amenity and noise nuisance to the future occupants of the dwellings on these allotments. Consideration should be given to the potential noise impacts in process of design and siting of the future dwellings.

In addition, the old quarry on proposed lot 205 may be source of site contamination and potential health impacts to the future residential on that allotment. Prior to making a decision on this application, this matter should be investigated according to the measures outlined in Planning Advisory Notice 20 by Planning SA. To demonstrate that the allotment would be suitable for residential use, the planning authority is recommended to seek further information from the applicant.

- **SA WATER**
As there are no services available to these allotments SA Water has no comments to make.
- **NVC**
No comment to make on the original proposal. Comments not yet provided on the revised proposal.
- **DPTI**
DPTI raised no objection to the proposal and requested that a condition be included in any consent that highlights that no direct access to the South Eastern Freeway is permitted and access must be via the rights of way to Onkaparinga Road.
- **CFS**
The CFS raised no objection to the proposed land division, but did highlight that 'bushfire hazard' has the potential to significantly impact on these proposed allotments. Some other comments:
 - The access to the proposed allotments shall be in accordance with the Minister's Code
 - The existing access to proposed allotments 205 and 206 will require widening and significant vegetation clearance
 - The hazard present on the proposed allotments 205 and 206 is such that that the allotments may require more than 20 metres of clearance to reduce construction costs and/or to site the home in a location to avoid unacceptable bushfire risk

Comment - No bushfire risk comparison was undertaken that compared the risk for existing allotment 45 to either proposed new allotment 205 or 206.
- **AHC EHU**
Council's Environmental Health Officer advised the waste control system for any site would need to be designed for 6 persons, and would require soil percolation testing and an Engineer's report that certifies the design of such.

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

5. **CONSULTATION**

The application was categorised as a Category 3 form of development in accordance with Section 38(2)(c) of the Development Act 1993 requiring formal public notification and a public notice. As mentioned above, the SCAP as the decision authority have undertaken this process. Five representations in opposition were received during the Category 3 public notification period and four of these have requested to be heard by the SCAP. A summary of the representations received by the SCAP are detailed below:

| | Position | Wish to be heard | Key Issues | Valid |
|---|-----------------|------------------|---|-------|
| 1 | Oppose | No | <ul style="list-style-type: none"> The creation of an additional allotment is inconsistent with current 'regulations' Owner of land adjacent to existing Lot 45 (adjacent railway line) – was advised upon purchase of land that amalgamation of Lot 45 into a new title would not be done | Yes |
| 2 | Oppose | Yes | <ul style="list-style-type: none"> Additional groundwater installations (bores) not identified in the Site History Report Inconsistent with PDC 20 (Zone) – not a minor readjustment of boundaries Existing Lot 45 is not capable of being developed; does not provide an existing 'development right'; and therefore the proposal creates an additional allotment in the watershed Impact on existing right of way to provide access to the new allotment; requirement to upgrade (who will pay?); increased vehicular movements | Yes |
| 3 | General Comment | Yes | <ul style="list-style-type: none"> Land is affected – no further detail provided | Yes |
| 4 | Oppose | Yes | <ul style="list-style-type: none"> Increased traffic flow Impact on groundwater flows Impact on right of way | Yes |
| 5 | Oppose | Yes | <ul style="list-style-type: none"> Increase in traffic and dust nuisance on private road and Onkaparinga road Increased noise nuisance Width of private road unsuitable for CFS access | Yes |

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

6. PLANNING & TECHNICAL CONSIDERATIONS

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

i. The Site's Physical Characteristics

Boundary re-alignment

Allotment 45

This allotment is essentially 'land locked' with an approximate cross fall of 1:5 from the north-west to the south-west which forms part of a drainage area for two creeks to the south east. The parcel of land is an irregular triangular shape, specifically 38.42 metres wide, narrowing to a point in the south-western corner, with the longest boundary being 80m in length. No vegetation exists on the allotment. The average rainfall for the area is 987mm and it is located in a 'high' bushfire prone designated area.

Access to allotment 45 would only be possible by extending a portion of the current unmade section of Gallasch Road from the north-east and then developing a suitable safe crossing over the existing railway line. Any extension would require significant earthworks and removal of vegetation in the road reserve. Alternatively, a right of way (RoW) would be negotiated across the adjacent property which is also owned by Mr Gallasch (allotment 101). A RoW would be approximately 500m length and provide access to Beaumont Road. This is the option the applicant pursued and it has been indicated in the statement of effect that Mr Gallasch would be willing to grant such.

Based on a historical title search back to 1921, this allotment was previously part of an allotment comprising two pieces. This allotment was one piece on the southern side of the railway line and the other piece was on the northern side, which is now lot 4 (16 Gallasch Road). This allotment comprising two pieces divided by the railway line was described as portions of Section 3932 on the 1921 Certificate of Title (CT 1219/198). Based on the plan the road reserve appears to have passed the southern frontage of this piece at that time. In 1974, these parcels were separately titled.

Allotment 101

Council's records indicate that this property is used for residential purposes and as a dairy. Inspection of the land indicates the dairy does not seem to be operational. The dwelling and shedding are grouped together in the north-eastern corner of the site with two crossovers to Beaumont Road. There are two watercourses that flow through the site joining in the north-eastern portion of the land. This watercourse then flows to the south-east towards the adjacent allotment to the south and then passes under Beaumont Road. The allotment is undulating with a slope of approximately 1 in 6 to 1 in 10. The steeper portion of the land is the higher lying land in the south-western corner of the site.

Allotment 1 (Beaumont Road)

This allotment features a dwelling and shedding in the south-eastern corner of the site. The land is used for residential and livestock grazing purposes. Watercourses pass through the northern portion of the site. This allotment has a relatively mild slope of approximately 1 in 15.

Land division- creation of an additional allotment

Allotment 1 Onkaparinga Road

This allotment is a vacant bushland block that was once a quarry for rubble. Based on the site history provided, the subject land has been owned by Reginald Morris Fiora (Quarryman) since 18 May 1970. Historical aerial imagery shows the quarry was operational in the 1980's and was located in the north-western portion of the site closer to the railway line. This quarry area is now more vegetated but is still evident on aerial imagery. The access track to this part of the site is narrow and overgrown and at the end of this access track there is a weighbridge. The allotment is densely vegetated with a mixture of vegetation. Substantial clusters/areas of native vegetation are located in the northern and south-western portions of the site. These native vegetation areas are mapped on standard government mapping.

A blue marker indicates that high value native vegetation is located on the southern boundary, along the western end. Two watercourses pass through the north-western portion of the site.

ii. The Surrounding Area

Allotment 45 is significantly smaller than the vast majority of the allotments within the locality. The average size of the larger allotments is in the order of 45ha with the largest being approximately 109ha. The average size of the smaller allotments is approximately 5ha with the smallest being 2ha in area.

The dominant land use within the locality is primary production particularly on the larger allotments, and generally consists of grazing and some horticulture, whilst the smaller parcels are generally rural living lifestyle allotments. The allotments in the southern portion of the locality are predominantly rural living allotments. The topography of the surrounding locality ranges from rolling hills in the north to steeper valleys closer to the South Eastern Freeway with meandering watercourses draining along the valleys.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

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

Policy Area

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

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

Objectives: 1

PDCs: -

The boundary re-alignment component of the proposal would remove a historical small holding that is not consistent with size of allotments within the locality. However, this allotment is not visible from roadways in the locality and has never been developed due to its constraints and low level of amenity created by its proximity to the railway line. The other component of the proposal is to create an additional allotment for rural living purposes, which is directly contrary to the Policy Area Objective. Allotment 45 is a historic small allotment that was originally a piece of an allotment comprising two pieces. These parcels were allowed to be separately titled in 1974. On balance, the proposal is considered to be inconsistent to Objective 1.

Zone

- *Seeks to maintain and enhance the natural resources as well as amenity and the landscape of the south Mount Lofty Ranges*
- *Maintain water quality and ensure the long-term sustainability of rural production*

The following are considered to be the relevant Zone provisions:

Objectives: 1, 2, 3, 4 & 5

PDCs: 1, 2, 3, 4, 9, 14, 15, 16, 17, 18, 19, 20, 21, 22, 31, 32, 34, 36, 37, 42 & 44

Form of Development

It is considered that if increased development potential is created in rural areas (creation of additional allotments), water quality will be incrementally diminished and primary production prejudiced. Also, the natural and rural character of these areas will incrementally be lost and the distinction between townships and rural land diminished. Therefore, a fundamental consideration in this application is whether the proposal will increase the development potential on the land. The proposal includes two distinct land divisions in the one application in an endeavour to justify the creation of an additional allotment within the Zone. The boundary re-alignment involves reducing the number of allotments from three to two and adjusts the boundaries between allotments 1 and 101. There is clearly some subjectivity in considering how far the applicant must go to prove that development rights (for residential development) exist on an allotment, and in this case the ability to develop allotment 45. As mentioned, this is a small, 'land locked' site and that is very constrained with a low level of amenity given its proximity to the railway line. However, it is considered that acoustic matters can generally be overcome. The fact that the allotment is extremely small within a rural area and would not have a sufficient buffer from adjacent rural land and therefore potential intensive rural land uses and activities is a concern though. Whilst development of this existing allotment could prejudice primary production land, this does not make this allotment undevelopable.

The concept provided shows a very small dwelling of approximately 85m² (excluding the carport), with private open space, an effluent irrigation area of 169m² and a CFS appliance turnaround area including a right of way for access and an indicative acoustic fence. It is also noted that any dwelling on this site would also require large water storage tanks for water supply purposes. The applicant's consultant engineers have confirmed that a waste control system on this site could meet the current on-site wastewater codes. Without an in-depth assessment of a dwelling proposal it is considered that, while severely constrained and not particularly suitable for rural residential development, this allotment is developable in its own right whilst limited based on the fundamental matters of waste control, private open space, car parking and access. This is based upon the proviso that consent to provide a right of way is provided in a statutory declaration by the adjacent property owner Mr Gallasch.

A future dwelling on proposed allotment 205 or 206 is unlikely to detract from the natural and rural character of the locality as it should not be visible from roadways and the South-Eastern Freeway due to the location being on the low side of the freeway and there being dense vegetation coverage on these allotments. Any future building is unlikely to be obtrusive and could sufficiently comply with PDCs 1, 2 and 3 which provide guidance on what built form is appropriate in the Zone. The land division will also not result in the creation of any constrained sites in which built form could not achieve compliance with the setback requirement to watercourses (PDC 4). The proposal is considered to be consistent with Objective 5.

The proposal proves that a suitable site for a dwelling could be located on proposed allotments 205 and 206 to comply with Table AdHi/5. The separation distances to watercourses for both an indicative dwelling and effluent disposal area, depth to bedrock and slope comply with these criteria. The proposal is consistent with PDC 18.

The land division should not cause the loss of primary production land. The re-alignment between allotments 101 and 1 transfers approximately 0.5 of a hectare between these allotments. As this increases the larger of the two allotments and places a portion of land that is naturally divided by a watercourse into the neighbouring allotment, this part of the proposal is not considered to result in a loss of primary production land and is also considered to improve the management of land for primary production purposes. The land to the south which is proposed to be divided has limited primary production potential as proposed allotment 205 is densely covered in native vegetation. The indicative dwelling site and effluent disposal area are the only areas that are not densely vegetated on the site. Allotment 206 has more cleared areas, but it is still constrained for primary production purposes. The proposal therefore is considered to have no impact on primary production activity occurring on the subject land. The proposal is not considered at odds with Objective 3.

Albeit that proposed allotment 205 or 206 is considered to be much more likely to be developed for residential purposes and these allotments could be developed with considerably larger dwellings, the proposal should not result in the pollution of water resources as there is theoretically no increase to development potential on the subject land. It is noted that all dwellings, irrespective of their size are considered 'on-merit' within the Zone, provided that they comply with the exemptions in PDC 70, which includes compliance with Table AdHi/5. The size of the dwellings, the number of occupants within such and the resulting wastewater generation is not a matter heavily scrutinised, and does not have EPA involvement. The proposal is considered to be sufficiently consistent with PDC 19 and Objectives 1 and 2.

The proposal removes a small allotment (lot 45) that has insufficient area to provide for suitable buffers and may therefore remove an allotment that could potentially cause land use conflicts. However, the adjacent land is grazing land currently and is not used for more intensive purposes that would require a significant buffer. The creation of the additional allotment on the southern site should also not prejudice primary production (currently livestock grazing) on adjacent allotment 3 to the north. The southern site is not particularly suitable for primary production. The proposal is considered to accord with PDCs 16 and 17.

Land division

As detailed above, the proposed boundary re-alignment part of the proposal is considered to be relatively minor, resulting in a small percentage of land area being transferred between allotments 1 and 101. This re-alignment could be considered to improve the management of land for primary production as this portion of land is physically divided by a watercourse.

The proposal also seeks to create one additional allotment and is therefore not a re-adjustment of existing boundaries to address an anomaly or to improve the management of land for primary production or conservation of its natural features. There is no primary production benefit, but there is also likely to be no loss of or impact to such, from the proposal for the reasons highlighted above. The intent of the Zone is to only permit boundary re-alignments and that these will only occur if they are minor re-adjustments and are for purposes set out in PDC 20. The overall proposal is also not for these purposes; its purpose is to facilitate residential development within the Zone and essentially to justify the creation of an additional allotment. As it was legally not possible to do this via a boundary re-alignment without all the intermediary allotments being adjusted in some way, the application has been re-termed to a proposal for two distinct land divisions in the one application. Whilst the boundary re-alignment is its own distinct proposal, it is included in the application for the creation of an additional allotment to justify the creation of this additional allotment. The Zone does not contemplate the creation of additional allotments and even re-alignments to facilitate this, and therefore the proposal is considered to be largely inconsistent with PDC 20.

The EPA has previously accepted that the proposal will not result in a greater risk to water quality, consistent with PDC 21. The re-arrangement of boundaries does produce allotments that are consistent with the locality and the proposal is consistent with PDC 22.

Conservation

The proposal will facilitate a change of the land use in an area that features significant native vegetation. The land is divided in a way that increases the number of allotments in an area of native vegetation. The dividing boundary in-between proposed allotments 205 and 206 could result in the clearance of native vegetation. No details of the extent, proximity and species of vegetation have been provided through this area. The mapped native vegetation areas are located entirely within proposed allotment 205. Aside for clearance for a fence line and for driveway widening, a future proposal for a dwelling on either proposed allotments 205 or 206 is not likely to result in significant clearance of native vegetation noting that there are somewhat clear sites on these allotments. Any future development of these proposed allotments could achieve compliance with PDCs 31 and 32 as this provision refers to adverse impact on native vegetation. The proposal is inconsistent with PDC 34 and Objective 4 as the proposal results in a greater risk of native vegetation clearance than the development of existing allotment 1 or allotment 45

Rural Development

The proposal does not maintain the subject land for primary production purposes and other compatible uses, but the southern site has not been used for such purposes for a significant amount of time and due to the dense vegetation coverage it is not particularly suitable for such. As mentioned, the proposal to create an additional allotment is not likely to prejudice primary production, but generally residential development is still not considered to be compatible with more intensive primary production uses envisaged in the Zone. The proposal is not consistent with PDC 42, but accords with PDC 44.

b) Council Wide provisions

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

- *Land in appropriate localities divided into allotments in an orderly and economic manner*
- *Development to be undertaken on land that is suitable for the intended purpose, whilst also having regard for the zoning of the land*
- *Protection of productive primary production land from conversion to non-productive or incompatible uses*
- *Retention of rural area for the maintenance of the natural character and rural beauty of these areas*

Form of Development

Objectives: 1, 4, 5 & 6

PDCs: 1, 2, 3, 9, 18 & 19

The proposal seeks to divide land that is outside of township boundaries. As the proposal seeks to create one additional allotment, the proposal does not prevent the continued encroachment of urban development into rural areas, but contributes to add to it as it creates more attractive allotments for residential development. The proposal is not orderly in that it involves the creation of an additional allotment in rural land outside of the township boundaries, which is not in accordance with the Adelaide Hills Structure Plan, and creates an allotment that is solely reliant on rights of way for access. Whilst the access to the new allotments largely exists, this creates a further economic burden on the land owner of the right of way to maintain the driveway that is some 158 metres in length. The proposal could result in pressure to seal Onkaparinga Road, but aside from this, the proposal is not considered to be uneconomic. It would not substantially increase pressure for urban infrastructure in this area. As previously discussed, allotment 45 is also 'land locked' and the proposal removes this historical allotment, which was previously a piece of an allotment comprised of two pieces. The proposal is therefore not considered to be orderly development. The proposal is inconsistent with Council-wide (CW) Objectives 4 and 5 and PDCs 1, and partly inconsistent with Objectives 1 and PDC 2.

A preliminary site contamination assessment has been undertaken to prove that allotment 205 is suitable for residential development. In the opinion of Mott McDonald Site Contamination Consultants the likelihood of gross or widespread soil contamination existing in shallow soils and groundwater at the location of the proposed building envelopes (at concentrations likely to preclude the proposed land use) is low. Whilst no soil samples have been undertaken, this is a professional expert opinion and therefore this opinion is sufficient to no warrant further assessment. The proposal is consistent with CW PDC 3.

The proposal would not interfere with the effective use of other land in the locality. The proposal accords with CW PDC 9.

Proposed allotments 205 and 206 do not have slope greater than 1 in 4, in particular the indicative sites of the dwellings and effluent disposal areas are an appropriate slope. The proposed allotments 205 and 206 have a sufficient area to allow for effluent disposal and any such system should not lead to pollution of surface or underground water. The proposal is considered consistent with CW PDCs 18 and 19.

The proposal will increase traffic generation within a right of way in the order of 10 vehicle movements per day, noting that allotment 1 could already be developed with one dwelling. Given this number of movements is very minimal it is unlikely to detrimentally affect the amenity of adjacent land, but may cause annoyance and conflict between property owners if the passing bays are not installed. Given the existing surface of this driveway is gravel there is the potential for a minor increase to dust nuisance and ongoing maintenance concerns for the owner of the right of way. The proposal is therefore partly consistent with CW PDC 13.

Land division

Objective: 10

PDCs: 28, 29, 30, 31 & 32

Given the subject land is located outside of designated township area, the subject land proposed to be divided to create an additional allotment is not considered to be within an appropriate locality, and is inconsistent with Objective 10.

The proposed allotments 205 and 206 would be suitable for on-site waste disposal and there are suitable dwelling sites with a slope not greater than 1 in 4. Mains sewer and water would not be available to these allotments, but this is typical for rural allotments. The proposal is sufficiently consistent with CW PDC 28.

The proposal may improve safe and convenient access to the subject and adjacent sites that share access to Onkaparinga Road by the provision of passing bays. However, the proposed allotments will be 'land locked' and therefore solely dependent on the unrestricted rights of way over adjacent land. Whilst this right of way over allotment 6 exists, it is undesirable to create an additional allotment that is solely dependent on this arrangement for access. The proposal is partly consistent with CW PDC 29, even though the proposal is clearly inconsistent with part (e) of this provision.

As mentioned, the proposed dividing boundary of allotments 205 and 206 is through an area of native vegetation. The re-adjusted boundary between allotments 1 and 101 is located approximately 10m from the watercourse and therefore any fence line and farming activity such as grazing shall be outside of the watercourse area. The proposed re-adjustment therefore may provide more protection for this watercourse, but this is very dependent on land management practices. The proposal is considered to be partly inconsistent with PDC 30 and consistent with PDC 31. As mentioned, it has been demonstrated by the site history report that proposed allotment 205 is suitable for residential development. The proposal therefore accords with CW PDC 32.

CW PDC 38 highlights that non-complying land divisions should only be considered for allotments containing two existing dwellings if at least one of the dwellings is identified as a local or state heritage place. Noting this, even when the additional dwellings exist and the additional wastewater generation and water quality impact is already occurring, additional allotments via a non-complying land division are not envisaged. When considering this in conjunction with the Zone provisions, there would need to be an exceptional outcome in relation to heritage preservation, reduced water quality impacts or improvements to primary production or natural resource management to justify such a proposal.

Public Utilities

Objective: 22

PDCs: 67, 68 & 69

There is no mains water or sewerage infrastructure available to service these allotments. As mentioned, the proposal is unlikely to increase pressure to provide these services to these allotments, but this is difficult to predict. The existing and proposed allotments are large enough to accommodate on-site waste control systems and noting there are whole townships without access to sewerage infrastructure, there would likely be limited pressure to extend the Community Waste Management System (CWMS) up Onkaparinga Road. Onkaparinga Road is all-weather, but the road is not sealed. Increasing traffic movements along this road may place additional pressure to seal this low-trafficked roadway. The proposal is not contrary with Objective 22 and PDCs 67, 68 and 69.

Rural Development

Objectives: 61 & 62

PDCs: 174

The land division seeks to create an additional allotment within a rural area. The proposal is unlikely to help preserve land primarily for primary production purposes, but it is acknowledged that the subject land where the additional allotment is proposed is not currently used for such and is also constrained due to the extent of vegetation that exists on this allotment. Given there is a small portion of the land that is clear of native vegetation on proposed allotments 205 and 206, this land may not be particularly suitable for primary production purposes. However, the creation of an additional allotment in this area is not likely to improve the conservation of the natural features of this land. Whilst there are relatively clear areas available on both allotments 205 and 206, the proposal seeks to create additional development potential on land that features native vegetation. The boundary re-alignment involving three allotments should not impact on the primary production uses or activities continuing to occur on this land. Given allotment 1 (Onkaparinga Road) is not used for primary production, the proposal is not at odds with CW Objective 62, but the proposal is still considered to be inconsistent with CW Objective 62 and PDC 174.

Conservation

Objectives: 68, 69, 70, 71, 72, 76, 77, 78 & 79

PDCs: 202, 203, 205, 212, 213, 214, 216 & 217

The boundary re-alignment part of the proposal does not impact on native vegetation. Whilst the proposal demonstrates that there are mostly clear areas on the subject land for building envelopes and effluent disposal areas, the proposal seeks to create an additional allotment on land that features native vegetation. The proposal seeks to create an additional allotment and therefore it does not seek to retain native vegetation on a single allotment. It is noted that there is some re-seeded understorey native vegetation within the site of the old quarry and there is native vegetation in close proximity to the existing track through the north-eastern portion of proposed allotment 205. Given 'significant vegetation' clearance is required by the CFS for the access driveway, some clearance of native vegetation will be required. The proposal therefore increases the likelihood of native vegetation clearance on the land. As mentioned, the dividing boundary between proposed allotments 205 and 206 is also through an area of native vegetation. Even though the proposal could result in vegetation clearance on either side of the proposed fence line, it is considered that a dwelling could be established on proposed allotments 205 and 206 with minimal clearance of native vegetation. Therefore, clearance of native vegetation is at least minimised by utilising largely cleared areas and an existing track/driveway. As previously mentioned, a dwelling on each allotment could be sited an appropriate distance from the watercourses on the land and compliant waste control systems could be achieved. Therefore, the proposal should have minimal impact on natural features. As the boundary re-alignment involves removing allotment 45, there should be no increase in development potential and therefore there should not be an additional waste control system on the overall site and the proposal will therefore should not pose a greater risk of pollution to water resources. The proposal does not accord with Objective 79 in relation to retaining native vegetation on a single allotment, but sufficiently accords with Objectives 68, 69, 70, 71, 72, 76 and 78, and PDCs 202, 203, 212, 213, 214, 216 and 217.

Any future dwellings are unlikely to be highly visible in the locality and from public roadways. Allotments 205 and 206 are well below the freeway and are densely vegetated. The proposal is considered to be sufficiently consistent with Objective 77 and PDC 205.

Appearance of Land and Buildings

Objectives: 87, 88, 89 & 90

PDCs: 228, 231, 240, 243, 244 & 245

As mentioned above, the proposal would result in an increase to built-form within close proximity to the South Eastern Freeway. However, due to the density of vegetation and the topography of the land, built form on these allotments is unlikely to be visible from the freeway. Given there is a track/driveway that leads to the old quarry and an existing right of way driveway, the extent of driveway on the subject land would be reduced. A new driveway to a future dwelling on proposed lot 206 would be required, but could be designed to follow the contours of the land. The

proposal sufficiently accords with Objectives 87, 88, 89 and 90, and PDCs 228, 231, 240, 243, 244 and 245.

Bushfire Protection

Objectives: 106 & 107

PDCs: 300, 301, 304, 305, 306 & 307

Both the boundary re-alignment site and the site of the land division to create an additional allotment are within a high bushfire hazard area. Whilst the application is for two distinct proposals, the intention of the combined proposal is to justify the creation of an additional allotment by the consolidation of an existing allotment with a boundary re-alignment proposal. It is considered that the proposal moves the development potential on the land to a more a hazardous location. Whilst allotment 45 is a very small allotment, which restricts the owner's ability to provide an adequate building protection zone, this allotment is largely surrounded by open grassland. The proposal seeks to create an additional allotment on a site that features large areas of native bushland. Whilst a dwelling on proposed allotment 205 could be located more than 20 metres (or a greater distance if required by the CFS) from the bushland to avoid an extreme rating (flame zone), the abandoned quarry site is surrounded by native vegetation on all sides, particularly on the northern and southern sides where there are mapped intact areas of native vegetation. It is also considered that the site currently has poor access due to narrow nature of the driveway and the existing vegetation on either side. Whilst the CFS have highlighted that their requirements can be achieved on this site with significant widening of the driveway and vegetation clearance, the creation of an additional allotment in an area of extreme or higher bushfire risk, does not minimise the threat and impact of bushfire on life and property. The proposal is contrary to CW Objective 106. Whilst compliance with PDC 300 can be achieved at the land use stage, it is questionable whether increasing development potential on the southern site is a desirable outcome. It is considered that the proposal will result in an increase to building and the intensification of non-rural land uses (residential) on the southern site, which is considered to be a site of higher risk. The proposal is thus considered to be contrary to CW Objective 107.

As mentioned, a dwelling on proposed allotment 205 would not be sited in an area with low bushfire hazard vegetation, but could be setback at least 20 metres from the vegetation. Any future dwellings on proposed allotments 205 and 206 could achieve compliance with CW PDC 301. It is noted that the site within allotment 205 is on the southern side of ridgetops to the north. The southern site and the whole of the W(PP) Zone is not set aside for residential purposes or the creation of additional residential allotments, irrespective of whether the site is within a mapped high bushfire risk area. The proposed land division seeks to create an additional allotment within a high bushfire risk area that is not envisaged for additional allotments and therefore does not minimise the danger to the occupants of future buildings and fire-fighting personnel. As mentioned, each allotment contains a suitable building envelope located away from vegetation that would likely pose an unacceptable risk and the vehicle access requirements of the CFS could be achieved. The proposal is contrary to CW PDC 304, but is sufficiently consistent with CW PDC 305, and can achieve compliance with CW PDCs 306 and 307.

7. SUMMARY & CONCLUSION

This proposal is unique in that it is a proposal for two land divisions in the one application. The Courts have determined that these are two discrete, independent land divisions. Whilst the nature of the proposal has been redefined, the proposal is still for a land division to create a new allotment for residential purposes, whether the nature of the development is described as a boundary re-alignment or a proposal for two land divisions.

Whilst the proposal may not increase development potential within the Zone and therefore does not increase water quality impacts with the Mount Lofty Ranges Watershed, the proposal seeks to create an additional allotment in a Zone that does not envisage such and the boundary realignment does not correct a boundary anomaly and the overall land division proposal does not improve primary production land management as envisaged by the Zone provisions. The proposal is considered unorderedly in that it seeks to create an additional allotment outside of a designated residential area or township.

The proposal increases the number of allotments within an area of native vegetation and places development potential in closer proximity to hazardous vegetation, specifically on a property that features dense bushland. The overall land division does not improve management of the land for primary production and/or for the conservation of its natural resources. While the land division may improve access to at least one adjacent site by the provision of passing bays, this would likely be required in a land use proposal for a dwelling on the southern site (lot 1 Onkaparinga Road) as well. The proposal will create an additional allotment that is solely reliant on rights of way for access and create an additional allotment in an area of high bushfire risk.

The non-complying proposal is not sufficiently consistent with the relevant provisions of the Development Plan, and therefore the proposal is considered to be at variance. In the view of staff, the proposal does not have sufficient merit to warrant consent. Staff therefore recommend that Council Assessment Panel advise the State Commission Assessment Panel that it **DOES NOT SUPPORT** this application.

8. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is at variance with a number of the relevant provisions of the Adelaide Hills Council Development Plan, and advises the State Commission Assessment Panel that it does not support the proposed land division in Development Application 15/1014/473 (15/D044/473) by Reginald Fiora for Land division: 1 into 2 allotments and Boundary Realignment: 3 into 2 allotments (non-complying) (SCAP decision authority) at Lot 45 Gallasch Road, 83 & 143 Beaumont Road, 34 Ambulance Road, 19 & 39 Grivell Road, and Lot 1 Onkaparinga Road Verdun for the following reasons:

- (1) The proposed land division is to create an additional allotment and therefore is not a minor boundary re-alignment to correct an anomaly in placement of boundaries in respect to buildings or to improve conservation of natural features or the management of land for primary production purposes. The proposal is contrary to Watershed (Primary Production) Zone Principle of Development Control 20.**
- (2) The proposal seeks to divide land and increase the number of allotments over an area of native vegetation, inconsistent with Watershed (Primary Production) Zone Objective 4 and Principle of Development Control 34, and Council-Wide Objective 79.**

- (3) The proposal seeks to create an additional allotment for rural living purposes outside of township boundaries or a designated country living area. Also, the land proposed to be divided is not within an appropriate locality as it is at odds with the Adelaide Hills Structure Plan and therefore is considered to be inconsistent with Council-Wide Objectives 1, 4 and 10, and Principles of Development Control 1 & 2.**
- (4) The land division is unorderedly in that it seeks to create an allotment that is solely reliant on rights of way for access. The proposal is inconsistent with Council-Wide Principle of Development Control 29(e).**
- (5) The proposal land division seeks to create an additional allotment within a high bushfire risk area and is not within an area set aside for urban or residential development. The proposal places development potential in closer proximity to hazardous vegetation. It is considered that the proposal moves the development potential on the land to a more a hazardous location and therefore does not minimise the threat and impact of bushfire on life and property. The proposal is contrary to Council-Wide Objectives 106 and 107, and Principle of Development Control 304.**

9. ATTACHMENTS

Locality Plan
Proposal Plans
Application Information
Applicant's Professional Reports
Referral Responses

Respectfully submitted

Concurrence

Sam Clements
Team Leader Statutory Planning

Deryn Atkinson
Manager Development Services

COUNCIL ASSESSMENT PANEL MEETING
14 November 2018
AGENDA – 8.5

| | |
|---|--|
| Applicant: Adelaide Hills Council | Landowner: AHCAdeelaide Hills Council |
| Agent: Bartlett Drafting & Development | Originating Officer: Marie Molinaro |
| Development Application: | 17/5/473 (16/C51/473) |
| Application Description: Community title land division (1 Allotment into 3) with associated common property and building alterations for fire safety upgrade | |
| Subject Land: Lot:87 Sec: P5135 FP:4620 CT 5897/519 Lot 88 Sec: P5135 FP:4620 CT:5169/516 Lot: 101 Sec: P5125 DP:47499 CT:5549/242 Lot:201 Sec: P5135 DP:60535 CT:5897/516 | General Location: Buildings 2, 3, 4, 5 & 7 at 1 Main Street, Lobethal Attachment – Locality Plan |
| Development Plan Consolidated : 28 April 2016 Maps AdHi/3, 12 & 55 | Zone/Policy Area: Country Township (Lobethal) Zone - Woollen Mills Policy Area |
| Form of Development: Merit | Site Area: 7733m ² |
| Public Notice Category: Category 1 | Representations Received: N/A Representations to be Heard: N/A |

1. EXECUTIVE SUMMARY

The purpose of this application is to further divide the allotment comprising pieces 201* and 202* approved as part of preceding land division application 17/4/473 – Community Title land division (6 allotments into 4), including reserve allotments and common property.

CAP issued Development Approval comprising Development Plan Consent and Land Division Consent to land division application 17/4/473 at its meeting held on 12 September 2018.

The subject site is owned by Council and forms part of the Adelaide Hills Business and Tourism Centre (AHBTC). The AHBTC functions as a multi-use site with separate buildings leased out under Council management for light industrial, manufacturing, warehouse, winery and storage purposes.

The allotment comprising pieces 201* and 202* contains five buildings, and the purpose of the proposal is to further divide these buildings and their associated land onto separate allotments.

Each allotment layout has been designed to follow the floor plan area occupied by existing business tenancies, and is intended to facilitate better management of the land and to allow the sale of the individual buildings.

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

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

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 & Land Division Consent, subject to conditions.

2. DESCRIPTION OF THE PROPOSAL

The proposal is seeking to divide allotment comprising pieces 201* and 202* approved as part of preceding primary land division application 17/4/473 into three allotments.

Existing Allotments

| Allotment | Area | Currently containing |
|-------------------------------|--------|---|
| Comprising pieces 201* & 202* | 7733m2 | <p>Large building containing three tenancies (buildings 3, 4 & 5), and separate smaller building (building 2), outdoor seating area associated with one of the tenancies and gravel car-parking area on piece 201. Storage shed on piece 202.</p> <p>The storage shed (building 7) 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.</p> |

Proposed Allotments

| Allotment | Area (ha) | Containing |
|---------------------------------|-----------|--|
| 301 | 2743m2 | <p>Two buildings (Building 3), including outdoor seating area with the larger building which is approved as a micro-brewery and restaurant.</p> <p>The smaller building (Building 2) is vacant, separate development application 18/737 is under assessment for expansion of the restaurant and micro-brewery into the smaller building.</p> |
| Comprising pieces 302* and 303* | 2914m2 | Large building (Building 4 and portion of building 5) on piece 302* and associated storage shed (Building 7) on piece 303*. Occupied by a wholesale manufacturing bakery. |
| 304 | 1156m2 | Building occupied by a winery (portion of building 5). |

The plan of division includes common property (C1) featuring car-park area.

The common driveway and car-parking as shown is unaltered from the proposal considered in the preceding land division 17/4/473 (hereafter called the primary land division).

New common access corridor between lots piece 302* and allotment 304, and other building alterations for fire safety upgrades being new fire services and associated hydraulics are proposed.

Easement 'A' as shown over a portion of piece 303* is existing and in favour of the Minister for Infrastructure (SA Water).

The proposed plan is included as **Attachment – Proposal Plans**.

The preceding land division plan is included as **Attachment – Preceding Land Division Plan**.

The proposal also triggers building fire safety upgrades, which are included as part of the application. The building fire safety upgrades include amendments to the buildings' hydraulic services and fire services – **see Attachment Building Fire Safety Upgrades**.

3. BACKGROUND AND HISTORY

| APPROVAL DATE | APPLICATION NUMBER | DESCRIPTION OF PROPOSAL |
|------------------------------|--------------------|---|
| 12 September 2018, by CAP | 17/4/473 | Community Title land division (6 allotments into 4), including reserve allotments and common property – the primary land division |

4. REFERRAL RESPONSES

- **CFS**
The CFS has no objection to the proposal, with comment on this proposal being the same as that for the primary land division

The recommended CFS condition regarding access is not considered necessary, as it is included as condition of consent on the primary land division approval.
- **SA Water**
Standard requirements.
- **DPTI – Transport Services**
DPTI – Transport Services have no objection in-principle to the proposal, subject to the recommended condition that all vehicles must enter and exit the site in a forward direction being imposed on any consent – see recommended condition 2.
- **EPA**
The EPA had no comment to make on the proposal.

- **DEWNR – State Heritage**

State Heritage Unit reviewed the proposed plan of division and building fire safety upgrade details. State Heritage has no objections to the proposal, noting that the proposal “results in minor physical works to the site that do not directly affect the heritage values of the place. Further, works proposed are compatible with fittings/features typical to the place.” In addition, the proposal “is appropriate to the policy of the Lobethal Woollen Mill Conservation Management Plan.”

The State Heritage Unit recommends two conditions of consent – see recommended conditions 3 & 4.

- **AHC - Rates**

AHC Rates provided advice as part of application 17/4/473 that the numbering on this portion of the AHBTC site 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 contains one allotment, comprised of two pieces which was approved via the separate primary land division application 17/4/743.

The site contains five buildings, leased by three separate tenants for commercial purposes being a micro-brewery and restaurant, wholesale manufacturing bakery and winery. There is also a car-park area fronting Main Street.

The subject land forms part of the Council owned Adelaide Hills Business & Tourism Centre (AHBTC).

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

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. Main Street, Lobethal contains a mixture of commercial and residential land uses.

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 individual allotments and formalise the use of the existing shared car-parking area as common property.

This is not considered to inhibit future expansion of the AHTBC, and is considered to provide greater flexibility and certainty to existing business tenants.

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, the State Heritage Unit 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 the existing shared car-park area.

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.

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 to parking arrangements.

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 – see recommended condition 2.

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 conservation 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.

7. SUMMARY & CONCLUSION

The proposal is for the division of land to create three allotments, including common property comprising car-parking area and building fire safety upgrades.

The proposal is the secondary community title division to separate the buildings on allotment comprising pieces 201* and 202* as approved via the primary land division 17/4/473.

The proposed boundary lines are consistent with the floor plan areas occupied by current business tenancies, and the proposal is therefore considered to allow for better management of the land.

Building fire safety upgrades triggered by the proposal will be assessed via the building rules consent assessment process. Development Approval will not be granted until building rules consent has been issued.

The heritage advisor is satisfied that the division of land and building fire safety upgrades will not impact upon the fabric of the Heritage Place.

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 17/5/473 (16/C51/473) by Adelaide Hills Council for Community title land division (1 Allotment into 3) with associated common property and building alterations for fire safety upgrade at Buildings 2, 3, 4, 5 & 7 at 1 Main Street, 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.
- Floor plan existing, drawing SD100 by Nielsen Architects, dated 08 2018
- Fire services proposed site layout plan, drawing B7025-1-F01 by Secon Consulting Engineers, dated August 2018
- Fire services specification & details plan, drawing B7025-1-F02 by Secon Consulting Engineers, dated August 2018
- Hydraulic services existing site layout plan, drawing B7025-1-H01 by Secon Consulting Engineers, dated August 2018
- Hydraulic services, proposed site layout plan, drawing B7025-1-H02 by Secon Consulting Engineers, dated August 2018

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

(2) Vehicle Movement

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

REASON: For safe and convenient traffic movement.

(3) State Heritage Unit

Prior to Building Rules Consent being issued, the location, orientation and paint colour of the proposed hydrant booster cabinet (adjacent Building 5) shall be agreed upon to the reasonable satisfaction of the State Heritage Unit of the Department for Environment and Water.

REASON: Booster cabinet to be located to minimise visual impact on the setting of the State Heritage Place.

(4) State Heritage Unit

Prior to Development Approval being issued, the final paint colours for externally surface mounted pipework, DB cabinets, conduits and services shall be confirmed, to the reasonable satisfaction of the State Heritage Unit of the Department for Environment and Water.

REASON: To reduce the visual impact on the setting of the State Heritage place.

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.

(2) State Heritage Unit

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

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

(3) Requirements Under the Heritage Places Act (1993)

Please note the following requirements under the Heritage Places Act (1993):

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

(4) Requirement Under the Aboriginal Heritage Act (1988)

Please note the following requirements of the Aboriginal Heritage Act (1988).

If Aboriginal sites, objects or remains are discovered during excavation works, the Aboriginal Heritage Branch of the Aboriginal Affairs and Reconciliation Division of the Department of the Premier and Cabinet (as delegate of the Minister) should be notified under Section 20 of the Aboriginal Heritage Act (1988).

Council Land Division Statement of Requirements

Nil

Council Land Division Notes

Nil

SCAP Land Division Statement of Requirements

- (1) The financial requirements of the SA Water Corporation shall be met for the provision of water supply and sewerage services. (S A Water H0054503).

SA Water Corporation further advise that an investigation will be carried out to determine if the water and/or sewer connection/s to your development will be costed as standard or non-standard.

- (2) Payment of \$13352 into the Planning and Development Fund (2 allotment/s @ \$6676/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 Development Assessment Commission marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001 or in person, at Ground Floor, 101 Grenfell Street, Adelaide.
- (3) 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.

SCAP Land Division Notes

Nil

9. ATTACHMENTS

Locality Plan
Proposal Plans
Preceding Land Division Plan
Building Fire Safety Upgrades
Referral Responses

Respectfully submitted

Concurrence

Marie Molinaro
Statutory Planner

Deryn Atkinson
Manager Development Services