

COUNCIL ASSESSMENT PANEL MEETING
13 March 2019
AGENDA – ITEM 8.1

Applicant: Kenton Valley Pty Ltd	Landowner: Kenton Valley Pty Ltd
Agent: Paul Edwards	Originating Officer: Sam Clements
Development Application:	16/773/473 (16/D037/473)
Application Description: Land division (1 into 15), significant tree removal (Two <i>Eucalyptus camaldulensis</i> var. <i>camaldulensis</i>), filling of land within a flood plain, associated roadway, bulk earthworks & retaining walls (SCAP relevant authority)	
Subject Land: Lot:2 Sec: P5140 DP:12219 CT:5474/956	General Location: 14 Kenton Valley Road, Lobethal SA 5241 Attachment – Locality Plan
Development Plan Consolidated : 28 April 2016 Map AdHi/12 & 55	Zone/Policy Area: Country Township (Lobethal) Zone & Residential Policy Area
Form of Development: Merit	Site Area: 4.5 hectares (1.8 Ha with township)
Public Notice Category: 1	Representations Received: N/A Representations to be Heard: N/A

1. EXECUTIVE SUMMARY

The purpose of this application is to create 14 additional allotments within the boundary of the Lobethal Township. The subject land is located within the Country Township (Lobethal) Zone and the Residential Policy Area and the proposal is a category 1 form of development. The proposal is on-merit as no additional allotments or new part allotments are being created within the Mount Lofty Ranges Water Protection Area. A portion of proposed allotment 18 is located within both the Township and the Watershed (Primary Production) Zone.

The State Commission Assessment Panel (SCAP) is the relevant authority in accordance with clause 7 of Schedule 10 of the *Development Regulations 2008* as the proposal involves the division of a dual zoned allotment, with part of the allotment within the Mount Lofty Ranges Water Protection Area.

Whilst the subject land is a large allotment that this suitable for medium density development, the proposed land division seeks to create large sized allotments which are considered to be more sympathetic to the remaining historical low density allotments within the locality. The larger allotments proposed will also allow for dwellings to be setback a greater distance from the regulated trees and the watercourse on the subject land. The proposed land division will create a suitable roadway for vehicles, cyclists and pedestrians, and the proposal will not create traffic safety issues on Kenton Valley Road. Stormwater management will be addressed to ensure pre-development flows are not exceeded and water quality targets will be achieved. The filling of land and construction of an associated low retaining wall should not detrimentally affect the appearance of the subject land or locality. It has been accepted that there are no reasonable alternative solutions to the removal of two significant trees and design measures have been

implemented to protect the regulated and significant trees within the watercourse and road verge.

As per the CAP delegations, the CAP is the relevant authority to make comment to the SCAP in this instance, as the proposal involves the creation of 10 or more additional allotments.

The main issues relating to the proposal are the filling of land within the flood plain, stormwater management, water quality, regulated and native tree removal, the impact of the land division on the character and amenity of the locality, and the suitability of the site for sensitive uses.

In consideration of all the information presented, and following an assessment against the relevant zone, policy area and Council Wide provisions within the Development Plan, staff are recommending that the Council Assessment Panel **SUPPORT** this application and advise the State Commission Assessment Panel accordingly.

2. DESCRIPTION OF THE PROPOSAL

The proposal is for a land division to create 14 additional allotments for residential purposes ranging in size from 800m² to 1108m². The proposal also includes:

- Regulated tree removal, namely two *Eucalyptus camaldulensis var. camaldulensis* located within proposed allotment 10
- Filling of land and construction of a retaining wall within the flood plain of watercourse that flows through the north-western corner of the site. Based on a finished surface level of 433.70m AHD the filling to the eastern side of the allotment 1 and western side of allotment 2 will be to a maximum height of 1.2m with the fill battered to natural ground level but retained around the tree protection zone of the street tree
- Creation of a new road reserve of 12m in width with a turning head provided at the southern end of the roadway
- Bulk earthworks to create the roadway and to improve the grade of the proposed allotments
- All allotments orientated with a fall to a roadway or a rear of allotment drainage easement
- Construction of retaining walls to retain the fill within allotments 1, 12 and 14
- Stormwater management system for detention and water quality treatment. Most of the allotments and some of the road runoff is directed via underground drainage (pipe networks connecting rear of allotment connections and side entry pits) to a series of stepped detention basins adjacent to the watercourse before discharging to the road verge. The remainder of the land division runoff is directed via underground drainage through a gross pollutant trap before discharging into a swale within the road verge of Kenton Valley Road.

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

3. BACKGROUND AND HISTORY

There is no record of previous development applications on the site.

Basic background/timeline of the assessment of this application:

- 4 November 2016 The Council administration provided its further information request onto the SCAP planner assigned to the application.
- 1 December 2016 The further information request was forwarded onto the applicant by SCAP. There were requests relating to regulated and native tree protection, CFS access, flooding, water quality and stormwater management.
- The original land division proposal intended to retain the two significant native trees within allotment 10. The applicant originally offered to enter into a land management agreement to enforce building envelopes and tree protection zones on the proposed allotments. Given the constraints this would place on the future development of these proposed allotments, the applicant changed their position following receipt of the further information request requiring an Arborist report to be supplied. The original stormwater concepts showed the stepped basins along the full length of the northern boundary of the site within the tree protection zones of the regulated trees and within the watercourse.
- September 2017 The Applicant lodged a clearance application with the Native Vegetation Council (NVC) to clear the two native trees within proposed lot 10.
- 8 May 2018 On-site meeting with all parties to discuss the further information request.
- 28 May 2018 Additional information provided to demonstrate all design solutions to work around the trees had been considered, namely a response to a further information request from the NVC and various iterations of the land division plan was uploaded onto EDALA.
- 13 June 2018 NVC issue a clearance permit subject to conditions for the clearance of the two trees.
- 22 June 2018 Response to the further information request of SCAP supplied to Council.
- 12 July 2018 Council and DPTI staff agreed that some matters in the original further information request have not been satisfactorily addressed for Council to provide its comments to the SCAP. This advice was provided to the applicant.
- 3 August 2018 Further correspondence provided to the applicant to clarify the further information considered still outstanding. The main matters being the provision of an Arborist report to assess root zone impact to the significant trees within the riparian land and road verge, and a hydrological engineering (flood) report.
- 19 February 2019 An amended concept civil/tree management plan, hydrological engineering report and tree survey report were supplied to Council. The consultant engineer submitted two options for stormwater management to Council (individual allotment detention tanks or stepped detention basins).

4 March 2019 Amended land division plan supplied to Council along with the tree report for the removal of the two significant native trees previously supplied to the NVC.

4. REFERRAL RESPONSES

- **SA Water**
Standard response which details their requirements relating to the provision of water and sewerage services.
- **DPTI - Transport Services Division**
Their comments can be summarised as follows:
 - The new road junction can meet the Safe Intersection Sight Distance (SISD) requirements shown the Austroads 'Guide to Road Design , Part 4A: Unsignalised and signalised intersections'
 - Access to allotment 1 should be gained via the new roadway only. The access point to this allotment should be located adjacent to the boundary of the adjoining allotment 2 and a "no access" reserve strip be located along the western boundary of allotment 1
 - Stormwater runoff to Kenton Valley Road should be reduced to pre-development levels for rainfall events up to a 100 year ARI event
 - No objection in-principle to the proposal and request that four conditions be included on any decision
- **NVC**
A vegetation clearance application was lodged with the Native Vegetation Council to clear the two native trees within allotment 10, namely the *Eucalyptus camaldulensis* var. *camaldulensis*. Many options as an alternative to the clearance of the two trees were put to the applicant by the Native Vegetation Council administration. The responses to these options and further information requests are provided in the **Attachment – Application Information**. The Native Vegetation Assessment Panel (NVAP) approved the clearance application for the two *Eucalyptus camaldulensis* var. *camaldulensis* trees at its meeting 13 June 2018, subject to four conditions.

Noting that these tree are also Regulated, their clearance can only occur if Development Approval is also obtained.
- **AHC ENGINEERING DEPARTMENT**
Initial comments related to the provision of additional information to enable a preliminary assessment of stormwater management, hydrology and road design. A turning head was requested at the southern end of the proposed roadway.

Following receipt of Arborist advice (trees along watercourse), the consultant engineer presented two stormwater management concepts to Council for consideration. Council Engineering advised that the series of stepped basins within a Council drainage easement was the preferred stormwater management option over detention tanks on individual allotments which would also require a Land Management Agreement to be entered into. The final detailed stormwater management and engineering plans can be

assessed at the next stage of the process (prior to Section 51 Clearance) if land division consent is granted.

Council's Engineering Department have recommended a group of standard conditions (refer conditions 4-6, and 12 and 13).

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

5. CONSULTATION

The application has been categorised as a Category 1 form of development not requiring formal public notification as the proposed land division will not change the nature of Kenton Valley Road.

6. PLANNING & TECHNICAL CONSIDERATIONS

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

i. The Site's Physical Characteristics

The subject land is 4.5 hectares in area, with approximately 1.8 hectares of the allotment within the township of Lobethal. The allotment is vacant, void of any built form. It is noted that previously there were sheds on the land, which were removed in the last 3-4 years. The section of the land within the township (the site) has a mild cross-fall from the south-eastern corner of the township boundary to the north-western corner of the site. The cross-fall is around a 1 in 17 slope. There are two significant native trees within the south-eastern corner of the site and four regulated native trees along the watercourse (i.e. 1 regulated and 3 significant trees). The watercourse (Western Branch Creek) flows through the north-western corner of the site and there is a bore in the south-eastern portion of the land.

The land is used for livestock grazing. The section of the land that is outside of the township boundaries is well vegetated with mature native vegetation and is steeper land, with an uphill slope of around 1 in 6.

The tree survey provided has also identified one regulated tree within the Kenton Valley Road verge in front of the site.

ii. The Surrounding Area

The locality is made up of a mix of land uses, but the predominant land use is residential. There are rural land uses (livestock grazing) beyond the township boundaries to the east and west of the subject land. To the north the subject land within the township boundaries is the Lobethal North Policy Area, which features a number of industrial land uses. There is also an industrial use (builders storage yard) on the property directly to west of the subject land. This is a large allotment of around 2 hectares. The residential allotments in the locality that are within the township boundaries are a mixture of sizes, ranging from around 500m² within the three community title divisions to the south, to larger residential allotments of up to 5133m² in the east and north-east. The allotment directly to the north is also a dual zoned allotment. This allotment is 2.1 hectares in area with approximately 9755m² within the township boundaries.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Residential Policy Area and these provisions seek:

Residential Policy Area

- *Provision of a range of residential development which is sympathetic to the Policy Area's existing character*
- *Medium density development on existing large allotments*

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

Objectives: 1 & 2

PDCs: 1

The proposed allotment sizes ranging from 800m² to 1108m² will be sympathetic to the established character within the locality noting that the locality has a mixture of large low density sized allotments and smaller medium density sized allotments. The allotments proposed are similar in size to the older properties to the south and to the north-west of the subject land on Kenton Valley Road. Whilst Objective 1 calls for a range of residential development, the land division provisions restrict development to medium to low density development, which only provides for detached dwellings. Many of the more recent land divisions of larger allotments within the Policy Area have provided 500m² allotments within a community title arrangement. There are three examples of this form of land division within the locality. The proposed land division provides an alternative as it provides larger allotments that are Torrens Title with access via a new public roadway. Although constrained to a degree by the location of powerlines and the associated easement that runs diagonally across the site, the subject land is not considered to be of an unsuitable size or shape for medium density development. Therefore, the proposal does not locate medium density development on an existing large allotment in accord with PDC 1 and Objective 2, but as mentioned, the development is sympathetic to the existing character in the locality. It is therefore considered to be sufficiently consistent with Objective 1.

The subject land lies within the Country Township (Lobethal) Zone and these provisions seek:

- *Location of medium density development on existing large allotments*
- *Protection of the rural landscape which provides an effective backdrop to the township*

The following are considered to be the relevant Zone provisions:

Objectives: 2 & 7

PDCs: 1, 2 & 5

As mentioned above, the proposal will create low density sized allotments on a large allotment that is suitable for medium density residential development and is therefore inconsistent with Objective 1. Given the subject land is in close proximity to the large industrial allotments to the north and the division will create allotments that interface with the rural area, this is not considered to be a serious variance. The creation of larger residential allotments will be more sympathetic to the established character within the locality as opposed to the more recent community title medium density development. It is also noted that the larger allotments will likely achieve a greater buffer between the rural land and future residential development and the watercourse on the subject land. The larger allotments potentially allow for future dwellings to be constructed a greater distance from the watercourse in accordance with Council-wide PDC 198. Whilst the development will involve the creation of residential allotments bordering the rural area, the proposal will not impact on the rural landscape. The higher lying land within the Watershed (Primary Production) Zone will be maintained as a visual backdrop to this development and within the locality. The proposal is considered to be consistent with Objective 7.

The subject development is located within the designated living area of the township and is therefore in accordance with the Lobethal Structure Plan and consistent with PDC 1. The proposal does divide land where a small section is flood prone. Given allotments 1 and 2 are to be raised to achieve sufficient freeboard above the flood level, this is not considered to be an issue. It is also noted that the hydrological assessment details that there will be minor increase to the flood level within the road verge drainage system as a result of the proposed filling, but there will be no increase to the flood depth on Kenton Valley Road itself or to the flood level upstream. Any new dwellings on proposed allotments 1 and 2 will have sufficient freeboard above the flood level. The proposal is therefore sufficiently consistent with PDCs 2 and 5.

b) Council Wide provisions

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

- i. Development to be undertaken on land that is suitable for the intended purpose, whilst also having regard for the zoning of the land*
- ii. Minimise the risk of pollution of water catchment areas*
- iii. Conservation of regulated and significant trees that provide important aesthetic and environmental benefit*
- iv. Land in appropriate localities divided into allotment in an orderly and economic manner*

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

Form of Development

Objectives: 1, 2, 4, 5 & 9

PDCs: 1, 2, 3, 6, 9, 10, 11, 13, 15, 16, 20 & 21

The proposed development is considered to be orderly and economic as the land division is in accordance with the Adelaide Hills Structure Plan, the development is located entirely within the township boundaries and it utilises existing infrastructure. The proposal is consistent with Objectives 1 and 2, and PDCs 1, 2 and 16.

The subject land is suitable for its intended purpose in regards to its location within a designated 'living' area. In regards to historical use, a more detailed site history is required to demonstrate the land is suitable for a sensitive use. The further information supplied, indicates that the land was historically a dairy but in more recent times it has only been used for livestock grazing. Further information should be supplied to satisfy the requirements of PDCs 3 and 32 (refer to recommendation).

Given the land has a mild slope, soil stability is not likely to be an issue for future residential development. The proposal accords with PDC 6. The proposal land division will not interfere with the effective use of adjacent land. Given the area and nature of proposed allotment 18, it is unlikely that this allotment would be used for intensive farming or agricultural activities that would result in land use conflicts. The proposal is consistent with PDC 9.

The proposal's impact to the flood plain has been assessed in the Zone section above. The proposal sufficiently accords with PDCs 10 and 11. The greatest amenity impact of the development will be to the adjacent allotment to the south (12 Kenton Valley Road), as the proposed roadway is located directly adjacent to its northern boundary. In consideration of the location of infrastructure and street trees within Kenton Valley Road, this is the most appropriate location for the entrance and roadway into the land division. Given the number of vehicle movements per day on Kenton Valley Road which is an arterial road, the vehicle movements created by the proposed division will be very minimal in comparison. An additional 3m reserve strip to be planted out with street trees has been provided on the southern side of the new roadway to provide more of a buffer to this adjacent allotment. In summary, the additional vehicle movements are likely to have some impact on the amenity of 12 Kenton Valley Road, but due to the volume of traffic, the additional separation provided by the landscaped reserve and the likely speed limit on this proposed road, the impact is not likely to be detrimental. The stormwater management system will be designed to match pre-development flows and should therefore not cause nuisance or detrimentally affect the roadway or adjacent land. The proposal is sufficiently consistent with PDC 13. Conditions will be requested to be included on any consent issued that require a construction erosion management plan (CEMP) and a soil, erosion and drainage management plan (SEDMP) to be prepared and implemented for the course of the construction. The proposal should accord with PDC 15.

The proposed allotments will all be connected to main sewer for the most efficient and safe disposal of wastewater. The proposal is consistent with PDCs 20 and 21.

Land Division

Objectives: 10

PDCs: 28, 29, 30, 31, 32, 34, 35, 36 & 37

The proposed land division is in an appropriate locality and it is considered that the land is to be divided in an orderly and economic manner, consistent with Objective 1. The slope of the land is suitable and therefore the proposal is not likely to lead to erosion or soil stability issues. The size and shape of the proposed allotments are

suitable to be developed for residential purposes and each allotment will have access to rear of allotment drainage or a roadway to safely and efficiently discharge stormwater. Given access to the stormwater connection is located in the middle of proposed allotment 7, this allotment is required to be raised to ensure surface water drainage can be achieved. As mentioned, future development is not likely to be inundated by floodwaters as sufficient freeboard has been achieved and the proposed allotments will be connected to mains water and sewer. The proposal accords with PDC 28.

All required easements will be provided and the roadway will be graded to connect into Kenton Valley Road safely. Given the number of allotments proposed, there is no ability to require the provision of open space. Each allotment, including proposed allotment 18 will have direct, safe and convenient access to the proposed roadway. The proposal is consistent with PDC 29. As mentioned earlier, all allotments will be connected to mains sewer and stormwater water quality treatment measures will be implemented to meet the Environment Protection (Water Quality) Policy 2015 requirements. It is considered that the proposal should not result in pollution of the watercourse and therefore accords with PDC 31.

The allotment boundaries do interfere with some native vegetation as two regulated native trees are required to be removed on proposed allotment 10. The stormwater management system has been designed to be located outside of the watercourse with each of the stepped basins a minimum of 1m from the embankment. These drainage works have the potential to impact on the root zones of the one regulated tree and the three significant trees within this watercourse. Based on the Tree Report submitted it is intended to restrict the encroachment into the tree protection zones (TPZ) to the 10 percent allowed under the Australian Standard. The submitted 'tree management plan' depicts these protection zones. The encroachment into the TPZ of tree 1 exceeds the 10 percent allowance and therefore the drainage line design will need to be modified to rectify this. The watercourse and drainage line will be protected via a drainage easement and some works will be done to improve the watercourse, namely the removal of introduced grasses and replacement with native sedges. Aside from the removal of the regulated native trees within proposed allotment 10, the development proposal has been designed to minimise impact to native vegetation and natural resources. The proposal is partly consistent with PDC 30.

The road reserve of 12 metres is sufficient for the number of vehicle movements foreseen (150 vpd). A footpath will be provided for pedestrian safety. The proposal accords with PDC 34.

The proposed allotments ranging from 800m² to 1108m² will be connected to mains sewer. Whilst 12 of the proposed allotments (are less than 1000m², the allotments are still low density and blend sympathetically into the locality, and will therefore not adversely affect the character of the township. As discussed in detail in the policy area and zone assessment above, medium density development is actually envisaged on large suitable allotments such as this. For this reason, the proposed reduced frontage widths of less than 25 metres are also deemed to be appropriate. The proposal accords with PDC 35.

As mentioned, the stormwater management system concept has been designed to ensure post-development flows do not exceed pre-development flows for a 100 ARI. The system is also designed to protect the watercourse on the subject land. The proposal sufficiently accords with PDCs 36 and 37.

Transportation (Movement of People and Goods)

Objectives: 13, 15, & 20

PDCs: 42 & 46

As summarised earlier in the report, DPTI are satisfied that the new roadway connection/intersection will not impact on traffic safety on Kenton Valley Road. The proposal is considered to be consistent with Objectives 13, 15 and 20 and PDCs 42 and 46.

Country Townships

Objectives: 66 & 67

PDCs: 195 & 198

As mentioned above, the creation of additional allotments is entirely within the township boundaries and essential infrastructure will be available to the proposed allotments. The proposal accords with Objectives 66 and 67, and PDC 195.

The design of the division maximises the separation distance of future dwellings from the watercourse. As the proposed roadway is as far as possible to the south, this allows deep allotments. As these allotments range from 49m to 58m in depth, it is possible that any future dwellings could achieve a setback of 25m from the watercourse. This separation distance is less of a concern noting that flood mapping has been undertaken for this watercourse and stormwater will be directed to stormwater management system outside of the watercourse. The proposal is sufficiently consistent with the intent of PDC 198.

Conservation

Objectives: 68, 69, 70, 72, 73, 75, 76 & 79

PDCs: 202, 203, 205, 209, 210, 213 & 216

As detailed above, the proposal seeks to remove two regulated native trees from proposed allotment 10 due the significant constraints these trees placed on the future development of allotments 10 and 11, and also allotment 9 to a minor degree. The NVAP approved the clearance application of the two trees. Therefore, whilst the proposal results in the removal of native vegetation, a suitable offset as determined by the NVAP will be required to be paid to contribute to the replanting of native vegetation in appropriate locations elsewhere. Aside from the removal of these two trees, the proposal seeks to minimise the impact to native trees within the watercourse and one regulated native tree in the road verge. Whilst the proposal is mostly inconsistent with the 'Conservation' provisions due to this tree removal, the native vegetation clearance has been accepted by the relevant authority. . The proposal is consistent with Objective 68 and PDC 202, but mostly inconsistent with Objectives 69, 70, 72, 73, 75, 76 and 79, and PDCs 203, 205, 209, 210, 213 & 216.

Appearance of Land and Buildings

Objectives: 87

PDCs: 228, 229, 230, 231 & 248

It is considered that the filling of low-lying flood prone land and the proposed associated low retaining walls will not detrimentally impair the appearance of the subject land or locality. The watercourse will be retained in its natural state and improved with sedges, and the proposed roadway is to be beautified with street trees. The proposal is sufficiently consistent with Objective 87 and PDCs 228, 229, 230, 231 and 248.

Watershed Protection

Objectives: 103, 104 & 105

PDCs: 296 & 299

The proposed land division is located within the Watershed area. As discussed above, the proposed allotment will be connected to main sewer and the stormwater management system will be designed to meet water quality targets set by the Environment Protection Authority. Therefore, stormwater and wastewater generated by the development should not increase the risk of pollution to the water catchment area. The provision of a water quality model will be conditioned and therefore required to be provided at the engineering assessment stage, prior to Section 51 Clearance (refer to recommendation). The proposal accords with Objectives 103, 104 and 105, and PDCs 296 and 299.

Bushfire Protection

Objectives: 106 & 107

PDCs: 305, 306 & 307

The subject land is located within a designated medium bushfire risk area. The proposal land division will include a suitable roadway that allows for two-way vehicular access and the safe and effective operational use of fire-fighting vehicles and other emergency vehicles. A carriageway of a suitable width can be accommodated in the proposed 12m road reserve and a suitable turning head has been provided at the end of the proposed roadway. The proposal accords with Objectives 106 and 107, and PDCs 305, 306 and 307.

Regulated Trees

Objectives: 111 & 112

PDCs: 333 & 334

As mentioned elsewhere in the report, the proposal seeks to minimise the impact to the one regulated tree (tree 2) within the riparian land by ensuring the drainage line and stepped basins do not encroach more than 10 percent into root zones of the tree. Provided appropriate tree protection measures are implemented during construction, the health, aesthetic appearance and structural integrity of this tree should be maintained. The proposal accords with Objectives 111 and 112, and PDCs 333 and 334.

Significant Trees

Objectives: 113

PDCs: 336, 337, 338, 339 & 340

As mentioned elsewhere in the report, the proposal seeks the removal of two native significant trees within proposed allotment 10 and has the potential to impact on three significant trees within the riparian land. Provided the excavation for the trenching works is restricted to a 10% encroachment into the tree protection zones of these trees, the excavation works should maintain the health and integrity of these significant trees. The proposal is consistent with PDCs 338 and 339.

Given only a native vegetation clearance/tree report has been supplied, it is difficult to determine the consistency of the proposed tree removal against all of the significant tree provisions. In consideration of the slope of the land, the trees sit in an elevated position in the locality and form part of the rural backdrop to residential properties along Kenton Valley Road. Also, due to the openness of the subject land, the subject trees are considered to be notable visual elements that make an important contribution to the landscape of the local area. The information provided details that there are no large hollows present in the trees due to the young age of the trees (estimated to be between 50 to 80 years old).

There are no details in the report or the additional information supplied to the NVC that states either of the two trees are diseased or their life expectancy is short. Also, no technical assessment, such as a risk rating assessment has been prepared to assess the likelihood of tree and/or limb failure and the potential impact of this. There is general commentary in relation the risk of limb drop from *Eucalyptus camaldulensis* in an urban environment. The trees could only be deemed to be causing or threatening to cause substantial damage to a substantial building or structure of value once the land is developed. There is no information provided or assessment provided by the CFS to suggest the trees are or will be bushfire risk once the land is developed. The NVAP have considered the matter and from a native vegetation preservation perspective have deemed there to be no reasonable alternative development options or design solutions to prevent the tree removal. To ensure continuity in decision making, the determination of the NVAP is accepted and the tree removal is deemed to accord with this provision, namely PDC 338 (a) (2). The proposal is at odds with Objective 113 and PDC 336, but consistent with PDC 337.

Catchment Water Management

Objectives: 119, 121, 122, 123, 124, 125, 127, 129 & 130

PDCs: 350, 351, 356, 357, 359, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 378 & 379

The proposal's consistency with the above provisions will largely be determined at the engineering stage of assessment, prior to Section 51 Clearance.

A 5m vegetated buffer will not be provided for the watercourse which predominantly has a depth of less than 0.5m. However, it is still considered that the watercourse on the subject land will be protected and enhanced by offsetting the basins one metre

from the bank of the watercourse, removing exotic grasses and by revegetating it with native sedges. The existing trees within the watercourse will be protected and retained, and once development is undertaken there will be no uncontrolled stock access to the watercourse as there is currently. The watercourse will be retained mostly in its natural state aside from the placement of fill and associated retaining wall in the flood prone area of land. The two native trees that are proposed to be removed are outside of any watercourse and their removal should not cause erosion, result in water quality impacts or displace native fauna, which has been assessed by the NVAP. The proposal is sufficiently consistent with PDCs 350, 351, 356, 357 and 366.

As mentioned above, a water quality model will be required to ensure water quality targets of the EPA are achieved (refer recommendation). The stormwater system has been designed to minimise the entry of pollutants into received waters. The proposal should achieve consistency with PDCs 359, 367, 368, 369 and 371.

The stormwater management system concept has been designed with a series of stepped detention basins as detention measures. The proposed development will also have some off-site drainage benefits as the swale within the road verge of Kenton Valley Road will be required to be upgraded as part of overall drainage works. The calculations associated with the stormwater management concept indicate that post-development flows will not exceed pre-development flows for a 1 in 100 ARI. There will be no retention or re-use of stormwater measures implemented into the design. Given the size of the allotments proposed, there would be ample area for these allotments to accommodate water storage tanks. The original planning report submitted with the application indicates that a minimum of a 5000L water storage tank will be provided on each allotment. However, this cannot be required as part of the land division assessment decision without a land management agreement being entered into. The proposal will achieve consistency with PDCs 370, 372, 373, 374, 375 and 376.

As mentioned, the provisions of the CEMP and SEDMP will be required to prevent erosion and stormwater pollution before, during and after construction. The proposal should accord with PDCs 378 and 379.

7. SUMMARY & CONCLUSION

The proposed land division seeks to create low density allotments that are of a suitable size and dimensions for residential development. Whilst the subject land is a large land parcel that is suitable for medium density development, the proposed land division is considered to be more sympathetic to the remaining historical low density allotments within the locality. The larger allotments proposed will also allow for dwellings to be setback a greater distance from the regulated trees and the watercourse on the subject land. The proposed land division will not negatively impact on the character of the locality, policy area or zone.

The proposed land division will create a suitable roadway for vehicles, cyclists and pedestrians, and will allow for firefighting and emergency service vehicles access. The entry point of the new roadway (intersection) has sufficient sightlines and the proposal will not create traffic safety issues on Kenton Valley Road. Stormwater management will be addressed to ensure pre-development flows are not exceeded and water quality targets can be achieved.

The filling of land within the flood plain which will be graded down to a low retaining wall should not detrimentally affect the appearance of the subject land or locality. It has been accepted that there are no reasonable alternative solutions to the removal of two significant trees on proposed allotment 10. The trees will be replaced by a number of street trees that are proposed within the new road verge. Design measures have been implemented to protect the regulated and significant trees within the watercourse, namely ensuring the drainage piping and basins do not encroach by more than 10 percent into the tree protection zones. The fill in allotment 1 is also to be retained to maintain the natural ground level within the reduced tree protection zone of the regulated tree within the road verge of Kenton Valley Road.

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 the State Commission Assessment Panel be advised that Council has no objection to the proposed land division, subject to the recommendation comments being addressed and the recommended conditions being imposed on any consent granted.

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 advise the State Commission Assessment Panel that it has no objection to the proposal in Development Application 16/773/473 (16/D037/473) by Kenton Valley Pty Ltd for Land division (1 into 15), significant tree removal (*Two Eucalyptus camaldulensis var. camaldulensis*), filling of land within a flood plain, associated roadway, bulk earthworks & retaining walls at 14 Kenton Valley Road, Lobethal, subject to the following comments being addressed and the following conditions being included on any consent:

- **A more detailed site history should be provided that confirms the past land uses and activities that have occurred on the site. A detailed site history may contain (but not limited to): statutory declarations from past owners of the subject or adjacent land, historical aerial imagery, historical CT search and details of the location of the dairy building/s and wastewater basin, known location of the burial of dead animals or details of other potential contaminating activities that have occurred on the land**
- **The concept plans for the filling within and adjacent to the flood plain, indicates an area to be filled to 433.19m AHD which is to be battered down to a low retaining wall. The height of the retaining wall has not been detailed and should be confirmed to ensure Building Rules Consent is not required for this element of the development**
- **An amended tree management plan shall be supplied to ensure the trenching and pipeline is outside of the reduced tree protection zone (allowance for the 10% encroachment) of 9.3m for Tree 1. Alternatively, this can be conditioned (see recommended planning condition 2**

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:

- Land division plan prepared Richard Retallack, drawing 07 Sheet 1 of 1 dated 4 March 2019

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

(2) Amended Tree Management Plan

An amended tree management plan shall be submitted to and approved by Council prior to construction to ensure the trenching and drainage pipeline is outside of the reduced tree protection zone of 9.3m for Tree 1.

REASON: To protect the significant trees from the impact of the development.

(3) Requirement for Services to be Underground

All physical infrastructure services, including electricity and telecommunication services are to be provided underground.

REASON: To improve the character and amenity of the locality.

(4) Street Lighting

Street and public area lighting shall comply in all respects with the Lighting Code AS1158 and the style and type of lighting shall be selected and constructed to the reasonable satisfaction of Council and ETSA.

REASON: To ensure the roadways within the development are appropriately lit.

(5) Construction Work

Site work and building work shall be carried out only between the hours of 7.00am to 5.00pm Monday to Saturday. No works are permitted on Sundays other than those necessary for dust control, emergency works or works that cannot be carried out at any other time without causing unnecessary disruption, as may be approved by Council on written application as per EPA requirements for work of this nature.

REASON: To ensure the amenity of the locality is not impacted upon during construction.

(6) New Crossovers

Entrances to the proposed roadway shall be designed and constructed to the reasonable satisfaction of the Council.

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

(7) Design of Roads and Other Infrastructure

The detailed design of all footpaths, roads, verges and other public areas must comply with the Australian Standards, Council's Standards and the Disability Discrimination Act.

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

(8) Design of Stormwater Infrastructure

All major and minor drainage systems including the rear of allotment drainage shall be designed in accordance with the Council's Standards and Requirements for Land Development. The stormwater management system should ensure that post-development flows do not exceed pre-development flows for 1 in 100 ARI and stormwater is discharged without jeopardising the safety and integrity of Kenton Valley Road. All drainage designs shall be approved by Council prior to construction commencing.

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

(9) Stormwater Treatment is to Comply with the EPA Water Quality Targets

Stormwater discharge from the site shall meet the following EPA water quality targets:

- 90% reduction in litter/gross pollutants
- 45% reduction in average annual total nitrogen
- 60% reduction in average annual total phosphorous, and
- 80% reduction in average annual total suspended solids

A water quality model shall be provided to the Council to as part of the civil design documentation to prove that these targets have been achieved by the stormwater treatment/management design.

REASON: To ensure pollution from the proposed development to the receiving waters are minimised.

(10) Pedestrian Footpaths

A concrete footpath of at least 1.5m in width shall be provided along at least one side of the proposed roadway for its full length.

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

(11) Requirement for Stormwater Drainage Easements

Allotments 12 and 13 do not have the ability to discharge stormwater direct to the street water table via gravity, and shall be provided with a private drainage easement for the installation and maintenance of stormwater infrastructure.

All stormwater infrastructure on allotments 1-7 and 18 shall be contained within Council drainage easements. The drainage easement on allotments 2-5 should be at least 1.5m to the south of the drainage pipeline alignment to provide adequate protection.

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

(12) Tree Protection Zone Fencing to be Established

Prior to any civil or earthworks commencing on-site, tree protection zone (TPZ) fencing for all Regulated trees shall be erected to the satisfaction of Council. The TPZ fencing shall remain in place for the duration of the civil works. The perimeter of the TPZ shall be protected by the erection of a secure fence and shall:

- (a) consist of a 2.0 metre high solid, chain mesh, steel or similar fabrication with posts at 3m intervals; and
- (b) incorporate on all sides a clearly legible sign displaying the words “Tree Protection Zone.”

REASON: To protect the Regulated trees from the impact of the development.

(13) DPTI requirement- Access to Proposed Allotment 1

All access to/from Allotment 1 shall be gained via the new internal road only. To prevent conflicting vehicular movements in the vicinity of the new road junction, and to ensure that the requirements of AS/NZS 2890.1:2004, Fig. 3.1 ‘Prohibited Locations of Access Driveways’ are met, the new road access from/to Allotment 1 shall be located adjacent the boundary of adjoining Allotment 2.

REASON: For safe and convenient movement of vehicles.

(14) CEMP and SEDMP

Prior to construction commencing, a Construction Environment Management Plan (CEMP) including a Soil, Erosion and Drainage Management Plan (SEDMP) must be prepared and submitted to Council. The CEMP and SEDMP shall be implemented prior to construction commencing to prevent soil sediment and pollutants leaving the site or entering watercourses during development of the site. *NOTE: The EPA Guideline Construction environmental management plans (CEMP) and Code of Practice for the building and construction industry provides useful information on the preparation of CEMPs and SEDMPs.*

Planning Notes

(1) Land Division Development Approval

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

Council Land Division Conditions

(1) Amended Land Division Plan

Prior to Section 51 Clearance, the final land division plan shall provide a 0.1m ‘no access’ reserve strip along the entire Kenton Valley Road frontage of Allotment 1.

REASON: DPTI requirement to minimise the number of access points onto arterial roads for safe and convenient movement of vehicles.

(2) DPTI requirement- Design of Road Junction

Prior to Section 51 Clearance, the new road junction shall be designed and constructed to the satisfaction of DPTI, with all costs (including design, construction, project management and roadside drainage requirements) to be borne by the applicant. To facilitate easy left-turn movements into and out of the new road, the junction shall be sealed in bitumen and the shoulders on Kenton Valley Road sealed for a distance of approximately 10 metres from the junction. The radii of the junction corners shall ensure that the largest vehicle expected to use the road can turn left into and out of the junction without crossing the centre line of either road.

The applicant shall contact DPTI's A/Project Liaison Engineer, Traffic Operations, Mrs Christina Canatselis on telephone (08) 8226 8262 or via email christina.canatselis@sa.gov.au for design approval and to discuss any technical issues regarding these works.

REASON: For safe and convenient movement of vehicles.

(3) CFS Access Requirements- Public Roads

Prior to Section 51 Clearance, public roads created by a land division to and from the proposed allotments shall be in accordance with the Minister's Code: Undertaking Development in Bushfire Protection Areas (Minister's Code) Part 2.2.2.

- Provide for a mainly continuous street pattern serving new allotments that eliminates the use of cul-de-sac or dead end roads. Where this is not practicable such roads should not exceed 200m in length and the end of the road should have either:
 - a turning area with a minimum formed surface radius of 12.5m (refer to The Code Figure 1); or
 - a 'T' or 'Y' shaped turning area with a minimum formed surface length of 11m and minimum internal radii of 9.5m (refer to The Code Figures 1 and 2)
- All public roads shall be of all-weather construction with a minimum-formed road surface width of 6 metres, and shall have minimum internal radii of 9.5 metres on all bends.
- The gradient of the access road shall not exceed 16 degrees (29%), in steep terrain the construction of the public road or driveway shall be a sealed surface.

REASON: To ensure safe access and egress from the site in a bushfire event.

(4) Stormwater Management Design

Prior to Section 51 Clearance, a detailed final stormwater management plan shall be provided to and approved by Council, including:

- Full stormwater network design and treatment train
- Landscaping plans for swales and sedimentation/detention basins
- Detailed basin and swale designs
- Stormwater calculations
- Geometric drainage set-out plan
- Drainage longitudinal sections

- **Drainage cross sections**
- **Hydrological studies for upstream and downstream of the proposed site**
- **Hydrological and water quality modelling**
- **Rear of allotment drainage (sealed system)**
- **Any other relevant plans, reports or calculations**

REASON: To ensure stormwater is appropriately detained on-site and water quality objectives are achieved. The stormwater management infrastructure is to be approved prior to construction.

(5) Designs of Civil Works

Prior to Section 51 Clearance, detailed designs and specifications, prepared by a professional engineer, for all civil works relating to roads, which may include:

- **Swept path diagrams/plans (rubbish trucks)**
- **Detailed turning head plans**
- **Geometric road setout plan**
- **Pavement treatment plan**
- **Pavement calculations Road longitudinal sections**
- **Road cross sections**
- **Intersection treatment works and design contour plans**
- **Traffic control plan/s (line-marking and signage). Note that a plan that shows the no stopping anytime zones is required**
- **On-street parking plan**
- **Construction details**
- **Construction specifications**
- **Staging plan**
- **General construction plan**
- **Final surface contours plan**
- **Cut and fill/bulk earthworks plans**
- **Geotechnical documentation (confirm compliance with AS2879-1998-Residential Services Footing Code)**
- **Waste management (garbage collection) plan**
- **Street name signs**
- **Any other relevant plans, reports or calculations**

Road designs including structural road design and all traffic control devices shall be in accordance with Council Standards. No work (including any civil engineering works) is to commence prior to the receipt of written approval from Council. All costs for the design of all civil infrastructure shall be borne by the owner/applicant.

REASON: For safe and convenient movement of people and vehicles, and safe and efficient management of stormwater.

(6) Final Landscape Plan

Prior to Section 51 Clearance, a detailed final landscaping scheme shall be submitted to Council for approval including tree planting within road reserves and landscaping within the watercourse and retention of the regulated/significant trees in and adjacent to the watercourse. Such landscaping shall be undertaken to the satisfaction of Council and shall not be undertaken without the prior written approval of Council. The owner/applicant shall be responsible for maintenance of the landscaping for a minimum period of 12 months following agreement to practical completion by Council.

REASON: To improve the appearance and character and amenity of the locality.

(7) Re-instatement of Excavations

Prior to Section 51 Clearance, (if practical completion of construction works has been achieved) all trenches or excavation are to be reinstated to the satisfaction of Council. All excavation, trenching of underground services and reinstatement in existing road pavements and verge areas shall be done to satisfaction of Council.

REASON: To ensure no safety hazards are created.

(8) Street Lighting

Prior to Section 51 Clearance, street and public lighting shall be installed (or bonded) and shall comply in all respect with the Lighting Code AS 1158. The style and type of lighting is to be approved by both Council and ETSA.

REASON: To ensure a safety and security within the land division.

(9) Fire Fighting Water Supply

Prior to Section 51 Clearance, the owner/applicant shall provide confirmation to Council that an appropriate water supply and fire plug/hydrant system of adequate capacity (to be used for fire and other emergencies) has been installed in the approved roadway to the appropriate SA Water Standards.

REASON: To ensure there is access to an adequate water supply for building fires or bushfires.

(10) Construction of All Works/Infrastructure

Prior to Section 51 Clearance, all approved works and infrastructure required by the design plans stamped approved by Council for construction shall be constructed (or bonded) for the relevant stage to the satisfaction of the Council.

All costs for the construction of all approved infrastructure shall be borne by the owner/applicant. Following agreement by Council that Practical Completion has been achieved the developer shall be responsible for all maintenance for a period of 12 months or such other period of time as agreed.

REASON: For safe and convenient movement of people and vehicles, and safe and efficient management of stormwater.

(11) As-Built Drawings Supplied to Council

As-built" drawings of the approved and installed infrastructure shall be submitted to the Council along with certification from a professional engineer that the works for that stage have been completed in accordance with the approved design.

REASON: To ensure the civil works are undertaken in accordance with the approved designs.

(12) Asset Register

Prior to Section 51 Clearance, an asset register of the infrastructure constructed shall be provided to the Council's satisfaction in digital format.

REASON: To ensure Council has an asset register of all infrastructure constructed.

Council Land Division Notes

(1) Land Division Development Approval

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

(2) Approved Plans From Service Authorities

The approved plans of all service authorities (street lighting, electricity, SA Water, NBN) should be provided to Council for its records.

(3) Land Division Conditions- Completion of Public Infrastructure

Section 51 clearance will not be issued until all the conditions of the Land Division Approval have been satisfied. To allow for Section 51 clearance prior to the completion of public infrastructure the Developer may enter into a bond agreement with Council for the full cost of the infrastructure works and project management fees. Another bond is required to cover the 12 month defects liability period.

The Developer is required to maintain the road, drainage and reserve infrastructure works for a 12 month defect liability period from the date of Practical Completion or the date of rectification if the defect item is considered major by Council, unless otherwise specified in the Infrastructure Agreement to be entered into with the Council.

(4) Construction Hold Points

Council is required to inspect the construction works at key hold points and the applicant shall provide an "Inspection Test Plans" (ITP) prior to commencement of any work. Hold points are to be signed off by Council before proceeding to next level of the construction works.

- 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
13 March 2019
AGENDA – ITEM 8.2

Applicant: Susan Merret	Landowner: S E Merrett
Agent: Andrew Davidson	Originating Officer: Marie Molinaro
Development Application:	15/36/473 (15/D1/473)
Application Description: AMENDED - Land division - boundary realignment (2 allotments into 2 allotments) (SCAP relevant authority)	
Subject Land: Lot:28 Sec: P5526 FP:130182 CT:5292/675 Lot:44 Sec: P5524 FP:130198 CT:5292/708	General Location: 136 Valley Road, Montacute Attachment – Locality Plan
Development Plan Consolidated : 9 January 2014 Map AdHi/3, 47, 48	Zone/Policy Area: Watershed (Primary Production) Zone Water Protection (Marble Hill) Policy Area
Form of Development: Merit	Site Area: 42.1 hectares
Public Notice Category: 1	Representations Received: N/A Representations to be Heard: N/A

1. EXECUTIVE SUMMARY

In January 2015 a land division for a boundary realignment application was lodged for 136 Valley Road, Montacute involving four allotments.

The allotments are in the Water Protection (Marble Hill) Policy Area of the Watershed (Primary Production) Zone and at the time of lodgement the former Development Assessment Commission (DAC) were the relevant authority, as per now rescinded clause 7(a) of Schedule 10 of the Development Regulations (2008).

The proposal was subsequently amended for the re-arrangement of three allotments into three allotments.

The former Council Development Assessment Panel (CDAP) considered this proposal at its meeting on 7 June 2016, and advised the DAC that the proposal was considered to be at variance with the relevant provisions of the Development Plan, and that it did not support the proposal.

The proposal considered by CDAP, and the CDAP meeting minutes from 7 June 2016 are included as **Attachment – Superseded Plan & Minutes From June 7 2016 CDAP Meeting**.

The current State Commission Assessment Panel (SCAP) accepted a further amended proposal for a land division boundary realignment involving two allotments.

Proposed allotment 29 has been removed from the proposal, with the ruin as annotated now to remain on the same allotment as the dwelling on proposed piece 103*, retaining the status quo. The shared boundary between proposed piece 102* and proposed Allotment 101 has

been re-adjusted to follow an existing fire track, rather than running directly north-south as per the original proposal considered by CDAP.

SCAP remain the relevant authority as per the Regulations in place at the time when the application was originally lodged and they have accepted the amended proposal as an amendment to the original application.

As per the CAP delegations, the CAP is relevant authority as the amended proposal will vary a decision (Council comment) previously made by the CDAP. Council staff do not consider the amended proposal to be a minor variation.

The main issues relating to the proposal are whether it is sufficiently consistent with the intended purpose of land division in the Watershed (Primary Production) Zone, whether the allotment arrangement is an orderly form of development and whether the allotments increase the likelihood of native vegetation clearance.

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** the amended application, and advises the State Commission Assessment Panel accordingly.

2. DESCRIPTION OF THE PROPOSAL

The amended proposal is for a boundary realignment involving two contiguous allotments.

Existing Allotments

Allotment	Area (ha)	Currently containing
28	Approx. 17.96 hectares	Dwelling, associated wastewater system, water storage tanks, ruin & native vegetation
44	Approx. 25.1 hectares	Two store buildings (shed structures), native vegetation & unsealed fire track

Amended Proposed Allotments

Allotment	Area (ha)	Containing
101	13.9 hectares	Store building (shed), native vegetation & unsealed fire track. The unsealed fire track is to be designated as a right of way in favour of proposed allotment comprising pieces 102* & 103*.
Comprising pieces 102* & 103*	28.2 hectares	Dwelling, associated wastewater system, water storage tanks, ruin, shed (second of the store buildings contained on current allotment 44) and native vegetation.

The amended plan of division is included in **Attachment – Amended Proposal Plan**, with other information included as **Attachment – Applicant’s Information**.

3. BACKGROUND AND HISTORY

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
17 April 2001	01/W61/473	Council approved a waste control system
7 April 1993	030/206/92	District Council of East Torrens issued Development Approval for a private dwelling

Since receipt of the further amended plan of division, Council staff have been in contact with staff at SCAP regarding timeframe for Council comment.

Council staff understood that an extension of time had been granted for Council comment, and on this basis requested additional information from the applicant on 15 January 2019.

This request for additional information was based in part to gain a better understanding of the rationale of the proposal and to incorporate building envelope detail for proposed allotment 101 as per advice from the CFS and the Native Vegetation Council.

After this request was made, the applicant arranged a site meeting with SCAP staff, Council staff and representatives of the CFS and Native Vegetation Council on 22 February 2019.

At this meeting, SCAP staff indicated their support for the proposal and noted in their opinion that the additional information sought by Council was not relevant to the assessment of the proposal.

Based on this, SCAP are now seeking Council comment without the further information request being fulfilled. However, it is acknowledged that part of the further information request was fulfilled verbally during site meeting discussions. That being rationale for the proposal and preferred CFS building location.

4. REFERRAL RESPONSES

- **Country Fire Service (CFS) (Informal Referral)**

The CFS assessed proposed allotment 101 for its suitability for future residential development against the Minster’s Code requirements for Undertaking Development in Bushfire Protection Areas and relevant provisions of the Council Development Plan.

Example conditions for future residential development were provided, but the CFS also sought building envelope information to provide further advice.

During the site meeting, the CFS further nominated the ‘shed’ area on proposed allotment 101 as their preferred residential building location. The CFS recommended that the boundary between proposed allotment 101 and piece 102* be re-adjusted so that allotment 101 was larger to allow for vegetation asset management. A draft further

amended plan of division was prepared by the applicant on this basis. Please see ***Attachment – Draft Further Amended Plan of Division in Response to CFS Site Meeting Advice.***

SCAP staff have advised that they will seek the applicant to formalise this plan as the final plan of division, pending receipt of Council comment.

- **Native Vegetation Council (NVC) (Informal Referral)**

The Native Vegetation Council summarised their advice as follows:

- There is lesser objection to this further amended proposal, than the last superseded proposal.
- A condition should be attached to approval (if granted) that no fencing shall be installed along the new boundaries.
- It would be preferable for future development on allotment 101 to be located further south of (away from) Valley Road, as this area contains a higher proportion of exotic vegetation. However such locations would also need to be suitable to the CFS.
- A Land Management Agreement could be placed over the majority of native vegetation outside of the building area on proposed allotment 101.
- The current owner proposing the land division must apply for any native vegetation clearance required; and meet the requirements of Native Vegetation Regulation 12(35) for residential subdivisions. Vegetation clearance applications are encouraged to be made concurrently with the land division application.

If vegetation clearance associated with a land division is approved, the future landowners are not eligible to apply for further clearance.

- **SA WATER**

No requirements - as there is no sewer or mains water connection to the allotments.

- **Council Environmental Health Unit (EHU)**

There is potential for proposed allotment 101 to support a wastewater system on the flatter areas of the land, using the AS1547 approach, rather than the Onsite Waste Water Code. It is understood from Environmental Health that wastewater systems can be designed either in accordance with the Australian Standard AS1547 or the Onsite Waste Water Code. The Australian Standard provides more design options than the Code; and is often used for steep sites.

- **Council Rates**

Proposed allotment 101 without a dwelling on it would receive a rural property address number upon separate application to Rates.

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

5. CONSULTATION

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

6. PLANNING & TECHNICAL CONSIDERATIONS

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

i. The Site's Physical Characteristics

Existing allotment 28 is irregular in shape with a frontage width of approximately 141m to Valley Road which tapers out to a width of approximately 553m at the rear. The allotment is bounded by an unmade road reserve (Big Range Road) on the east and Sixth Creek Road on the west. The allotment contains a dwelling, associated wastewater system, water storage tanks and ruin (former stone cottage). These structures have been developed near the northern portion of the allotment close to Valley Road. To the south of these structures the allotment is steep and covered in dense vegetation.

Existing allotment 44 is irregular in shape with a frontage of approximately 700m to Valley Road. The allotment is bounded by an unmade road reserve (Big Range Road) on the west and conservation park land to the east. The allotment contains two store buildings (sheds) which are approximately 240m apart. Both sheds are located on the flatter southern portion of the land nearer to Valley Road.

An unsealed fire track is located between the two shed structures, which winds its way up to the ridgeline near the boundary with the conservation park land.

The area around the shed buildings on the allotment have a natural slope of approximately 1 in 3.5, falling away to Valley Road.

ii. The Surrounding Area

Adjacent allotments typically range in size from 2 hectares to 26 hectares. Adjacent allotments share features similar to the subject land in that they are steep and densely vegetated.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Water Protection (Marble Hill) Policy Area of the Watershed (Primary Production) Zone and these provisions seek:

Water Protection (Marble Hill) Policy Area

- *Retention of agricultural activities which have low pollution potential.*
- *Restricted residential development on existing allotments only, provided water resources are provided.*
- *No intensification of urban development.*

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

Objectives: 3, 4
PDCs: 7

Objective 3 seeks restricted residential development on existing allotments only, provided water resources are protected.

A strict literal interpretation of this Objective would signal that no land division should occur, including boundary realignments as these do create new allotments. However, a more flexible interpretation of this Objective is that residential development should be restricted by not allowing the creation of additional residential allotments.

The proposal is not increasing the number of allotments, so therefore it is not increasing residential development potential and for all intents and purposes is consistent with Objective 3.

It is assumed that the likely future use of proposed allotment 101 will be for residential purposes in consideration of the steep sloping terrain of the site and dense vegetation. These features are considered to make the site unlikely to be desirable for primary production purposes.

However, this situation does not change as a result of the proposal. If the status quo is maintained, current allotment 44 could support a dwelling subject to future development approval.

The CFS confirmed during the site meeting that for their purposes both 'shed' areas on current allotment 44 could be suitable sites for residential development. That is, the proposal does not create a less suitable area for residential development for bushfire protection purposes compared to existing allotment 44 in its current arrangement.

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

- *The maintenance and enhancement of the natural resources of the south Mount Lofty Ranges.*
- *The enhancement of the Mount Lofty Ranges Watershed as a source of high quality water.*
- *The long term sustainability of rural production in the south Mount Lofty Ranges.*
- *The preservation and restoration of remnant vegetation in the south Mount Lofty Ranges.*
- *The enhancement of the amenity and landscape of the south Mount Lofty Ranges for the enjoyment of residents and visitors.*

The following are considered to be the relevant Zone provisions:

Objectives: 1, 2, 3, 4, 5

PDCs: 16, 17, 18, 19, 20, 21, 22, 33, 34

Form of Development

Objective 3 and PDCs 16 and 17 seek to ensure the long term sustainability of primary production in the Zone.

The subject site is not used for primary production, and is considered to have low primary production potential. Proposed allotment 101 is not nearby to primary production on adjacent sites that could lead to land use conflicts – e.g. spray drift to future possible residential development on this allotment.

The proposal does not offend these Principles and Objectives.

Land Division

PDC 18 states that land division should only occur where a suitable site for a detached dwelling is available which complies with criteria detailed in Table AdHi/5 of the Development Plan.

Non-compliance with Table AdHi/5 is a non-complying development trigger as it relates to the establishment of dwellings in the Watershed (Primary Production) Zone.

In order to avoid non-complying status, it must be demonstrated with development applications for dwellings that the dwelling;

- is sited at least 25m from watercourses
- that a wastewater system can be approved
- that the waste water system is at least 50m from watercourses
- that the waste water system is established on a slope gradient of no more than 1 in 5; and
- that the wastewater system can achieve a depth to bedrock of no less than 1.2m.

Proposed allotment comprising pieces 103* and 102* would contain a dwelling, so only proposed allotment 101 would need to comply with the Table AdHi/5 requirements.

The Council Environmental Health Unit have advised that there is potential on proposed allotment 101 to accommodate a waste control system. Waste control systems can be engineered to comply with the above as it relates to slope gradient and the nearest watercourse is approximately 70m away on the opposite side of Valley Road. The proposal is considered to sufficiently accord with PDC 18.

PDCs 19 and 21 are similar in that they both seek land division proposals that do not:

- result in an increased pollution risk to water resources; or
- cause the loss of productive primary production land.

The proposal is sufficiently in accord with PDCs 19 and 21 as it will not result in either an increased pollution risk to water resources, or loss of productive primary production land.

There are no increased development opportunities as a result of the proposal which would increase risk pollution risk to water resources. Existing allotment 44 is considered to be developable in reference to Table AdHi/5 so there is no increased development opportunity created by the amended proposal.

As discussed above, the proposal will have no impact on primary production.

PDC 20 provides guidance as to the circumstances where land division proposals are appropriate in the Watershed (Primary Production) Zone. It is considered to be one of the most pertinent controls directly relating to an assessment of the proposal.

This PDC states in full:

Land division may be undertaken where no additional allotment or allotments are created and the purpose of the plan of division is to:

a) provide for a minor readjustment of allotment boundaries to correct an anomaly [encroachment] in the placement of those boundaries with respect to the location of existing buildings; and*

b) provide for a minor readjustment of allotment boundaries to improve the management of the land for the purpose of primary production and/or the conservation of its natural features.

The proposal is consistent with the first part of PDC 20 as no additional allotments will be created. However, the proposal is not considered to be undertaken with regard to either criteria a) or b) of this PDC.

The owner and applicant confirmed during the site meeting that the purpose of the proposal is to incorporate the shed building near the western side boundary on current allotment 44 with the allotment containing the dwelling.

Whilst a precursory assessment would conclude then that the proposed allotment arrangement would be correcting an anomaly consistent with part a) of PDC 20, a more detailed review concludes that this not the case and the proposal is not consistent with part a) of PDC 20.

Council has no record of the shed approval. If this shed is used for domestic storage purposes it would be more convenient for it to be located nearer the dwelling. The shed is approximately 85m east of the dwelling, and separated by an unmade road. PDC 9 of the Watershed (Primary Production) Zone does seek for the number of outbuildings to be limited and clustered together.

The proposal is not consistent with part b) of PDC 20 either as the adjustment does not improve the management of the land for primary production purposes, or assist in conserving its natural features.

Native vegetation on the land is considered to be a natural feature, and the proposal places native vegetation at risk of clearance with respect to possible clearance along the shared boundary between piece 102* and allotment 101. Whilst the Native Vegetation Council is more supportive of the current further amended proposal, the presence of an additional boundary line through the native vegetation presents an additional opportunity for clearance along fence lines. If the status quo was maintained there would not be any boundary lines intersecting the native vegetation on existing allotment 44.

The Native Vegetation Council did recommend a condition that if the proposal is supported that no fencing shall be installed along the new boundaries. This type of condition is considered to be rather restrictive as it is common for shared allotment boundaries to be delineated in rural areas with post & wire type fencing, or similar. Such restriction would not be necessary if the status quo was maintained and allotment 44 was not altered. On this basis it is considered that the proposal is not in keeping with the spirit or intended purpose of PDC 20 and it is not consistent with either part a) or b) of this provision.

However, it is noted that the proposal could have some potential benefit in conserving native vegetation if the Native Vegetation Council were able to work with the land owner in negotiating a Heritage Agreement over proposed allotment 101 with the owner. This process could occur irrespective of the land division, but using the proposal as a driver or catalyst for this process could have some benefit.

Consistency with PDC 20 is fundamental to the assessment of land division proposals in the Watershed (Primary Production) Zone, and it is considered that as much weight or emphasis should be placed on achieving consistency with the latter part of point b) of this PDC as with ensuring that such proposals do not threaten water quality or primary production.

PDC 22 provides guidance to the size of allotments in the Zone, and states that the re-arrangement of boundaries should result in allotments that are of a size consistent with other allotments in the locality. The proposed allotments are considered to be of a similar size to other allotments in the locality, so the proposal is consistent with PDC 22.

Conservation

PDCs 33 and 34 are similar in that they both seek land division proposals that do not increase the number of allotments or part allotments over areas of native vegetation.

The proposal will result in a part allotment being created over an area of native vegetation, so it is inconsistent with PDCs 33 and 34.

As discussed above, whilst the further amended proposal under consideration is preferred by the Native Vegetation Council to the superseded proposal considered previously by CDAP, the proposal still puts native vegetation at risk of possible clearance along the boundary shared between piece 102* and proposed allotment 101.

b) *Council Wide provisions*

The Council Wide provisions of relevance to this proposal seek:

- *Orderly and economic development.*
- *Protection of productive primary production land from conversion to non-productive or incompatible uses, and encouragement of full-time farming of rural lands.*
- *Land in appropriate localities divided into allotments in an orderly and economic manner.*
- *The retention of rural areas primarily for primary production purposes and the maintenance of the natural character and rural beauty of such areas.*
- *Land division, including boundary re-arrangement, which retains areas of native vegetation on single or the least number of allotments.*
- *Protection of watersheds from pollution, and prevention of development which would lead to deterioration in the quality of surface or underground waters within the Mount Lofty Ranges Watershed.*
- *Development that minimises the threat and impact of bushfires on life and property while protecting the natural and rural character.*

Objectives: 1, 4, 6, 10, 61, 62, 79, 103, 104, 105, 106

PDCs: 2, 3, 28, 29, 30, 31, 32, 36

Form of Development

Objective 1 and PDC 2 seek development that is orderly and economic.

Proposed allotment comprised of pieces 102* and 103* is separated by an unmade road reserve (Big Range Road).

The separation of the pieces in this way is considered to be a fragmented, awkward arrangement that is not orderly. The rationale for this arrangement to include a small shed on the same allotment as the dwelling is not considered to be sufficient to negate the awkward piece allotment arrangement.

Advice from the applicant is that the owner has considered seeking separate Council approval for a road closure and purchase of the unmade road, but is unwilling to go through this process. If the unmade road was approved for closure and purchase it could be amalgamated with existing allotment 28, which would negate the proposed piece arrangement.

PDC 3 calls for development to take place on land which is suitable for its intended use taking into account the location and condition of the land and the objective for the Zone in which it is located.

The development of proposed allotment 101 for residential purposes would not compromise water quality, or prejudice primary production in the Watershed (Primary Production) Zone.

There are no rural land use conflicts, and proposed allotment 101 should be suitable for residential use as it relates to the potential risk of site contamination. The land is not currently used for potentially contaminating activities expected in the Zone such as horticulture, and a review of Council's historic aerial photography did not reveal any previous primary production activity.

The proposal for these purposes then is consistent with PDC 3. Despite this, Council staff would have preferred to make comment to SCAP with building envelope information for proposed allotment 101. The building envelope information was sought by the CFS so they could provide further certainty to their comments relating to mandatory requirements for dwellings. The Native Vegetation Council sought building envelope information to ensure compliance with the Regulations which seek that land division proponents, rather than the future developers clearly set out an area for clearance for a dwelling, and pay for this clearance if it acceptable to the Native Vegetation.

Whilst it is acknowledged that if the status quo is maintained a dwelling application could be made for current allotment 44 without any building envelope information, using the land division process as a driver to set-out clear building parameters is considered to be a benefit of the proposal. Due to its slope and dense vegetation the land will present challenges at the land use application stage that will need to be managed in terms of balancing CFS requirements with minimising alteration to the natural form of the land. A building envelope will assist with managing these matters by setting clear parameters upfront.

Building envelopes are not enforceable unless defined through a Land Management Agreement, but nevertheless they are a useful guide to developers and Council staff in consideration of a future land use application.

Council staff would have liked the opportunity before finalising comments to work with the Native Vegetation Council to ensure the building envelope area they may consider is large enough to cater for a dwelling and associated infrastructure – wastewater disposal area, water storage tanks and stormwater disposal. A concurrent land division and clearance assessment approach was recommended by the Native Vegetation Council.

Land Division

Amongst other matters, PDCs 28 and 29 state that land should not be divided unless:

- waste produced by the proposed use of the land can be managed so as to; prevent pollution of water resources and risk to health
- the slope and soil structure of the land is unsuitable for septic tank effluent disposal
- due regard is given to the surface drainage of each allotment created; and
- each allotment resulting from the allotment is provided with a safe and convenient access to the carriageway of an existing or proposed road thoroughfare. No allotment should be solely dependent upon a private road, or right of way for access

Council Environmental Health have advised that proposed allotment 101 should be able to accommodate an on-site waste system and surface drainage for proposed allotment 101 will need to be considered further at the land use application stage.

The existing access to proposed piece 103* containing the dwelling is to be maintained, and it is anticipated that access to proposed allotment 101 will be via the existing fire track and a proposed right of way (easement A) is shown on the plan of division.

Piece 102* containing the shed building does not have a cross-over to Valley Drive. An application could be made for a cross-over to this piece but it would result in the clearance of native vegetation and would also likely result in extensive earthworks to achieve a suitable gradient.

It is for these reasons that right of way over proposed allotment 101 is required to allow access along an existing track for maintenance of piece 102*. Whilst piece 102* may not be solely reliant on the proposed right of way if a cross-over to Valley Road was approved and constructed, this right of way would not be required if the status quo was maintained and lot 44 was not realigned.

The right of way is considered to contribute to the awkward unordered proposed allotment arrangement. The proposal is only considered partly consistent with PDCs 28 and 29.

PDC 30 states that allotment boundaries should be located where interference with native vegetation will be minimal; and in locations which enhance the management of the natural features.

The amended proposal has been designed with more regard to the management of the natural features of the land as the boundary line intersecting current allotment 44 now follows an existing track, giving it some rationale compared to the superseded proposal considered by CDAP, whereby the boundary line ran straight north south through the allotment.

The Native Vegetation Council advised by separate further advice post their formal comment, that the vegetation near the proposed boundary is degraded in quality. This advice was provided following the site meeting with all parties.

The proposal is partly consistent with PDC 30 as if the status quo was maintained and current allotment 44 was not realigned then there would be less opportunity for interference with native vegetation.

Conservation

Objective 79 seeks boundary re-arrangements which retain areas of native vegetation on single, or the least number of allotments.

This Objective is similar to Watershed (Primary Production) Zone PDCs 33 and 34. Refer earlier discussion on Zone provisions above.

The proposal is at variance with Objective 79.

Watershed Protection

Objectives 103 – 105 seek special control of development in the Watershed to ensure a continued economic supply of safe drinking water. In particular there should be no additional allotments created since these are likely to give rise to additional development activities.

These Objectives are similar to Watershed (Primary Production) Zone Objectives 1 and 2 and PDCs 18, 19, and 21. Refer earlier discussion on Zone provisions above.

The proposal is consistent with Objectives 103, 104 & 105.

Bushfire Protection

Objective 106 and PDCs 304 and 305 seek development that minimises the threat and impact of bushfires on life and property while protecting the natural and rural character.

PDC 305 relates directly to land division proposal and states in full:

Where land division does occur it should be designed to:

- a) minimise the danger to residents, other occupants of building and fire-fighting personnel;*
- b) minimise the extent of damage to buildings and other property during a bushfire;*
- c) ensure each allotment contains a suitable building site that is located away from vegetation that would pose an unacceptable risk in the event of bushfire; and*
- d) ensure provision of a fire hazard separation zone isolating residential allotments from areas that pose an unacceptable risk by containing the allotments within a perimeter road or through other means that achieve an adequate separation.*

Consistency with part c) of PDC 305 is not yet fully known as a building envelope (building site) has not been formalised for proposed allotment 101. Verbal advice has been received from the CFS that the shed area on proposed allotment 101 is the preferred building area however they are also seeking an amendment to the land division layout so that proposed allotment 101 is increased in size to achieve adequate separation for asset (vegetation) management.

The applicant has made a draft amendment to proposed allotment 101 to this effect. However, SCAP staff have sought that this amendment only be formalised at the end of the assessment process. It is unclear if SCAP staff will consult with the CFS to ensure that the further final amended proposal is satisfactory and therefore consistent with part d) of PDC 305.

7. SUMMARY & CONCLUSION

The proposal is for a land division - boundary realignment between two contiguous allotments in the Watershed (Primary Production) Zone. Both allotments are under the same ownership.

The proposal has been amended since it was first considered by the former CDAP in June 2016. The amended proposal is considered to be an improvement on the proposal considered by CDAP. However, the proposal is still considered to be undertaken without regard to the circumstances in which land division proposals should occur in the Zone. Further to this, it will result in an unorderedly allotment arrangement that increases the number of part allotments over an area of native vegetation.

It is acknowledged that there will be no water quality impacts, or threat to primary production resulting from the proposal which are key objectives of the Zone. However, it is considered that equal emphasis should also be placed on ensuring consistency with Watershed (Primary Production) Zone PDC 20 which sets out the circumstances in which land division should occur. The proposal does not satisfy either of criteria of PDC 20.

The proposal is not considered to be an improvement on the existing allotment configuration, which is considered to be the intent of Watershed (Primary Production) Zone PDC 20.

Given all of the above, the proposal is considered to be finely balanced but it is the opinion of staff that the amended proposal in its current form does not have sufficient merit to warrant consent.

Staff therefore recommend that the State Commission Assessment Panel be advised that the Council does not support the proposal.

8. RECOMMENDATION

That the Council Development Assessment Panel considers that the proposal is at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and it is recommended that Council should advise the State Commission Assessment Panel that it DOES NOT SUPPORT the amended proposed boundary realignment in Development Application 15/36/473 (15/D001/473) by S Merrett for Land division - boundary realignment (2 allotments into 2 allotments) at Lots 28 and 44 Valley Road, Montacute for the following reasons:

- **The proposal is inconsistent with Watershed (Primary Production) Zone PDC 20 as it is not considered to be a minor readjustment of boundaries. The proposal does not correct an anomaly, and the readjustment will not improve management of the land for conservation or primary production purposes.**
- **The proposal is inconsistent with Council Wide Objective 1 & PDC 2 as the allotment arrangement comprising pieces 102* and 103* separated by an unmade road is not an orderly form of development and relies on a right of way for access for management.**
- **The proposal is inconsistent with Watershed (Primary Production) Zone PDCs 33 & 34 and Council Wide Objective 79 as it will result in a part allotment created over an area of native vegetation.**

9. ATTACHMENTS

Locality Plan
Superseded Plan & Minutes from CDAP Meeting 7 June 2016
Amended Proposal Plan
Applicant's Information
Referral Responses
Draft Further Amended Plan of Division in Response to CFS Site Meeting Advice

Respectfully submitted

Concurrence

Marie Molinaro
Statutory Planner

Deryn Atkinson
Manager Development Services