

**COUNCIL ASSESSMENT PANEL MEETING**  
**10 April 2019**  
**AGENDA – 8.1**

<b>Applicant:</b> Nikolas Carsiotis	<b>Landowner:</b> P D Hannon
<b>Agent:</b> Garth Heynen	<b>Originating Officer:</b> Doug Samardzija
<b>Development Application:</b>	18/760/473
<b>Application Description:</b> Two storey mixed use development incorporating shop, office, residential flat building (8 dwellings), undercroft car parking, retaining walls (maximum height 1.2m), fence (maximum height 3.4m), associated landscaping & earthworks, & demolition of existing dwelling & outbuildings	
<b>Subject Land:</b> Lot:13 Sec: P53 FP:158259 CT:5350/901	<b>General Location:</b> 14 Johnston Street Stirling  <i>Attachment – Locality Plan</i>
<b>Development Plan Consolidated :</b> 24 October 2017 <b>Map</b> AdHi/1, 28 & 72	<b>Zone/Policy Area:</b> District Centre Zone & Stirling Core Policy Area
<b>Form of Development:</b> Merit	<b>Site Area:</b> 1052m <sup>2</sup>
<b>Public Notice Category:</b> Category 2 Merit	<b>Representations Received:</b> 4  <b>Representations to be Heard:</b> 3

**1. EXECUTIVE SUMMARY**

The purpose of this application is for a two storey mixed use development incorporating a shop, office and residential flat building (8 dwellings) with associated undercroft car parking and landscaping.

The subject land is located within the District Centre Zone and the Stirling Core Policy Area. The proposal is a merit category 2 form of development. Three representations in opposition and one representation in support of the proposal were received during the public notification period.

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

The proposal is for a two storey mixed use development incorporating undercroft car parking. The commercial development is proposed along the front of the property in the form of an office and a cafe facing Johnston Street with medium density residential development in the form of residential flat building comprising eight dwellings behind the proposed commercial uses.

The main issues relating to the proposal are the bulk and scale of the development, overlooking, overshadowing and the appropriateness of the development within the locality.

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

## 2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- Two storey mixed use development which includes commercial development in form of a shop and office addressing Johnston Street and a residential flat building which includes 8 dwellings/apartments at the rear of the commercial use
- Four dwellings are proposed at ground level and three dwellings are proposed on the second level, with one of the units being two storeys in nature
- Undercroft car parking including a total of 24 car parking spaces, bicycle lockup room, waste collection area and delivery area
- Combined fence and retaining walls (maximum height 4.7m)
- Privacy screen - maximum height of 3.1 metres
- Two lift towers with maximum wall height of 7.5m
- Landscaping
- Associated earthworks with 1.5m of cut and 730mm of fill
- Demolition of existing dwelling and outbuildings

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

## 3. BACKGROUND AND HISTORY

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
08/02/2011	11/62/473	Council approved a carport
30/01/2003	02/1283/473	Council approved a verandah
31/07/2002	02/571/473	Council approved a domestic outbuilding - garage

## 4. REFERRAL RESPONSES

- **CFS (Informal Referral)**  
The application was informally referred to CFS to provide comments in relation to access and fire water supply as the subject land is within a medium bushfire area and no formal referral is required. The following comment was provided by CFS:  
***“Please can you confirm what fire provisions will be provided to meet the performance requirements of the NCC i.e. hydrant coverage etc as these provisions might be over the basic requirements of the Ministers requirements for bushfire.”***  
In the response the applicant has advised that:
  - The required system will depend on the mains water supply and coverage.
  - If a “plug” is available in the vicinity and pressure is sufficient, this existing provision would suffice.

- If boost pressure is required, a pump will be housed on site, (size of enclosure 800Dx1500Hx2000W), which can be located beside the front lift in the planter beside the access path, narrow side of box to street front.
- If additional water is required, it will be stored on site below the undercroft floor as per the rainwater retention/detention tanks.

All requirements of the BCA/NCC for the BAL rating will be met and this compliance will be confirmed by the Building Certifier at the Building Rules consent stage.

- **AHC ENGINEERING**

Council's Engineering Department are satisfied in principle with the stormwater management plan as prepared by Drew Rudd Engineering but have recommended that a condition be attached requiring a detailed stormwater management plan and computations prior to the issue of building rules consent (refer to condition 14).

- **AHC ABORICULTURE**

Council's Horticultural Officer inspected the site with Council's Planning Officer and requested that the Consultant Arborist Report address the impact to the Council street tree adjacent the proposed access point. The Arborist Report states that the development will only require minor modification to the tree's existing growing environment and therefore considers that there will be no adverse impact to the health of this tree, provided tree protection measures are implemented during construction (refer to condition 17 relating to tree protection zones). No further comments were provided by Council's Horticultural Officer.

- **AHC WASTE MANAGEMENT**

The following comments have been provided by Council's Waste Management Officer in relation to the proposed waste management plan as outlined in the report prepared by Garth Heynen from Heynen Planning:

**Option One:**

*Each rateable property is entitled to waste provisions of a 140L blue lidded general waste bin collected weekly, a 240L yellow lidded recycling bin collected fortnightly and a 240L green lidded organics bin collected fortnightly.*

*Commercial properties are entitled to a 140L blue lidded general waste bin, collected weekly and 240L yellow lidded recycling bin collected fortnightly only.*

*Due to the potential of having so many bins located all on Johnson Street for collection, the option of larger bins that still provide the same waste provisions as above but take up less of a footprint on the verge for collection has been discussed with the applicant.*

**Option Two:**

*Council can provide 660L yellow lidded recycling, 360L green lidded organics and 1,100L blue lidded general waste bins. Bins can be provided in any combination up to the above waste provisions per property.*

*These bins will need to be presented on the verge area by the owner/resident for collection as East Waste will not enter private property to collect bins.*

*Larger bins than this cannot be provided as the trucks are unable to lift them once full.*

*Find attached dimensions for the 360L bins. Follow the path <http://www.mastec.com.au/documents/mastec.660lt1100lt.brochure.pdf> for the 1,100 and 660L dimensions to assist with storage issues.*

*Please note the green organic bins cannot be larger than 360L – this is not what the applicant detailed in the application.*

*Council and East Waste can provide either of the waste collection options above.*

*If the requirement is for the larger bins a lead time of app 6-8 weeks will be required to order as they are a non-production line item.*

Refer to the section of the report relating to waste management which outlines the required bin numbers for the proposed development.

- **AHC SUSTAINABLE ASSETS**

The following comments have been provided by Council's Manager of Sustainable Assets in relation to the capacity of Johnston Street to handle the additional traffic movements anticipated with the proposed development:

*The proposed access location on the low side of 14 Johnston Street Stirling will allow for at least minimum SSD (Stopping Sight Distance) for vehicles.*

*The volumes that will be generated are considered to be low for a development within a commercial zone. The 8 residential dwellings of the development are unlikely to generate in excess of 8 vehicle movements per dwelling that is normally used in residential traffic impact modelling. The proximity to public transport and shopping facilities is likely to see vehicle movements below this rate. The commercial development on this site is minimal and not expected to generate high traffic numbers.*

*The traffic volumes on Johnston Street are considered to be higher at the Mount Barker end between the roundabout and Oakbank Street. This higher traffic volume is due to the high generating car parks for Woolworths, Hotel and Foodland. The most recent traffic counts (2015) on this section indicate a total of 4200 vpd. It is likely from site observations that the traffic volume past 14 Johnston Street will be less.*

*The current proposal is not expected to significantly impact on the operational flow of traffic along Johnston Street given the current nature of the street for vehicles entering or exiting the site.*

## 5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with the procedural matters- public notification section of the District Centre Zone. Four (4) representations were received. Of these three (3) representations are opposing the proposal, and one (1) is in support of the proposal. All were from adjacent properties.

The following representors wish to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Janet Sands	16 Johnston Street, Stirling	Ross Sands
Ben and Karen Anthonysz	29 Milan Terrace, Stirling	Ben and Karen Anthonysz
Ben and Inca Pearce	2 Oakbank Street, Stirling	Greg Pearce

The applicant and his representative – Garth Heynen may be in attendance.

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

- Scale of the proposed development
- Overshadowing
- Impact to trees on adjacent land
- Overlooking
- Size of the retaining walls and privacy screen
- Vehicle movements and impacts to Johnston Street
- Noise impacts

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

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

## 6. PLANNING & TECHNICAL CONSIDERATIONS

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

- The Site's Physical Characteristics

The subject land is a relatively regular shaped allotment with the exception of a minor indent of the side boundary on the south-western side. The allotment is approximately 1052m<sup>2</sup> in area. The front width of the allotment boundary is 20m and the depth of the allotment is 60.7m. Current site features include a single storey dwelling towards the front of the property, with associated outbuildings to the rear. The property is located on the lower side of Johnston Street and slopes from south-west to north-east. The existing access to the site is directly from Johnston Street in the north-east corner of the allotment.
- The Surrounding Area

The surrounding area is characterised by both a mixture of allotment sizes and land uses. To the south of the subject land the allotments are predominantly of regular shape ranging from 800m<sup>2</sup> to 2000m<sup>2</sup> approximately. These allotments are predominantly used for residential purposes. To the east and north of the subject land are predominantly larger allotments used for commercial purposes with the main street (Mount Barker Road) of Stirling approximately 140m northeast of the subject land. Immediately east of the subject land is the Stirling Hotel and the Foodland supermarket. The allotment immediately to the rear of the subject land is a

car park associated with the Woolworths Supermarket. The allotment immediately to the north has approval in place for it to be used as temporary car parking.

iii. Development Plan considerations

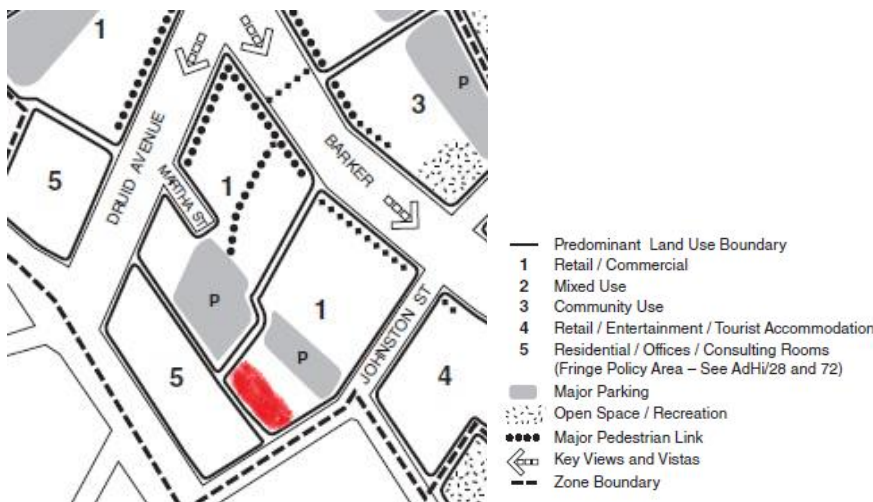
The subject land is located within the the District Centre Zone and Stirling Core Policy Area. The following are considered to be the most relevant provisions within the Adelaide Hills Council Development Plan relating to the proposed development:

- A visually and functionally cohesive and integrated district centre that maintains its village character
- A centre accommodating medium density residential development that provides housing choices and is in association with non-residential uses
- Increased vitality and activity in centres through introduction and integration of housing above or behind non-residential uses
- Development of a high design standard and appearance
- Development located and designed to minimise adverse impacts and conflict between land uses
- Protection of the amenity of the locality through the use of appropriate planting and landscaping works
- Development that provides safe and efficient movement of all transport modes

**CENTRE AND RETAIL DEVELOPMENT:**

POLICY/ZONE/COUNCIL WIDE	OBJECTIVES & PDCs
Stirling Core Policy Area	Objectives: -Nil PDCs: -Nil
District Centre Zone	Objectives: 1 and 4 PDCs: 1, 6 and 7
Council Wide: - Centre and Retail Development	<u>Centre and Retail Development:</u> Objectives: 1, 2, 3 and 4 PDCs: 1, 2, 3, 6, 8 and 9

The proposal is for a two storey mixed use development incorporating a shop, office, and residential flat building consisting of 8 individual residential units. Whilst the bulk of the proposed use will be for residential purposes, the portion of the building facing directly onto Johnston Street is proposed for commercial use in the form of a shop/café at the ground level and an office directly above. The desired character statement of the zone envisages appropriate commercial uses that directly front the street, with the residential development located either directly above or at the rear. Objective 3 of the zone envisages medium density residential development associated with non-residential uses. PDC 1 of the zone specifically lists the intended commercial uses that are generally envisaged in the zone. Shops and offices are both listed as envisaged uses. PDC 6 refers to the concept plan for the District Centre and development generally envisaged within the zone (refer extract below):



The section highlighted in red shows the location of the subject land within the zone concept plan labelled as (1) which indicates that the predominant land use envisaged in this area is retail/commercial uses. This is also backed up by Council Wide PDCs and Objectives which envisage residential uses in conjunction with commercial development within centre zones to provide vitality and activity within centres.

Whilst the proposal is not fully consistent with the concept plan as envisaged because the predominant use of the site will remain residential rather than commercial, the proposal is considered to be relatively consistent with the overall intent of the zone as well as the Council Wide provisions for centre and retail development. Although the commercial component is a smaller component of the mixed use development, it is proposed to face and be, directly accessible from the street. Given the proximity of the development to Mount Barker Road, there will be good pedestrian linkages between the existing and proposed commercial uses. These mentioned factors are likely to increase vibrancy and activity within the centre as envisaged by the Development Plan. In addition, given that the site adjoins residential properties to the south, smaller scale commercial development along the front of the property will ensure that amenity impacts are minimised.

The proposal is therefore considered to be predominantly consistent with the above mentioned zone and Council Wide provisions relating to centre and retail development.

**RESIDENTIAL DEVELOPMENT:**

POLICY/ZONE/COUNCIL WIDE	OBJECTIVES & PDCs
Stirling Core Policy Area	Objectives: -Nil PDCs: 1, 2 and 3
District Centre Zone	Objectives: 3 and 4 PDCs: 1, 3 and 5

<p>Council Wide:</p> <ul style="list-style-type: none"> <li>- Residential Development</li> <li>- Centre and Retail Development</li> <li>- Medium Density Development</li> </ul>	<p><u>Residential Development</u>                  Objectives: 1, 2 and 3                  PDCs: 1, 6, 9, 18, 22, 23, 27 and 28</p> <p><u>Centre and Retail Development</u>                  Objectives: - Nil                  PDCs: 4 and 5</p> <p><u>Centre and Retail Development</u>                  Objectives: 1</p>
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The clear intent of the zone, the policy area and the relevant provisions within the Centre and Retail Development Council Wide section are that residential development in centre zones only be located to the side or rear of non-residential uses and be in associated with these. As previously mentioned, the proposal has been designed in a way which achieves the desired outcomes of the zone and the council wide sections of the Development Plan with commercial activity in form of a shop and office proposed along the front of the allotment facing Johnston Street and the residential units proposed at the rear.

The Development Plan also seeks that residential developments within centre zones are designed so that they are not impacted on by adjoining development resulting in land use conflicts. Whilst the subject land adjoins commercial land to the north and north-east, which are being utilised a supermarket with associated car park, the use of this land is unlikely to unreasonably impact the proposed residences. The Development Plan also seeks that residential developments within centre zones are medium density, in the form of townhouses, apartments and shop-top housing. Objective 1 of the Medium Density section of the Development Plan seeks that development provides housing choices and employment opportunities. The proposal has been described as a residential flat building consisting of 8 dwellings, which are in the form of apartments. The proposed residential flat building consists of four apartments on the ground level, three apartments at the first floor level, and one of which has been designed as a two storey apartment. The total floor area of the apartments excluding the areas of private open space is approximately 905m<sup>2</sup> on an allotment of approximately 1052m<sup>2</sup>. Each of the apartments have a floor area of between 95m<sup>2</sup> to 100m<sup>2</sup>.

Medium Density

The term medium density residential development varies considerably from zone to zone within the Adelaide Hills Council Development Plan. In the Country Township Zone this means detached dwellings on allotments down to 500m<sup>2</sup>, but in the Glen Stuart Road Policy Area (formerly named the medium density policy area) it means dwellings with an average site area down to 120m<sup>2</sup>. Medium density development in a metropolitan Adelaide context is deemed more appropriate in the District Centre Zone, noting the desire in the Development Plan for the District Centre to be vibrant, have after hours use and be the social and retail hub of the district. These objectives cannot be achieved without greater population density. This level of density is also deemed more appropriate due to the requirement for dwellings to be above and/or to be at the rear of commercial uses. It should also be noted that the site areas envisaged with the Mixed Residential Zone (the transitional zone between the District



Centre and Country Living Zone) are between 300m<sup>2</sup> and 500m<sup>2</sup>. Based on this, the average site areas of 130m<sup>2</sup> per dwelling including private open space are deemed to meet the desire to achieve medium density residential development. This proposal is therefore considered to be consistent with these requirements.

Private Open Space

The private open spaces areas have been integrated into the design of each of the units. The Development Plan has clear provisions in relation to private open space for dwellings located above ground. In the case of this proposal, for each dwelling containing two bedrooms the minimum private open space requirement is 11m<sup>2</sup> with a minimum dimension of 2 metres. The proposal satisfies the minimum private open space requirements with some of the dwellings having double the minimum space required. The proposal is considered to accord with the above Objectives and PDCs relating to residential development in particular concerning development within centre zones.

**DESIGN AND APPEARANCE:**

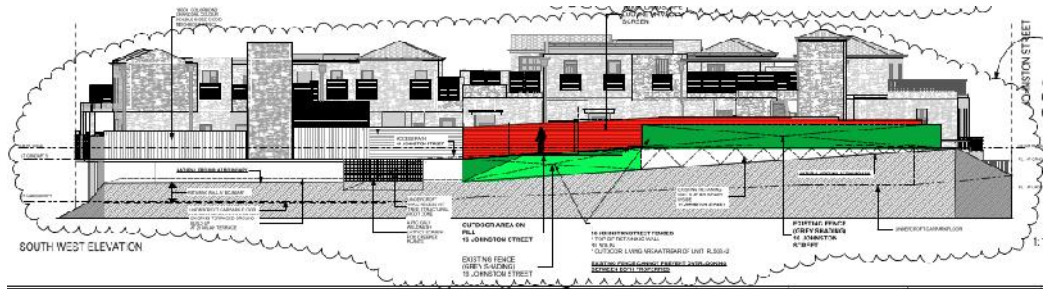
POLICY/ZONE/COUNCIL WIDE	OBJECTIVES & PDCs
Stirling Core Policy Area	Objectives: - Nil PDCs: 4, 5, 6, 7, 8, 9, 11 and 13
District Centre Zone	Objectives: 2 PDCs: 5, 10, 12 and 13
Council Wide: <ul style="list-style-type: none"> <li>- Design and Appearance</li> <li>- Landscaping, Fences and Walls</li> <li>- Siting and Visibility</li> <li>- Medium Density Development</li> <li>- Residential Development</li> </ul>	<u>Design and Appearance:</u> Objectives: 1 PDCs: 1, 2, 3, 4, 7, 9, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 29 <u>Landscaping, Fences and Walls:</u> Objectives: 2 PDCs: 4 <u>Siting and Visibility:</u> Objectives: -Nil PDCs: 2, 4, 5, 6 and 7 <u>Medium Density Development:</u> Objectives: 1 and 3 PDCs: 1, 3 and 5 <u>Residential Development:</u> Objectives: 2 PDCs: 27

Objective 2 of the District Centre Zone seeks a visually and functionally cohesive and an integrated district centre that maintains its village character. The proposal is for a two storey building with associated undercroft car parking with external finishes consisting predominantly of masonry stone walls with terracotta tiled roofing. The applicant has advised that the inspiration for the material palette is from Provence, a region in south-eastern France. The proposal is therefore not considered to be entirely consistent with the desired character of the zone which details that the architectural style of the buildings may be mixed as long as the design theme remains contemporary. The proposal is considered consistent with PDCs seeking external

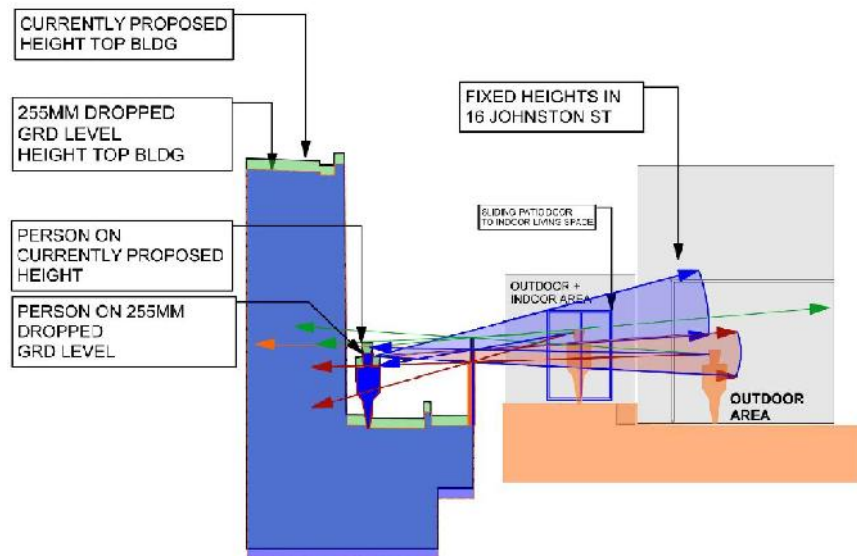
surfaces and materials to be of a non-reflective nature. Council Wide PDC 1 within the Design and Appearance section and PDC 2 within Sitting and Visibility stipulate that buildings should reflect the desired character of the locality and blend with the surrounding development. At the same time it should incorporate contemporary designs that have regard for building heights, external finishes, roof form, façade articulation and detailing. Whilst the style of the proposed building is not contemporary; its traditional style with pitched roofs, smaller openings (solid to void ratio) and solid stone walls, will not be out of character within the locality noting the style of many of the historical homesteads around Stirling. The external colours and materials are of a natural finish which along with associated landscaping will complement the locality. The design puts a lot of emphasis on articulation and detailing in particular from side allotment boundaries, which in turn then reduces the building height as well as mass and proportion. This is discussed later in the report. It is considered that the proposal sufficiently addresses the above PDCs either through articulation, external materials and landscaping.

As mentioned above, the design puts a high emphasis on providing articulation of the built form through variations in wall and roof heights as well as setbacks from the boundaries thereby reducing the bulk and scale of the development. The entrance to the building has been designed to face directly onto Johnston Street with multiple access points available for residents as well as separate access for the patrons of the shop/café and the office. Given that the adjoining allotment immediately to the north is currently undeveloped, a large portion of the northern elevation is going to be exposed and visible from the public realm. The design has incorporated variation in roof and wall heights and also in the building lines along the northern boundary, and uses a mixture of different materials ranging from sandstone, timber privacy screens and fire rated glass brick to reduce the visual bulk of the building. Whilst the proposed development is not low scale at a maximum height of 10.9 meters within the site and is within the height restriction set out in the Policy Area. The proposal is therefore considered to be consistent with the relevant Objectives and PDCs which relate to bulk and scale and minimising the visual impact of structures within the locality when viewed from the public realm.

Immediate neighbours to the south at 16 Johnston Street have raised concerns in their representation in relation to the bulk and scale, overshadowing and overlooking. The first 18m approximately of the southern property boundary is not changing with the existing fence remaining and providing the necessary privacy and separation between the properties. However from the 18m point the land slopes away to the rear and the height of the fence tapers with the slope of the land. As such from this point the proposal includes a 1.8m high privacy screen proposed adjacent and above the existing fence. The image below with the green shading indicates the existing fence and the red indicates the new privacy screen proposed as part of the development:



This privacy screen is also depicted on the perspective image identified as drawing number DA.18. At the highest point toward the rear of 16 Johnston Street this privacy screen will be 3.1m in height from ground level, with the height dropping to 2.9m along the rear allotment boundary of 29 Milan Terrace. Relevant Objectives and PDCs seek that buildings are designed to minimise their visual impact, prevent the loss of sunlight or views, enhance the attractiveness of the development and be compatible with existing development. In the context of the side boundary treatment with privacy screens above the existing fence lines, the proposed development fails to comply with these Objectives and PDCs. The applicant was asked if the level of the building could be lowered further which would in effect reduce the total height of the privacy screen and therefore minimise the impact of the structure when viewed from adjoining properties. The response from the applicant was that further lowering of the structure would create a number of issues including placing constraints on the future development of 12 Johnston Street due to the deeper excavations on the development site. Further, it would create overlooking potential from 16 Johnston Street into the proposed residential units as shown in the illustration below. However, the main concern with the lowering of the building is the issues that this would create with increased gradient of vehicle and pedestrian ramps. In effect lowering the floor level would minimise the undercarriage clearance for vehicles entering the car park.



**EFFECT OF LOWERING THE PROPOSED DEVELOPMENT 255MM BELOW WHAT IS PROPOSED  
 OVERLOOKING OCCURS  
 ILLUSTRATION SHOWS 1.5M AND 1.8M FENCE**

Council acknowledges that the proposed privacy screen fails to meet the relevant Objective of the Development Plan which talks about minimising the bulk and scale of the development and protecting the amenity of the locality. However, regard must be given to the restriction posed by the narrow site, the need to ensure that vehicle and pedestrian ramps are of an appropriate standard to allow for safe and practical use and the need for the screens to be installed to protect the privacy of the adjoining properties. The impact of the structure on 29 Milan Terrace is considered to be minimal given the separation distance between the back fence and the dwelling on that site, and that a large portion of the structure is going to remain well screened by the existing tree which will be retained through use of alternative footing design. The impact on 16 Johnston Street is much greater given that the screen will be directly visible from the dwelling's private open space. However, it should be noted that the screen is going to be installed within the subject land and detached from the existing fence. This will allow for the structure to be softened with climber plants to minimise the visual impact to the dwelling at 16 Johnston Street.

There are no other overlooking concerns created by the proposed development. At the ground level all of the overlooking concerns have been addressed through the use of walls and privacy screens in the outdoor areas. On the second level, all windows facing directly into neighbouring properties have been fitted with a screen 1.5m above the finished floor level. The privacy screens fixed to the windows and private open spaces are proposed to be of fixed timber louvres and the privacy screen along the southern boundary is proposed to be a charcoal aluminium louvre screen. The proposal is therefore considered consistent with PDCs 18 and 19 within the Council-wide Design and Appearance section and PDC 27 within the Council-wide Residential Development section.

#### *Building Height*

The zone and the policy area have quite specific provisions relating to the bulk and scale of buildings and as such provide a number of quantitative measures which the development needs to satisfy to maintain the character of the locality and to avoid non-complying triggers. The policy area puts a lot of emphasis on the height of structures, with PDC 4 stating that no building should exceed 4 metres in height above natural ground level at the street level and where it abuts an adjacent zone (not policy area). This has been incorporated into the design by stepping the front section of the building back to maintain single storey appearance at road level. The maximum height of the wall of the shop component of the building is 4.3m, which is marginally higher than what is anticipated in the PDC. The second storey setback for the office use is 5.8m from the front allotment boundary and provides a staggered appearance, reducing the visual bulk of the building.

PDC 7 of the Stirling Core Policy Area states that no part of the building within the policy should exceed two storeys excluding undercroft parking or 10 metres in height above natural ground level measured at any point on the immediate adjoining site boundary (refer Figure SDC/A below). Drawing number DA.07.01 and drawing number DA.09 provides details of how the proposed development fits within this 10 metre height limit as illustrated in the Figure 1 below. The drawings show interval markers along the two side boundaries from which point the 10 metre measurements were

taken to illustrate the compliance with the 10 metre height restriction. The drawings illustrate that along both side boundaries and through the site at various points (four sections) the development is well within the 10m height restriction. The proposed development thus satisfies the requirements set out in PDC 7 as demonstrated in drawings DA.07.01 and cross section drawings DA.09.

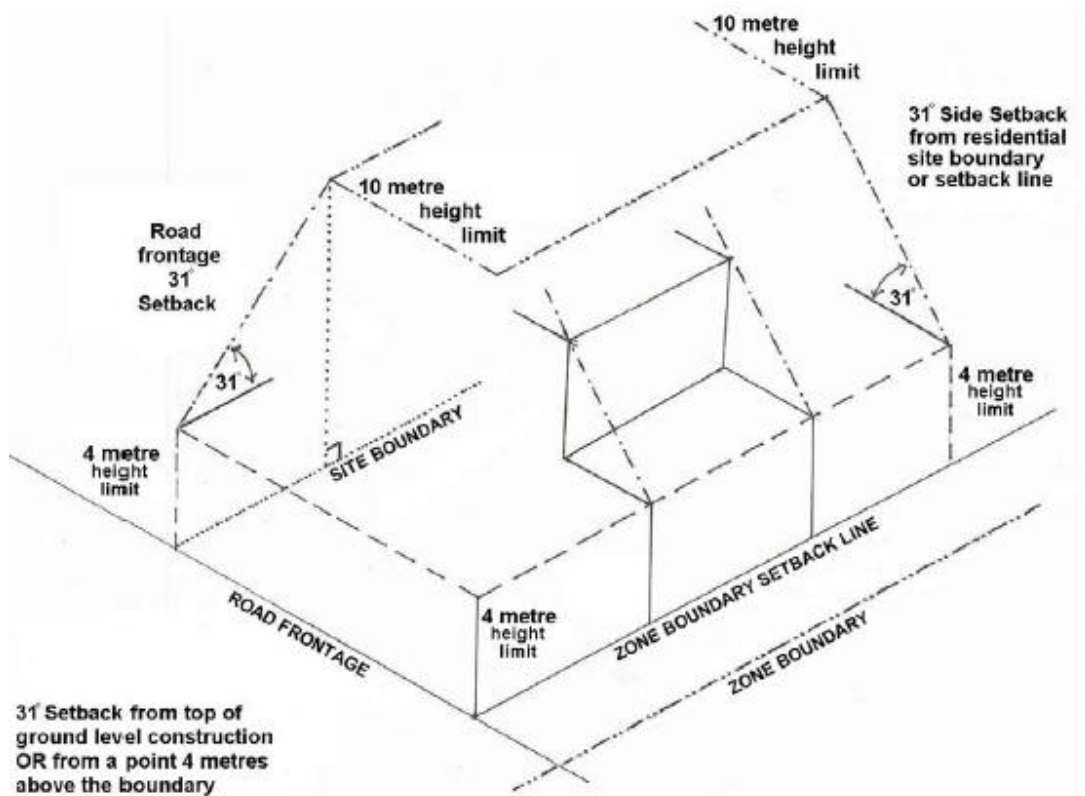


Figure 1 - Extract for the Council's Development Plan

### Overshadowing

Overshadowing has also been identified as a concern by the owner of 16 Johnston Street. The applicant has prepared shadow diagrams for the morning, midday and afternoon on the 21 June winter solstice showing the level of overshadowing to neighbouring properties. The diagrams show that the most significant shadow will be cast in the morning which would last for a duration of approximately 1.5 hours and that it will predominantly affect the areas along the boundary with 16 Johnston and 29 Milan Terrace but the main outdoor areas of the respective properties will not be overshadowed by the proposed development. This is considered to be within good residential design parameters and the proposal is therefore considered to be consistent with PDC 17 within the Council-wide Design and Appearance section.

The siting and visibility Council Wide section details that the visual impact of earthworks should be minimised in the landscape. In particular, the provisions state that earthworks should be kept to a minimum and be undertaken to reduce the visual impact of buildings. The majority of the earthworks proposed will occur within the south-western corner of the allotment with a maximum of 1.5m of cut and

approximately 730mm of fill proposed to accommodate the undercroft car park. As mentioned above, applicant was asked to consider further excavation into the site to reduce the height of the privacy screen along the southern boundary. However due to the constraints associated with the car park access ramp this was not possible. The proposed earthworks are considered to be consistent with the relevant PDCs of the Council-wide siting and visibility section.

**INFRASTRUCTURE, STORMWATER, TRANSPORT AND CAR PARKING:**

POLICY/ZONE/COUNCIL WIDE	OBJECTIVES & PDCs
Stirling Core Policy Area	Objectives: - Nil PDCs: 20, 21, 22, 23, 25 and 26
District Centre Zone	Objectives: 4 PDCs: 18, 19 and 20
Council Wide <ul style="list-style-type: none"> <li>- Infrastructure</li> <li>- Transportation and Access</li> <li>- Natural Resources</li> </ul>	<p><u>Infrastructure:</u>                      Objectives: - Nil                      PDCs: 1, 6,</p> <p><u>Transportation and Access:</u>                      Objectives: 2 and 4                      PDCs: 2, 5, 8, 12, 14, 16, 23, 25, 26, 32, 33, 34, 35, 36, 38, 42, 44, 45, 52 and 53</p> <p><u>Natural Resources:</u>                      Objectives: 6                      PDCs: 8, 10, 11, 13, 14, 17, 18, 21, 22 and 23</p>

Undercroft Parking

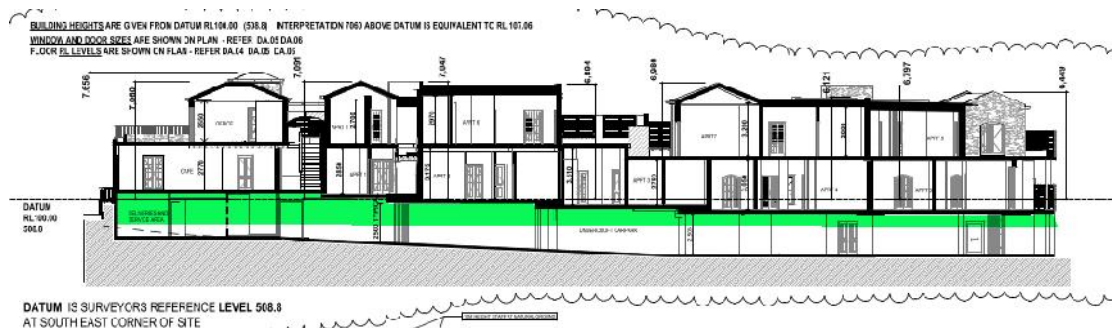
Given the nature of the proposed development, the size and the narrow nature of the allotment, the car parking requirements had to be met utilising an undercroft car park. In the context of Adelaide Hills Council Development Plan, undercroft car parking is defined as-

*“Semi-basement parking located under (in effect, in the basement of) the ground level of a covering building. In many cases the top 1 to 1.5 metres of this basement level are above ground with openings providing ventilation and daylight. In most shopping centre environments access to the undercroft is from the rear (away from the main road frontage). Where topographic relief allows, entry may be from lower land at a similar level as the floor of the undercroft”.*

This definition is also further enforced by PDC 20 and 22 within the Stirling Core Policy area which state that the access to undercroft car parking is to be gained from areas identified as ‘major parking’ areas in District Centre Stirling Concept Plan. It is also detailed that undercroft carparks should not project above finished ground level by more than 1.5m. Given that the access to the car parking area is directly from the road as opposed from the rear of an identified major parking area the proposal does not fully meet the above definition or PDC 22. However, as mentioned above, given the narrow nature of the allotment, the topography and the fact that the layout of the locality is not of your typical shopping centre environment, meeting the above access requirements would have been difficult. This would require extensive investigation and negotiations including rights of way to even see if this would be

possible. The access to the car park has been designed and integrated into the overall design of the building and to complement the streetscape, and is utilising the existing access point. Whilst it is not consistent with PDC 22 and the definition of undercroft car parking, it is considered that the proposed car parking arrangements will not unreasonably impact upon the streetscape.

The proposal also fails to meet PDC 20 which refers to the projection of the undercroft car parking wall not exceeding 1.5m above the finished ground level. The wall of the undercroft car park along the northern boundary is proposed to be 3.7m at its highest point with the front section of the wall, which is the most visible section from the road, a maximum of 2.6m above the finished floor level. Whilst the proposal fails to meet this PDC it is not considered to be detrimental to the proposal. The wall is facing directly into the adjoining vacant allotment currently utilised as a car parking area and is not facing the public realm. In addition as mentioned earlier in the report, the applicant has advised that any further excavation below the current level would have resulted in overlooking issues between 16 Johnston Street and the subject land, and would have also created issues with the gradient of the pedestrian and vehicle access ramp for the development. When the walls of the undercroft carpark are assessed against the relative level (RL 100.00) in the south-west corner, the undercroft park is completely below the road level. In consideration of the RL 98.20 depicted in the north-east corner of the allotment, the carpark wall is approximately 1.8m above the road level (depicted in green below), with the exception of the first 14m along the northern boundary which is an access ramp to the car park with associated landscaping above.



The applicant has engaged the services of a traffic engineer to provide comments in relation to the proposed access ramp. The report finds that the gradients of the ramp at various sections accord with the Australian Standards. In addition, separate comments were sought internally from Council engineering who advised that the proposed access meets the minimum sightline requirements and that the anticipated increase in traffic movements from the proposed development would be minimal and will not impact on traffic flows along Johnston Street. The proposal is therefore considered to be consistent with PDCs 2, 5, 8, 16, 25, 26 and 32 within the Council-wide Transportation and Access section.

The Development Plan seeks that the minimum off street car parking rates be provided at a rate no less than those set out in Table AdHi/4. Based on the identified uses, a total of 23 off street car parking spaces are required for the proposal. The proposed car parking layout shows a total of 24 car parking spaces which also includes one car parking space for persons with a disability. The original layout of the car park was amended to ensure compliance with Australian Standard AS 2890, specifically relating to the location of the disability car parking space. The location of the security gate has also been amended to allow for vehicle queuing. A separate delivery area has also been integrated within the design of the undercroft car park and is proposed at the front and before the security gate, to allow for easy access at all times. In addition, the design also incorporates a bicycle lock up area at the rear of the building. The majority of the undercroft car park area been amended to include an open grill which will allow for natural cross ventilation of the car park area. The proposal is therefore considered to be accordance with all of the relevant PDCs relating to car parking.

Stormwater

The proposal satisfies the relevant Objectives and PDCs as stipulated in the Natural Resource section of the Development Plan relating to stormwater management. A stormwater management plan has been prepared by applicant’s consulting engineer and has been reviewed by Council’s Engineering team. The design has been prepared in accordance with Adelaide Hills Council stormwater drainage design guidelines to ensure that that the maximum rate of discharge to the street kerb is restricted to 10 litres per second. In addition, the stormwater management system has been connected to retention/detention and an irrigation feed system for the stormwater to be re-used on site. The plan has been endorsed in principle by Council’s Engineering team who also advised that the final plan should be presented to Council prior to building approval (refer to condition 14). A condition requiring a Soil Erosion Drainage Management Plan prior to building approval is also recommended (refer to condition 15). The proposal is therefore considered to be consistent with the relevant provisions and Objectives relating to stormwater and erosion management.

**ORDERLY DEVELOPMENT AND INTERFACE BETWEEN LAND USES:**

POLICY/ZONE/COUNCIL WIDE	OBJECTIVES & PDCs
Stirling Core Policy Area	Objectives: -Nil PDCs: -Nil
District Centre Zone	Objectives: -Nil PDCs: -Nil
Council Wide	<u>Orderly and Sustainable Development:</u> Objectives: 1, 3, 5, 6, 11 and 12 PDCs: 1, 4, 6, 9, 14, 16 and 17
- Orderly and sustainable development	<u>Interface Between Land Uses:</u> Objectives: 1, 2 and 3
- Interface between land uses	PDCs: 1, 2, 3, 4 and 6



Orderly Development

The proposal is for a mixed use development incorporating eight dwellings with associated commercial development in the form of an office, shop and associated undercroft car parking as envisaged by the zone and policy area. The proposal is therefore considered to be orderly and economic and is proposed to be established within an area that envisages such uses. Whilst the intent of the zone and the policy area is clear in that it envisages these forms of development, regard must also be given to existing sensitive land uses on adjoining allotments and the management of the impacts of any future mixed use developments.

Interface Between Land Uses

As discussed earlier in the report, residential uses will be the predominant land use and will be located at the rear of the building with the commercial uses addressing the street. As such, it is considered that the noise created from the residential units will not unreasonably impact the existing residential properties. In addition, the equipment such air conditioning units which are generally the biggest noise source from residential properties are proposed to be located directly behind the undercroft car parking area along the northern property boundary away from the residential properties. The intended commercial uses are small in scale and nature and are not commonly attributed to generating high levels of noise. The proposal is therefore considered to be consistent with the Objectives and PDCs which seek for commercial uses to be established and designed in order to minimise the impacts on existing sensitive land uses.

**REGULATED TREES AND LANDSCAPING:**

POLICY/ZONE/COUNCIL WIDE	OBJECTIVES & PDCs
Stirling Core Policy Area	Objectives: - Nil PDCs: 18 and 19
District Centre Zone	Objectives: 4 PDCs: 14
Council Wide <ul style="list-style-type: none"> <li>- Landscaping</li> <li>- Centre and Retail Development</li> <li>- Regulated Tree</li> </ul>	Objectives: 1 and 2 PDCs: 1, 2, 3 and 4 Objectives: -Nil PDCs: 13 and 14 Objectives: 1 and 2 PDCs: 1, 2 and 3

Regulated Trees

The development plan envisages conservation of regulated trees for aesthetic and environmental benefits. There are a number of large trees located within the vicinity of the proposed development. Of these, only one is a regulated tree with all of the other trees as nominated in the Arborist report being of a species which are not protected and therefore the removal of such is exempt from development controls. In the representations submitted, neighbours did raise concerns about the trees that would potentially be impacted upon by the proposed development. Council staff also requested that the applicant investigate the possibility of retaining the existing pine trees along the northern boundary. The applicant engaged the services of an arborist

to assess the trees and provide options for retaining the trees. As a result of the report, the applicant has amended the plans by increasing the setback of the undercroft park from the rear boundary, increasing the setback from the north-western corner and has provided a suspended floor within the identified tree protection zones. The suspended floor outline can be seen on drawing number DA.04 (refer to conditions 18 relating to the footings design and tree protection zone). The proposal has therefore been amended to prevent damage to the regulated tree at 12 Johnston Street. In addition, whilst the tree on the neighbouring property at 29 Milan Terrace and the pine trees along the rear boundary are not protected, they do provide a significant contribution to the character and the amenity of the locality. In particular the pine trees are a prominent element in the locality. The retention of these trees will assist in reducing the bulk and scale of the proposed development especially when viewed from Woolworth car park and the wider locality. The proposal is therefore considered to be consistent with the Objectives and PDCs as pertaining to Regulated Trees.

#### Landscaping

Given the bulk and scale of the proposed development, the applicant was requested to and has provided a landscaping plan with plantings that will contribute to the character of the locality. The landscaping plan illustrates intended plantings along the front of the property, around the shop area, the southern boundary and the rear boundary. Given that the building is proposed along the entire northern boundary there is limited vegetation proposed along this boundary with the exception of planter boxes within the private open space areas of each of the units. The neighbour to the south has raised concerns about the potential for landscaping along this boundary to overshadow their property. The amended landscaping plan illustrates that the plantings along the southern boundary are going to be in the form of creepers and as such will not have the potential to overshadow the neighbouring property. The landscaping plan is considered to be relatively consistent with the relevant objectives and PDCs as the landscaping will soften the proposed building's appearance, minimise its bulk and scale and maintain the character of the locality.

However the proposed landscape plan does fail to meet PDC 13 within the Centre and Retail Development section of the Development Plan which states that landscaping within centres should comply with Table AdHi/6– Landscaping Schedule. Whilst the species selected within the landscaping plan are not consistent with this table, it is considered that suitable landscaping will be provided on the development site. In consideration of the design amendments made to ensure that much of the existing large vegetation is maintained the failure of the landscaping plan to be fully consistent with Table AdHi/6 is not considered to be a serious departure from the development plan and the proposal is considered to be significantly consistent with the Objectives and PDCs pertaining to landscaping.

**WASTE MANAGMENT:**

POLICY/ZONE/COUNCIL WIDE	OBJECTIVES & PDCs
Stirling Core Policy Area	Objectives: -Nil PDCs: 14 and 15
District Centre Zone	Objectives: -Nil PDCs: -Nil
Council Wide - Residential development - Medium density development - Waste	Objectives: - Nil PDCs: 30 Objectives: - Nil PDCs: 12 Objectives: 1 PDCs: 6

As mentioned in the referral response section of this report, the applicant had a number of discussions with Council’s Waste Officer in relation to appropriate waste management plan for the site. Given the scale of the development Council has sought to avoid a collection of 140 litre bins lined up along the verge of the property. One communal waste bins storage area has been nominated for the site at the rear of the undercroft park. The applicant was asked to provide an outline of the waste management plan which has been outlined in the response to representations. In summary, the property will rely on the Council contractor as the primary method of collection which would also be supplemented by a private contractor when and if required. Larger 660 litre bins will be provided as opposed to 140 litre bins for every residence. This effectively means that instead of 16 bins lining the kerb there will be two larger bins (general and recycling waste) and one smaller bin for green organics.

The Adelaide Hills Council Development Plan does not have specific quantitative measure in relation to the waste generation and waste management. If the requirements as set out in the *Better Practice Guide Waste Management for Residential and Mixed Use Developments* by Zerowaste SA for medium density residential development are applied, the requirements would be:

- General waste- 35 litres per bedroom per week
- Recycling- 30 litres per bedroom per week
- Organic- 20 litres per bedroom per week

If applying these rates the total residential waste would be 560 litres for general waste (weekly pickup), 480 litres for recycling and 320 litres for organic (both fortnightly pickups and therefore need to be doubled). Based on these calculations there would be a maximum of seven bins on the verge at any one time, which includes three 660 litre bins (one blue and two yellow bins or one 660L green bin). For the commercial properties, there would be two 140L blue lidded general waste bins, and two 240L yellow lidded recycling bins each fortnight. As mentioned above, Council’s Waste Officer has advised that the following options are available for the site: “Council can provide 660L yellow lidded recycling, 360L green lidded organics and 1,100L blue lidded general waste bins. Bins can be provided in any combination up to the above waste provisions per property.” The only exception is that the green organic bins cannot be larger than 360 litres. As such, it is considered that the proposed

waste management plan achieves the necessary waste management requirements and maintains the amenity of the locality and minimises any other issues that can result from numerous bins located on the road verge.

**ADVERTISEMENTS:**

POLICY/ZONE/COUNCIL WIDE	OBJECTIVES & PDCs
Stirling Core Policy Area	Objectives: - Nil PDCs: -Nil
District Centre Zone	Objectives:- PDCs: 21
Council Wide - Advertisement	<u>Advertisement:</u> Objectives: 1, 3 and 4 PDCs: 2, 3, 4, 5, 11, 19 and 20

Desired character within District Centre Zone envisages advertising signs to be designed to provide identification and direction without being grouped in a way which doesn't dominate the streetscape. Advertisements associated with the proposed commercial uses are proposed to be kept to a minimum. The details provided by the applicant in relation to signage is that the shop/café sign is going to be painted on the stone wall in the rustic finish whilst the office signage is going to be in the form of a nameplate 1.5m wide x 1m high with associated small downward facing lantern style lights . The signage proposed is considered to be relatively minor in nature, will complement the built form and will not disfigure the locality or unreasonably impact on the nearby residential properties. The proposal is therefore considered to accord with the relevant Objectives and PDCs pertaining to signage.

**7. SUMMARY & CONCLUSION**

The proposal is for a mixed use development incorporating commercial development along the front of the property and facing Johnston Street, with medium density residential development in the form of residential flat building comprising eight dwellings, behind the proposed commercial uses. The proposal is considered to be largely consistent with the Objectives and PDCs of the Stirling Core Policy Area and District Centre Zone, which seek this form of developments.

Given that the scale of the proposed building and the narrow nature of the subject land, which abuts existing residential properties, it is anticipated that the proposed bulk and scale of the building will result in some visual amenity impacts, particularly to 16 Johnston Street. However, the site is zoned for commercial and greater residential density development, and the proposed building has been designed within the height restriction, setback requirements (no side setback required) and the side elevations are very well articulated. All of these factors assist in reducing the visual impact of the south-west elevation to 16 Johnston Street. Also, lowering the building would create overlooking issues and functionality issues within the vehicle and pedestrian ramps. The proposal will not cause other amenity impacts, namely unreasonable overshadowing, overlooking, noise or traffic generation.

The proposed building is well articulated with variations in wall and roof lines, decks, shaded areas, pitched roofs and an appropriate colour and material palette. As mentioned, the proposed height and scale of the building are within the envisaged parameters set out in the policy area. The

proposed development includes sufficient on-site car parking and sufficient private open space has been provided per dwelling.

Whilst the proposal fails to satisfy the relevant provisions relating to undercroft parking design, this has been addressed through alternative design solutions which minimise the appearance of the car park when viewed from public realm. The proposed landscaping will enhance the visual appearance of the proposed development.

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

## 8. RECOMMENDATION

**That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent to Development Application 18/760/473 by Nikolas Carsiotis for Two storey mixed use development incorporating shop, office, residential flat building (8 dwellings), undercroft car parking, retaining walls (maximum height 1.2m), fence (maximum height 3.4m), associated landscaping & earthworks, & demolition of existing dwelling & outbuildings at 14 Johnston Street Stirling subject to the following conditions:**

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

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

Drawing Title	Prepared By	Drawing Number	Revision	Received by Council
Index plan	Nicholas Carsiotis	DA.00	B	13/03/2019
Survey Plan	Nicholas Carsiotis	DA.01.02	B	13/03/2019
Demolition Plan	Nicholas Carsiotis	DA.02	B	13/03/2019
Satelite View	Nicholas Carsiotis	DA.01.01	B	13/03/2019
Earthworks Plan	Nicholas Carsiotis	DA.03	B	13/03/2019
Undercroft car park	Nicholas Carsiotis	DA.04	B	13/03/2019
Level 1 plan	Nicholas Carsiotis	DA.05	B	13/03/2019
Level 2 plan	Nicholas Carsiotis	DA.06	B	13/03/2019
Level 1 SW plan	Nicholas Carsiotis	DA.05.01	B	13/03/2019
Elevation drawings	Nicholas Carsiotis	DA.07.00	B	13/03/2019
Elevation drawing 10m marker	Nicholas Carsiotis	DA.07.01	B	13/03/2019
Sun study diagram	Nicholas Carsiotis	DA.08	B	13/03/2019
Section drawing	Nicholas Carsiotis	DA.09	B	13/03/2109
Boundary junction	Nicholas Carsiotis	DA.09.01	B	13/03/2019
Section drawing 16 Junction	Nicholas Carsiotis	DA.09.02	B	13/03/2019
Privacy screen	Nicholas Carsiotis	DA.10	B	13/03/2019
Tree to building	Nicholas Carsiotis	DA.T.00	B	13/03/2019

Landscaping plan level 1	Nicholas Carsiotis	DA.11	B	13/03/2109
Landscaping plan level 2	Nicholas Carsiotis	DA.12	B	13/03/2019
Tree study plan	Nicholas Carsiotis	DA.12	B	13/03/2109
Dimensioned elevation drawings	Nicholas Carsiotis	DA.07.03	B	21/03/2019
Letter	Nicholas Carsiotis	-	-	17/03/2019
Arborist Report	Ben Seamark	-	-	13/03/2019

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

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

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

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

**(3) Illuminated Signs**

The illuminated signs shall not be of a light intensity so as to cause nuisance to adjacent properties.

**REASON:** Advertisements shall not detrimentally affect the amenity of the locality.

**(4) Lighting Hours**

The lighting for the sign shall be switched off at midnight of each day and shall not be switched on before sunrise of the following day.

**REASON:** Advertisements shall not detrimentally affect the amenity of the locality.

**(5) Signage Kept In Good Repair**

The sign shall at all times be kept in good repair and condition.

**REASON:** Advertisements shall not detrimentally affect the amenity of the locality.

**(6) External Finishes**

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

- WALLS:** Masonry Wall Stone Faced, and glass brick windows or similar  
 Timber louvered privacy screens, Aluminium privacy screens in charcoal
- ROOF:** Terracotta tiled roof or similar

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

- (7) **Car Parking Designed In Accordance With Australian Standard AS 2890.1:2004.**  
All car parking spaces, driveways and manoeuvring areas shall be designed, constructed, drained and line-marked in accordance with Australian Standard AS 2890.1:2004. Line marking and directional arrows shall be clearly visible and maintained in good condition at all times.

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

- (8) **Unloading And Storage Of Materials And Goods**  
All materials and goods associated with the commercial uses shall at all times be loaded and unloaded within the designated delivery and storage area as depicted on the approved plan DA.04. Materials and goods shall not be stored on the land in areas delineated for use as car parking.

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

- (9) **Waste Bin Storage**  
All waste bins shall only be stored in the designated waste collection/bin storage areas as depicted on approved plan DA.04.

**REASON:** To ensure the proposed development is undertaken in accordance with the approved plans and to maintain the amenity of the locality.

- (10) **Car Parking Directional Signage**  
Directional signs indicating the location of car parking spaces shall be provided on the subject land and maintained in a clear and legible condition at all times.

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

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

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

- (12) **Opening Hours**  
The opening hours of the shop and office shall be 8am to 5pm on Monday to Sunday.

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

**(13) Timeframe For Landscaping To Be Planted**

Landscaping, including replacement trees detailed in plans DA.11 and DA.12 shall be planted in the planting season following occupation and maintained in good health and condition at all times. Any such vegetation shall be replaced in the next planting season if and when it dies or becomes seriously diseased.

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

**(14) Prior to Building Rules Consent Being Granted - Requirement For Stormwater Calculations**

Prior to Building Rules Consent being granted, a final stormwater plan and associated calculations shall be provided to Council for review and approval.

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

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

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

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

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

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

**(16) Stormwater Overflow Directed To Street**

All roof runoff generated by the development hereby approved shall be directed to a rainwater tank with overflow to the street to the satisfaction of Council within one month of the roof cladding being installed. All roof and hard paved water runoff shall be managed to prevent trespass onto adjoining properties.

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



**(17) Tree Protection Zones**

A tree protection zone (TPZ) around each as identified in the Arborist report is required. The protection zone is to encompass the structural root zone of the tree and shall be determined by the project arborist. During construction each TPZ shall be fenced with 2.0 metre high chain mesh material with posts at 3 metre intervals and incorporate on the east and south sides a clearly legible sign displaying the words "Tree Protection Zone". The following restrictions apply to each tree protection zone:

- a) No machine excavation is permitted.
- b) b) If any major roots (roots with a diameter greater than 25mm) are found outside the TPZ during construction the project arborist shall be contacted immediately to assess the situation.
- c) The works adjacent to the trees as identified in the report are to be supervised by the project arborist.
- d) A layer of organic mulch to a depth of 100mm shall be placed over all root systems so as to assist with moisture retention and to reduce the impact of compaction
- e) No material, equipment or temporary buildings shall be placed within any TPZ.
- f) No items shall be attached to each tree including temporary service wires, nails, screws or any other fixing device.
- g) Supplementary watering shall be provided to the trees through any dry periods during and after the construction process. Each tree is to be provided with a circular dripper system comprising 19mm polypipe, 4 litre per hour drippers spaced every 2 metres.
- h) No other works shall occur within a TPZ without the consent of an Arborist during the life of the retained trees.
- i) Any services such as stormwater, sewer and electrical that enter the TPZ are to be excavated using non-destructive methods such as Hydro vac® or directional boring systems. This work is to be supervised by the project arborist. If any tree roots are discovered at this time, the project arborist is to assess and address accordingly.

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

**(18) Footing Design for Protection Of Trees**

The footing design for the proposed development along the southern boundary near tree 5 and along the rear and northern boundary of the allotment shall be a suspended slab system with supplementary irrigation as outlined in the Arborist's Report prepared by Tree Inspection Services and submitted as a strategy for management of the tree(s) and as identified on the approved plan DA.04.

**REASON:** To protect the regulated and native tree/s from impact of the development.

**NOTES**

**(1) Works On Boundary**

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

**(2) Sewer Connection**

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

**(3) Development Plan Consent Expiry**

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

**(4) Footpath and Kerb Alterations**

The footpath and kerb alterations shall be reinstated in a manner so as to ensure no road water runoff enters the crossover point and to the satisfaction of Council in order to prevent scouring or flooding on the footpath or road verge area.

**(5) EPA Environmental Duty**

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

**(6) Erosion Control During Construction**

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

**9. ATTACHMENTS**

Locality Plan  
Proposal Plans  
Application Information  
Applicants Professional Reports  
Publically Notified Plans  
Representation  
Applicant's response to representations

Respectfully submitted

Concurrence

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**Doug Samardzija**  
Statutory Planner

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**Deryn Atkinson**  
Manager Development Services

## COUNCIL ASSESSMENT PANEL MEETING

10 April 2019

### AGENDA – 8.2

<b>Applicant:</b> Neil Page	<b>Landowner:</b> N W Page & R L Page
<b>Agent:</b> N/A	<b>Originating Officer:</b> Melanie Scott
<b>Development Application:</b>	18/401/473 and 18/D23/473
<b>Application Description:</b> Land division (1 into 2) (non-complying)	
<b>Subject Land:</b> Lot:501 Sec: P81 DP:23576 CT:5094/149	<b>General Location:</b> 25 Fern Hill Road, Bridgewater  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 24 October 2017 <b>Map</b> AdHi/31 & 75	<b>Zone/Policy Area:</b> Watershed (Primary Production) Zone - Rural Landscape Policy Area, Country Living Zone - Country Living (Bridgewater) Policy Area
<b>Form of Development:</b> Non-complying	<b>Site Area:</b> 1.4 Hectares (14089m <sup>2</sup> )
<b>Public Notice Category:</b> Category 3 Non-complying - Land Division – amended proposal  Notice originally published in The Advertiser on 19 October 2018 Notice of amended proposal published in The Advertiser on 15 February 2019	<b>Representations Received:</b> 4 (amended proposal)  <b>Representations to be Heard:</b> 4 (amended proposal)

#### 1. EXECUTIVE SUMMARY

The purpose of this application is to create an additional residential allotment from a parcel of land which is currently in two zones. The application is non-complying regardless of the location within the two zones. The part of the land that was in the Country Living zone was too small to create a merit proposal (being 4m<sup>2</sup> under the non-complying trigger). Council staff considered proposed lot 391 has more development potential with the addition of some Watershed Primary Production land with due consideration given to the natural environment. Namely, the land is large enough to ensure the retention of native vegetation, has a connection to mains sewer and water and offers a suitable transition between the Country Living and the Watershed Primary Production Zones. However the SCAP advised per the requirements of the Environmental Food Protection Area(EFPA) which bisects this property they would not concur with this proposal.

The SCAP advice was received on the morning of the previous CAP meeting. The Panel heard the representors and the applicant at the meeting on 12 December 2018 and decided to defer making a decision on the application to enable the applicant to amend the application and for Council staff to process the amended proposal.

The applicant has amended the proposal to create an additional allotment from that portion of the subject land which is zoned County Living (Bridgewater) Policy Area. This portion of the land has an area of 965m<sup>2</sup> and the amended proposal is still non-complying in accordance with the provisions of that policy area being 35m<sup>2</sup> short of the allotment size for merit development.

The subject land is located within the Watershed (Primary Production) Zone - Rural Landscape Policy Area and the Country Living Zone - Country Living (Bridgewater) Policy Area and the proposal is a Category 3 non-complying form of development. Three representations in opposition to the proposal were received during the Category 3 public notification period.

As per the CAP delegations, the CAP is the relevant authority for non-complying land divisions. In addition, the proposal requires a variation to the Land Management Agreement registered over the subject land, which Council delegated to the CAP for consideration.

The main issues relating to the proposal are protection of native vegetation and residential amenity along with management of bushfire risk. Interpretation of the existing Land Management Agreement (LMA) and a court case regarding the validity of LMAs with similar clauses has also become an issue in assessment of this application.

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

## 2. DESCRIPTION OF THE AMENDED PROPOSAL

- The creation of an additional allotment of 965m<sup>2</sup> in area and retention of the existing dwelling and associated structures on a reduced allotment of 1.312 Hectares.
- The extinguishing of a Land Management Agreement (LMA) which required the applicant not to make any application for land division.

### Existing Allotments

Allotment	Area (ha)	Currently containing
501	1.4 Hectares	A dwelling, tennis court, an outbuilding

### Proposed Allotments

Allotment	Area (ha)	Containing
392	1.312 Hectares	A dwelling, tennis court, an outbuilding
391	965m <sup>2</sup>	Vacant land

The plan of division includes:

- The creation of one additional allotment with an area of 965m<sup>2</sup>

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

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

### 3. BACKGROUND AND HISTORY

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
14 April 2010	09/1032/473	Tennis court fencing (maximum height 3m) and earthworks in association with tennis court
10 October 2005	05/897/473	Verandah to replace existing
6 May 2003	03/219/473	Addition to detached dwelling
11 April 1997	97/108/330	Outbuilding 36m <sup>2</sup>
13 May 1993	93/290/330	Additions to detached dwelling (verandah to rumpus room)
19 August 1993	93/458/330	Addition to detached dwelling – covered walkway and carport
27 February 1992	92/112/330	Alteration to existing detached dwelling
2 November 1989	89/535/330	Dwelling
14 September 1987	87/18/330	Land Division with LMA
27 February 1985	84/992/330	Land division
11 January 1983	82/195/330	Land Division: Allotment 1 to be transferred to the D.C. Stirling

An LMA dated 24 April 1988 is registered over the subject land which relates to not permitting any application to further subdivide the land. The applicant has requested approval to extinguish the LMA. The delegation to extinguish an LMA rests with the Council and if the CAP resolves to grant Development Plan Consent a further report will be submitted to Council to seek rescission of the LMA.

Amongst other obligations, the LMA requires that:

- (a) The Owner will not make any further applications to divide the two allotments to be created unless and until the zoning of the land is altered by reason of an amendment of the provisions of the Development Plan (District Council of Stirling) as they apply to the land.*

Whilst this LMA was entered into under a repealed Act, the transitional provisions that accompanied the introduction of the Development Act 1993 ensured that any LMA under the repealed Act would be taken as an Agreement under the new Act. In other words, this agreement is still legally enforceable under the current Act - Refer to discussion under the LMA section in the report.

### 4. REFERRAL RESPONSES

- **EPA**  
The application was not referred to the EPA in accordance with the Development Regulations 2008 Schedule 8 Clause 10 (a) (ii) as a mains sewer connection is available
- **SA WATER**  
Responded with a standard planning conditions (refer SCAP condition 1)

- **AHC ENGINEERING DEPARTMENT**  
Council's Engineering Department have no issues with the proposal but note when a crossover is proposed, there is SA Water infrastructure to consider
- **AHC RATES DEPARTMENT**  
Proposed Lot 391 - 34 Fern Hill Road  
Proposed Lot 392 - remains 25 Fern Hill Road

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

## 5. CONSULTATION

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

The following representors wish to be heard following the amended plan notification:

Name of Representor	Representor's Property Address	Nominated Speaker
Darrell & Bianca Stanbridge	32 Fern Hill Road Bridgewater	Self
Nicola Barnes & Paul Angas	23 Fern Hill Road Bridgewater	Nicola Barnes
Zeke Scott	21 Fern Hill Road Bridgewater	Not indicated
Timothy Wallis	30 Fern Hill Road Bridgewater	Nicola Barnes

The following representors were heard following the first notification:

Name of Representor	Representor's Property Address	Nominated Speaker
Darrell Stanbridge	32 Fern Hill Road Bridgewater	Self
Nicola Barnes & Paul Angas	23 Fern Hill Road Bridgewater	Not indicated
Timothy Wallis	30 Fern Hill Road Bridgewater	Not indicated

The applicant or his representative – Peter Meline (Adelaide Hills Development Services) may be in attendance.

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

- Preservation of views
- Preservation of trees
- Loss of native vegetation
- Potential development rights and legality of the existing LMA
- Vehicle access from Fern Hill Road

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

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

## 6. PLANNING & TECHNICAL CONSIDERATIONS

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

i. The Site's Physical Characteristics

The subject land is 1.4 hectares in area and is an irregular circular shape fronting both Fern Hill and Wattle Tree Roads. There is a house, tennis court and outbuilding on the land. The land is high where it meets the two roads and slopes away downhill in an easterly direction. There are a number of large native trees on the land and extensive gardens. The portion to be divided off is in the north west of the site and fronts Fern Hill Road. The division of the land will not interfere with existing access arrangements for the existing dwelling. The portion proposed to be divided is an awkward shape in what can be described as a "cranny" on the land and is problematic to manage. It does have cleared areas and some trees (native vegetation).

ii. The Surrounding Area

To the west of the subject land is Bridgewater with 1000m<sup>2</sup> rectangular allotments with varying slopes and zoned Country Living. To the north, east and south the locality is more steeply sloped and more heavily vegetated. This area tends to have larger parcels of land and is zoned as Watershed (Primary Production).

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Watershed (Primary Production) Zone - Rural Landscape Policy Area and the Country Living Zone - Country Living (Bridgewater) Policy Area and these provisions seek:

**Rural Landscape Policy Area**

1. A Policy Area primarily for Primary Production with rural living in localities where the allotments are small.
2. Retention of low density rural and rural living activities and exclusion of land uses which would create nuisance to surrounding properties.
3. A scenically attractive rural character.
4. A pleasant rural character derived from the retention of existing flora and fauna, including significant stands of vegetation.
5. Protection of water, air and land resources from pollution.
6. Minimization of fire risk.

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

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

*PDCs:* 1, 2, 5

This was discussed at length in the previous report and as the proposal does not alter the land in this policy area no further discussion is proposed in relation to the new proposal. Refer to the attachments to view the previous CAP report.

### **Watershed Primary Production Zone**

1. The maintenance and enhancement of the natural resources of the south Mount Lofty Ranges.
2. The enhancement of the Mount Lofty Ranges Watershed as a source of high quality water.
3. The long-term sustainability of rural production in the south Mount Lofty Ranges.
4. The preservation and restoration of remnant native vegetation in the south Mount Lofty Ranges.
5. The enhancement of the amenity and landscape of the south Mount Lofty Ranges for the enjoyment of residents and visitors.
6. The development of a sustainable tourism industry with accommodation, attractions and facilities which relate to and interpret the natural and cultural resources of the south Mount Lofty Ranges, and increase the opportunities for visitors to stay overnight.

The following are considered to be the relevant Zone provisions:

*Objectives:* 1, 2, 4, 5

*PDCs:* 18, 19, 21, 22

This was discussed at length in the previous report and as the proposal does not alter the land in this policy area no further discussion is proposed in relation to the new proposal. Notwithstanding the advice that the EFPA boundary is the zone boundary in this case and essentially divides the existing property in two, it is considered that the application be supported as it's essentially an extension of the existing allotment layout within the Country Living Zone.

### **Country Living (Bridgewater) Policy Area**

*Objectives*

Development that contributes to the desired character of the policy area.

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

*Objectives:* 1

*PDCs:* 1, 3, 4

With a land area of 965m<sup>2</sup> proposed allotment 391 is in keeping with allotment sizes to the north, south and west, being just 35m<sup>2</sup> less than the average of 1000m<sup>2</sup> and to develop the parcel for residential purposes is considered consistent with the desired character for the policy area (PDC 1).

The proposed allotment can connect to SA Water for sewer and water and a future dwelling application will consider stormwater management and access to the road, which can be achieved without removing any trees. Further the applicant has provided a Native Vegetation Review which indicates one regulated and one significant Eucalyptus Obliqua tree on the site. There are also a number of dead trees on the site which are not protected under the development legislation. There is room on the proposed allotment for a building envelope and access without compromising regulated or significant trees on the site. For these reasons the proposal is considered to accord with PDC 3.



As the adjacent road reserve is irregular in shape it has consequentially caused the new allotment to be irregular. Of note it would appear the irregularity was created in the 1980s when Council acquired a small portion of the subject land to create a turn-around at the end of Fern Hill Road. The Council acquisition of this land is the reason it is an irregular in shape and just below the 1000m<sup>2</sup> which would have resulted in this application being a merit proposal. However the proposed allotment 391 is close to rectangular within the restraint caused by the road and is considered to accord with PDC 4.

### **Country Living Zone**

#### Objectives

1. A residential zone primarily comprising of detached dwellings at very low densities, including affordable housing.
2. Residential development sensitive to the particular topography of the area and which has minimal visual and environmental impacts.
3. Development that contributes to the desired character of the zone.

The following are considered to be the relevant Zone provisions:

Objectives: 1, 2, 3

PDCs: 1, 2, 14

The proposal is to create an allotment for residential purposes, a land use envisaged by PDC 1.

Whilst the proposal is non-complying, it is not considered inappropriate as described in PDC 2 given the surrounding land uses and allotment sizes. The most compelling arguments to support the proposal are the availability of SA Water sewer connection and the proposal's conformity with the regularity of the allotments to the north, west and south. The zone boundary between Country Living zone and the Watershed Primary Production zone will form the eastern boundary of the proposed new allotment.

The proposal offers sites for a building envelope that does not compromise vegetation on the site, and achieves a slope of less than 1 in 5. The proposed allotment can connect to SA Water for sewer and water and a future dwelling application will consider stormwater management and access to the road, which can be achieved without removing any trees. For these reasons the proposal is considered to accord with PDC 14.

#### *b) Council Wide provisions*

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

##### Land Division

1. Land division that occurs in an orderly sequence allowing efficient provision of new infrastructure and facilities and making optimum use of existing underutilised infrastructure and facilities.
2. Land division that creates allotments appropriate for the intended use.

3. Land division layout that is optimal for energy efficient building orientation.
4. Land division that is integrated with site features, including landscape and environmental features, adjacent land uses, the existing transport network and the availability of infrastructure.
5. Land division restricted in rural areas to ensure the efficient use of rural land for primary production and avoidance of uneconomic infrastructure provision.
6. Development of compact extensions to existing built-up areas.

The following are considered to be the relevant provisions:

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

PDCs 1, 2, 5, 7, 11, 21, 22, 23

As stated earlier, any development on proposed allotment 391 will be able to connect to street stormwater, SA Water mains sewer and water and achieve a satisfactory new access point to Fern Hill Road meeting the expectations of PDC 1.

As with the neighbouring allotments to the north, west and south, proposed allotment 391 will be able to meet the design requirements of PDC 2. Further, compliance with these will be assessed in detail when and if a further development application for a dwelling is lodged for the proposed site. On balance the proposal is considered to meet with the intent of the criteria of PDC 2 as its size and shape is reasonably regular and it can achieve its own access to the local road. The subject land is no more steeply sloped than others in the locality which have been developed.

Representors have argued the site is an important area of native vegetation. The applicant has provided a Native Vegetation Review by an accredited consultant who reports the site is highly modified and does not represent an intact stratum. Council staff do not consider that the proposal conflicts with PDC 5.

As previously discussed, proposed allotment 391 is considered of a size suitable for its intended use in the Country Living Zone, in a similar manner to the development on neighbouring allotments in the Country Living Zone which accords with PDC 7.

Proposed allotment 391 is more level than its southern, western and northern neighbours land prior to development, and offers opportunities for future development in accordance with all the elements of PDC 11.

Engineering have advised stormwater management is possible to the street water table and the proposal will have no detrimental effect on the quality of water resources and is considered to accord with PDC 23.

Natural Resources

*Objectives:* 8, 9, 13, 14,

*PDCs:* 1, 2

As a land division, it is difficult to accurately assess the impact of any future development on the natural environment. However, the proposed allotment does demonstrate the potential for future development of the site to be sensitive to the natural environment, given many existing allotments in the locality are similar and arguably do not impact on the natural environment. Further, the proposed additional allotment will not be visible from scenically attractive areas. For these reasons the proposal is considered to accord with PDCs 1 & 2.

#### Orderly and Sustainable Development

*Objectives:* 1, 3, 4, 6, 7,

*PDC:* 1, 9

Given the similarity of the new allotment to its southern, western and northern neighbours, on balance it will create a safe and pleasant environment to live with options for better bushfire management and preservation of native vegetation when a future development application is considered as envisaged by PDC 1. Similarly given the nature and history of surrounding land uses, the proposed new allotment is considered suitable for residential development in accordance with PDC 9 as part of the land is zoned Country Living and will not result in further encroachment of urban development into rural areas.

#### Regulated Trees

*Objectives:* 1, 2

*PDCs:* 1, 2

#### *Significant Trees*

*Objectives:* 1, 2

*PDCs:* 1, 2, 5

The applicant has identified one (1) regulated within 20 metres of the dwelling on adjacent land and any action regarding the tree's maintenance/removal is exempt from development approval in accordance with Schedule 3 clause 17 (1) (b) of the *Development Regulations 2008*. The majority of the other trees on the proposed allotment are within 20 metres of existing dwellings and are not technically protected by current development legislation regarding significant trees in bushfire prone areas. The long term future of the regulated and significant trees on the site will be assessed in consultation with the Native Vegetation Council when and if, a dwelling application is lodged. It is worth noting that both regulated trees are near the western boundary. The proposal is therefore on balance in accordance with PDCs 1 and 2.

#### *Residential Development*

*Objectives:* 1,

*PDCs:* 1, 2

Just as development on the southern, western and northern neighbours maximises solar orientation, the proposed allotment 391 will enable any future development on the site to maximise solar orientation, accommodate construction of a dwelling and will encourage housing diversity in accordance with PDCs 1 & 2.

iv. Land Management Agreement

A Land Management Agreement (6756212) (LMA) was entered into under the repealed *Planning Act 1982*, which is registered on the subject title for the land, relating to a previous land division proposal at Lots 500 and 501 Fern Hill Road Bridgewater. The LMA details that the proposal at the time sought to create two allotments. Given that a major portion of the land was located within the Rural Landscape Zone, with the remainder in the Country Living Zone, the Council sought to prevent any further division of the land at the time.

Amongst other obligations, the LMA requires that:

*(b) The Owners will not make any application to divide either allotment 500 or allotment 501.*

Whilst this LMA was entered into under a repealed Act, the transitional provisions that accompanied the introduction of the *Development Act 1993* ensured that any LMA under the repealed Act would be taken as an Agreement under the new Act. In other words, this agreement is legally enforceable under the current Act as mentioned earlier in the report. Based on this, the Council or community members had the right to take enforcement action under the Act when the subject development application was lodged within a prescribed period, or as otherwise detailed in the legislation.

Under Section 57, Clause 12 of the *Development Act 1993* it details: *'the existence of an agreement under this section may be taken into account when assessing an application for development authorisation under this Act.'* However, whilst the Agreement is a legal agreement under the Act and can be assessed in conjunction with the Development Plan when considering the merits of the proposal, the Courts have determined that such a clause preventing any further application from being made is invalid. In *Zweck v Town Gawler* the Supreme Court held that part of the clause within a LMA that detailed no further division of land could occur was valid, but the second part of the clause preventing an application from being made for further division was invalid. Essentially, this clause is invalid as it is a statutory right for a person to lodge a development application for assessment by a relevant authority.

In this case the LMA is silent on the merits of a land division; it speaks only to making an application for land division. It could be argued that the fact you cannot apply means you cannot further subdivide the land. However, as discussed above you cannot deny a person the right to submit an application for consideration. As argued elsewhere in this report, staff support this land division despite its non-complying nature.

Further, as discussed elsewhere in this report, staff consider that the LMA has no legal standing in this instance given the abovementioned case law and recommend its rescission should the recommendation to approve the land division be supported firstly by CAP and secondly by the SCAP. Note that all costs in rescinding the LMA will be borne by the applicant.

v. Other

The representors contend the application should be refused as it involves the subdivision of land within the Watershed Primary Production Zone (W(PP)) and the EFPA. The portion of the land to be created is not in the W(PP) nor the EFPA and these arguments have consequentially not been addressed here. If any consideration is to be given to these provisions, it is noted that the proposal does not change in any way the use of the remainder of the land, being proposed allotment 392, particularly with regard to any potential for an increase in residential development within the EFPA or W(PP) Zone.

The portion of land to be divided to create proposed allotment 391 is wholly within the County Living (Bridgewater) Policy Area. The amended Development Plan as consolidated 24 October 2017 enabled Council to consider assessing this proposal as it expressly enabled the creation of lots in the Bridgewater Policy Area with an area of 1000m<sup>2</sup> with certain qualifiers. Prior to that plan amendment, the size qualifier was 4000m<sup>2</sup> and Council saw no merit in the proposal. In this instance, staff consider with a short fall of 35m<sup>2</sup> from the desired 1000m<sup>2</sup> that the proposal is worthy of consideration. With due analysis against all the relevant provisions of the Development Plan, staff recommend that the proposal be supported.

Representors also raise issues with regard to the “quality” of Fern Hill Road. The road currently services the existing dwellings on Fern Hill Road and the potential to add one more allotment is not considered to change the essential nature of the road. Council engineering have reviewed the proposal and had no comment to make regarding the nature of the road or the proposed access to the new allotment, other than having regard to other infrastructure existing in the road reserve when the crossover is constructed.

Representors also argue that the proposal must not proceed as it potentially increases fire risk in the area. The subject land is in a medium bushfire risk area and is envisaged by virtue of its zoning for residential development. Arguably a dwelling on proposed allotment 391 may increase bushfire buffers in the area and the proposed turning area for large vehicles which will be enabled by the creation of a new crossover for proposed allotment 391. This will therefore increase access for emergency vehicles to the eastern portion of Fern Hill Road when responding to both structure and/or bush fires.

## 7. SUMMARY & CONCLUSION

The proposed new allotment is adjacent to many smaller allotments in the Country Living Zone. Mains water and sewer are available and road access is achievable. The amended proposal will result in better management of the land for bushfire mitigation and weed control, and is considered to be in keeping with those existing lots on the southern, western and northern sides of the proposed allotment. The loss of vegetation is on balance expected in the zone and much of the vegetation on the subject land, specifically the trees are not protected by development legislation.

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

## 8. RECOMMENDATION

- A. That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and seeks the **CONCURRENCE** of the State Commission Assessment Panel to **GRANT** Development Plan Consent and Land Division Consent to Development Application 18/401/473 (18/D23/473) by Neil Page for Land division (1 into 2) (non-complying) at 25 Fern Hill Road, Bridgewater SA 5155 subject to the following conditions:

### Planning Conditions

(1) Development In Accordance With The Plans

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

- Amended plans from Alexander Symonds Surveying Ref A023618.0000 Drawing number A023618PROP(C) Revision C dated 18 December 2018 sheets 1 & 2

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

### COUNCIL 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) Council Rubbish Collection**

The applicant is advised that Council rubbish and recycling trucks will not enter the subject land. All collections will be from the kerbside. The onus is therefore on future landowners/occupiers to ensure that refuse bins are placed in suitable locations on the road verge so as to not obstruct motorists or pedestrians.

**(3) Property Identifiers**

The property identifiers for this property are now:  
Proposed Lot 391 – 34 Fern Hill Road  
Proposed Lot 392 – 25 Fern Hill Road

**Council Land Division Statement of Requirements**

**(1) Prior to Section 51 Clearance – Design of Crossover**

Prior to Section 51 Clearance the applicant shall submit to Council and have approved a crossover design which achieves a gradient less than 1 in 4.

**REASON:** To maintain safe and convenient movement of vehicles.

**(2) Prior to Section 51 Clearance – Construction of Crossover**

Prior to Section 51 Clearance, the crossover approved in land condition 1 shall be constructed and sealed in Hotmix bitumen, concrete, brick paving or similar material, from the edge of the sealed carriageway of Fern Hill Road to the property boundary and maintained to the satisfaction of Council at all times.

**NOTE:** The access shall be constructed to ensure no construction materials are deposited onto the carriageway of Fern Hill Road.

**REASON:** To maintain safe and convenient movement of vehicles.

**Council Land Division Notes**

**(1) Nil**

**SCAP Land Division Statement of Requirements**

**(1) SA Water Requirements**

The financial requirements of the SA Water Corporation shall be met for the provision of water supply and sewerage services (SA Water H0071861).

The internal drains shall be altered to the satisfaction of the SA Water Corporation.

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

**(2) Final Plan**

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

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

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

**(3) Payment into the Planning and Development Fund**

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

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

**SCAP Land Division Notes**

**(1) NIL**

**B. That the CAP makes recommendation to the Council that Land Management Agreement 6756212 be rescinded from Certificate of Title 5094/149 known as 25 Fern Hill Road, Bridgewater, with all costs associated with this rescission are borne by the applicant.**

**9. ATTACHMENTS**

Locality Plan  
Original Proposal Plan  
Proposal Plans  
Application Information  
Applicant's Professional Reports  
Land Management Agreement  
Referral Responses  
Representations  
Applicant's response to representations  
Previous Report to CAP

Respectfully submitted

Concurrence

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**Melanie Scott**  
**Senior Statutory Planner**

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**Deryn Atkinson**  
**Manager Development Services**



## COUNCIL ASSESSMENT PANEL MEETING

10 April 2019

### AGENDA – 8.3

<b>Applicant:</b> Guiseppe Ceravolo	<b>Landowner:</b> G Ceravolo & A Ceravolo
<b>Agent:</b> Stimson Consulting	<b>Originating Officer:</b> Melanie Scott
<b>Development Application:</b>	18/515/473
<b>Application Description:</b> Demolition of existing buildings & construction of horticultural building, water storage tank (22,500L) & associated earthworks	
<b>Subject Land:</b> Lot:45 Sec: P18 FP:129799 CT:6124/916	<b>General Location:</b> 172 Woods Hill Road Ashton  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 24 October 2017 <b>Map</b> AdHi/3	<b>Zone/Policy Area:</b> Watershed (Primary Production) Zone & Water Protection (Marble Hill) Policy Area
<b>Form of Development:</b> Merit	<b>Site Area:</b> 5.03 hectares
<b>Public Notice Category:</b> Category 2 Merit	<b>Representations Received:</b> 1  <b>Representations to be Heard:</b> 1

#### 1. EXECUTIVE SUMMARY

The purpose of this application is to replace two dilapidated buildings with one larger more functional building for storage associated with the horticultural use of the land. No industry associated with the horticultural use is proposed to occur within the proposed building.

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

There have been at least four amendments to the proposal to make best use of the site. It is understood that there was an agreed position between the applicant and the representor prior to public notification.. However, the civil plan provided within the public notification documents was requested to satisfy the Council administration's request for additional information, but resulted in some concerns from the adjacent property owner. This is the plan now presented to the CAP for consideration.

As per the Council Assessment Panel (CAP) delegations, the CAP is the relevant authority for Category 2 applications where representors wish to be heard.

The main issues relating to the proposal are the potential for overshadowing of the neighbour's solar panels, loss of views and bulk and scale of the structure. The original proposal lodged with Council could arguably have had a greater impact on the neighbour's amenity. The later proposal negotiated between the neighbour and the applicant, was not a favourable outcome for both Council and the applicant with regards to the extent of the earthworks required. The proposal as publically notified and presented to the CAP is considered to best balance those concerns, noting that there will only be a minor incursion on a 180 degree view from the dwelling on the representor's land. Further, the proposed impingement on views is currently screened by the representor's own landscaping and is proposed to be further screened by additional landscaping proposed by the applicant. The roof design for the final design mimics the slope of the land and the height matches the ridge line of the dwelling on the subject land. The proposed building supports the operation and continuation of a primary production use on the land as envisaged by the Zone.

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

## 2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- Demolition of two existing outbuildings
- Construction of a horticultural building, 15m in width and 30m in length (450m<sup>2</sup>) with a maximum wall height of 6.7m (eastern elevation) and 5.4m (western elevation)
- The building is to be predominantly used for fruit bin and farm implement storage
- The building is to be Colorbond Woodland Grey
- Associated earthworks-a maximum of 1.1m of excavation and 190mm of fill
- Rainwater 20,500 litres and associated earthworks including retaining walls under 1 metre in height

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 development application history for this site. Aerial photography reveals a long history of horticulture on the site and confirms the historical existence of the dwelling and the existing outbuildings on the subject land.

Insert assessment background from above here.

The plans were amended a number of times prior to public notification. As a result of the public notification shadow drawings have been lodged in response to the representation.

## 4. REFERRAL RESPONSES

No referrals were required for this application.

## 5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with Zone PDC 72 being a horticultural building greater than 300m<sup>2</sup> and with a wall height greater than 6 metres. One (1) representation in opposition to the proposal was received. The representation is from an adjacent property.

The following representor wishes to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Julie & Sandy Quigley	170 Woods Hill Road Ashton	Self

The applicant and their representative – John Stimson may be in attendance.

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

- Proximity of large structure to the boundary and representor's dwelling
- Potential for overshadowing of solar panels located on an outbuilding on the representor's property
- Height of the building

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

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

## 6. PLANNING & TECHNICAL CONSIDERATIONS

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

- i. The Site's Physical Characteristics  
The subject land is 5.03 hectares in area and contains a dwelling (evident in 1949 aerial photography) and a large shed, (part of which is also evident in 1949 aerial photography) and an associated extension which dates back to the early 1980s. The land currently supports an orchard and examination of aerial photography reveals it has historically been used for different types of horticulture. The land has a narrow frontage to Woods Hill Road of approximately 25m. Woods Hill Road is the street address and the access point for the property. It is also noted that the long driveway to the property has also existed since at least 1949. Additionally the land has a large secondary frontage with Tregarthen Road which is the high point of the land on the eastern side. The south-western corner of the land is the low point and likely to be the head of a watercourse.
- ii. The Surrounding Area  
The land to the south and east of the subject land is similar in size and used for viticulture purposes. To the north there are a number of smaller allotments used for rural residential purposes.
- iii. Development Plan Policy considerations
  - a) Policy Area/Zone Provisions  
The subject land lies within the Watershed (Primary Production) Zone and Water Protection (Marble Hill) Policy Area and these provisions seek:
    - Retention of agricultural activities which have low pollution potential
    - Clustering of activities and facilities associated with horticulture
    - Restricted residential and urban development

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

*Objectives:* 1 & 2

*PDCs:* 7, 8, 9, 10, 11, 12 & 14

The proposal is to assist with primary production on the land and the scale, chosen design and finishes have been selected to minimise the impact on the locality as required by PDC 7.

The proposal is located 4m from the southern boundary which is closer than the 20m envisaged by PDC 9. On balance this is considered an acceptable variance noting the proposed building is no closer to the boundary than the existing structures and landscaping has been proposed (PDC 12). Additionally the Woodland Grey colour of the building will assist in minimising any detrimental impact on the amenity of the locality. The proposed horticultural building has a skillion roof design which follows the slope of the land and has a maximum wall height of 6.7m. The proposal is considered to accord with PDC 10. The chosen location will have minimal visual impact on the public realm and there will be minimal views of the building from public roads and scenic vantage points as required by PDC 11.

In response to representor concerns, the applicant provided shadow diagrams to demonstrate that there is no impact on solar access for the solar panels on the neighbouring shed. The diagrams provided were for June and in the morning when the longest southern shadow towards the representor's solar panels would be cast. The shadow diagrams do not indicate any shadowing of the representor's solar panels. The proposal is considered in accordance with PDC 14 for this reason.

The following are considered to be the relevant Zone provisions:

*Objectives:* 1, 2, 3 & 5

*PDCs:* 1, 2, 4, 8, 11, 14, 16, 17, 38, 39 & 70

The proposal is considered to meet all the suggested elements of PDC 1 as the shed is proposed well below any ridge lines and is within a valley, and thus will not be visible against a skyline from a public road. The proposed building is on the low side of the road and the benched area is proposed to be excavated. There is no native vegetation in the area proposed for the new building. The skillion roof has been chosen to follow the slope of the land so the proposal is considered to be partially in accordance with PDC 2. For these reasons the proposal is also considered to be in accordance with PDCs 14 and 39 as it will not be highly visible in the surrounding landscape.

Of note the representor is concerned about the obtrusive nature of the proposal when viewed from the living areas of their dwelling. The proposal is some 44 metres from the representor's dwelling and is largely obscured by existing vegetation on their own land. The current buildings and animal enclosures on the subject land are situated 9m (from west to east) from the outbuilding on the representor's land. This separation is a small area enabling a restricted view to the north from the representor's dwelling which is framed currently by their own shed, the existing sheds

on the subject land, and existing landscaping on their own land. There have been a number of design iterations in the course of the planning assessment, and the current proposal sees the proposed building fill the current 9m gap.

There is no watercourse within 25m of the proposed building as required by PDC 4. By demolishing the existing buildings and structures and reusing the site adjacent the dwelling, the proposal is considered to accord with PDCs 8 and 38 as it limits the number of buildings on the land and groups the building with the dwelling.

Whilst a large building, a horticultural building is expected development in association with an existing orchard and the design has been amended to better work with topography of the land and blend with the site and rural surrounds. Landscaping is proposed to screen the southern side of the building. On balance, the proposal is considered to be consistent with PDC 11. Further, the proposal is considered to accord with PDCs 16 and 17 as it will assist, and not prejudice, primary production on the subject land.

PDC 70 lists all kinds of development in the Watershed (Primary Production) Zone as non-complying apart from certain exemptions, one of which is a horticultural building.

*b) Council Wide provisions*

Rural Development

Objectives: 1 & 2

PDCs: 1 & 4

The proposed building will help ensure the continued use of the land for horticulture, in accordance with PDC 1.

The proposal has been amended since lodgement and seeks to improve on the appearance of the site and replace the existing buildings. Consideration has been given to the requirements of PDC 4 by directing stormwater disposal to a water storage tank, with any overflow directed into an existing swale.

Design and Appearance

Objectives: 1

PDCs: 1, 2, 3, 7, 9 & 17

The roof form of the proposed building has been designed to follow the natural slope of the land. The chosen colour Woodland Grey will assist in the proposal meeting the expectations of PDC 1, notwithstanding that the building is an envisaged form of the development in the Policy Area and Zone. The chosen colour of Woodland Grey is considered to accord with PDC 3.

The proposed building is 4m from the side or southern boundary, the same distance as the buildings proposed to be demolished. The proposed building has been amended from a gable to a skillion roof and landscaping has been included on the southern side to soften its appearance. On balance, the proposal is considered to accord with PDC 2 (a). The applicant provided shadow diagrams at 9am, 10am, 11am and midday on June 21(the winter solstice) which demonstrate no overshadowing of

the solar panels on the southern neighbours adjacent outbuilding. In this regard the proposal is considered to be in accordance with PDC 2 (b).

The representor has concerns about loss of views from their northern aspect. The view is considered distant, being some 44m from the proposed building and through a narrow frame created by the representor's own outbuilding, existing landscaping and the natural form of the land. The representor's dwelling has openings from living areas orientated to the north, but it also has a majority of openings from living areas orientated to the west. The proposed horticultural building is to be sited to the north of the representor's dwelling at a distance of some 44m and fills a small frame of the views available in this direction. On balance, the proposal is considered to be consistent with PDC 7.

The subject land is sloping and any further movement of the proposed building to the east would require significant earthworks. The final proposal has 0.19m fill in the south-western corner and up to 1.1m of cut in the north-eastern corner adjacent the dwelling on the subject land. The proposal is considered to accord with PDC 9 and any further movement of the proposal to the north and east would dramatically increase the required earthworks and potentially encroach into a SAPN (South Australian Power Networks) easement.

The proposal accords with PDC 17 with a setback of some 44m from the neighbouring dwelling and it is considered that the proposal will not overshadow the solar panels and dwelling or prevent winter sunlight into the representor's dwelling.

#### Interface Between Land Uses

Objectives: 1, 2 & 3

PDCs: 1 & 2

The proposal is for a large building to replace existing dilapidated buildings and is proposed for horticultural fruit bin and machinery storage. The proposed uses for the building are not expected to generate airborne nuisance or noise and should not generate traffic above that expected with normal horticultural activities. Stormwater management has been addressed and light spill will be conditioned. For these reasons the proposal is considered to be consistent with PDC 1.

The proposal takes advantage of a relatively level area of the site at the low point of a valley and will not negatively impact on the visual amenity of the locality. The representor has argued that the proposal will have a negative impact on visual amenity for the residential portion of their vineyard to the south. Due to the topography of the representor's own land their views are to the north, west and south, in a 180 degree arc. A very small portion of this arc is impacted by the proposal and at a distance of more than 40 metres. On balance, the proposal is considered to minimise any possible land use conflicts between existing residential uses and primary production activities, as envisaged by PDC 2.

Landscaping, Fences and Walls

Objectives: 1

PDCs: 1, 2 & 3

The representor and applicant have agreed landscaping will assist in softening the visual impact of this proposal. There is considerable landscaping on the representor's land and they have requested evergreen landscaping for the proposal. The proposal is considered to meet the requirements of the relevant provisions listed above.

Natural Resources

Objectives: 1, 2, 4 & 10

PDCs: 2, 11, 13 & 22

The proposal is sited more than 50 metres from any watercourse. There is no native vegetation within the proposed development site and the better management of stormwater from the proposed new building is considered to ensure the natural assets of the site are protected and enhanced (PDC2).

The water from the roof of the new building will be managed through a rainwater tank, with overflow piped around the rear of the proposed outbuilding and discharged into an existing swale. As such, it will be conditioned to meet the provisions described in PDCs 11 and 13 requiring that the quality and discharge of stormwater post-development will equal that of pre-development conditions (refer to recommended condition 5). Management of hardstand water runoff will also be conditioned to prevent erosion and ensure appropriate control of surface water (refer to recommended condition 6). Furthermore, the proposed earthworks will be required to be rehabilitated in accordance with PDC 22 (refer to recommended condition 7).

Orderly and Sustainable Development

Objectives: 3, 8 & 10

PDCs: 1, 2, 3 & 16

The proposal is considered necessary to ensure that the subject land can best meet its primary production potential, consistent with modern horticultural management practices that require storage of associated implements, equipment and chemicals. The proposal is therefore considered consistent with PDC 1.

Further as envisaged in PDC 2, the subject land is not in a township and should primarily be used for primary production purposes, which is the intent of this application.

The proposal is considered to assist in the sustainable expansion of the economic base of the region as apple growing area and this is recognised as a major income source for the Adelaide Hills in accordance with PDC 3.

As previously discussed, the final design meets the requirements of PDC 16 with regards to design and amenity.

### Siting and Visibility

Objectives: 1

PDCs: 2, 3, 4, 5, 6 & 7

The proposal is sited in a lower lying area adjacent to the dwelling on the subject land, and near an outbuilding on the adjacent property. The building will not be highly visible from adjacent roads and the design has been amended to blend in with the surrounding developments and landscape, mostly through the use of the skillion roof and the proposed colour selection. The proposal is therefore considered to be in accordance with PDCs 2 and 3.

The earthworks proposed are considered minimal (0.19m fill and 1.1m cut) and have been proposed to assist with reducing the visual impact of the proposed building, and will not be visible from the surrounding locality. The proposal is therefore considered to be consistent with PDCs 4, 5, 6 and 7. The representor has suggested the proposal could be pushed further to the north-east, which would increase the extent of the earthworks required and potentially conflict with power lines traversing the site. On balance, the proposal is considered appropriate from a siting and visibility perspective.

## **7. SUMMARY & CONCLUSION**

The proposal is for a large horticultural building in association with an existing orchard and is expected development within the Policy Area and Zone. The proposal has been amended multiple times in an endeavour to minimise the visual impact to the locality and the adjacent properties. The final design is not a standard 'off the shelf' shed design, is it a custom designed solution to best fit the competing requirements, namely the practical requirements of the horticultural use and related storage), the neighbour's concerns and the Development Plan requirements.

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

## **8. RECOMMENDATION**

**That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent to Development Application 18/515/473 by Giuseppe Ceravolo for Demolition of existing buildings & construction of horticultural building, water storage tank (22,500L) & associated earthworks at 172 Woods Hill Road Ashton subject to the following conditions:**

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

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

- **Amended proposed site plan and floor plan and elevations from Zummo Design revision A08 dated 22 March 2018**



- **Siteworks and drainage plan from Herriot Consulting Civil & Structural Engineers file number C1808-004 sheet C1 revision A**

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

**(2) Lighting**

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

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

**(3) External Finishes**

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

**WALLS: Colorbond Woodland Grey or similar**

**ROOF: Colorbond Woodland Grey or similar**

**TANK: Colorbond Woodland Grey or similar**

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

**(4) Soil Erosion Control**

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

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

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

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

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

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

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

**(6) Stormwater Hardstand Runoff to Be Dealt With On Site**

It is the owner's responsibility to ensure that stormwater from all paving areas of the site at 172 Woods Hill Road, Ashton is disposed of in such a manner that it does not result in the entry of water into any buildings, affect the stability of any building, cause erosion or affect adjoining landowners.

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

**(7) Treatment To Excavations And Fill**

All exposed excavations and fill as shown on the siteworks and drainage plan from Herriot Consulting Civil & Structural Engineers file number C1808-004 sheet C1 revision A shall be:

- a) rounded off and battered to match and blend with the natural contours of the land;
- b) covered with approximately 100mm of topsoil; and
- c) seeded to avoid erosion and visual concerns

prior to occupation of the approved development to the reasonable satisfaction of Council.

**REASON:** To maintain the visual amenity of the locality in which the subject land is located.

**NOTES**

**(1) Development Plan Consent Expiry**

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

**(2) Erosion Control During Construction**

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

**(3) EPA Environmental Duty**

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

**(4) Use Of Building**

Should the building be used for retail sales, staff facilities, cold room facilities, washing, grading, processing and packing or storage of product then a separate application will need to be lodge with Council for change of use.

**9. ATTACHMENTS**

- Locality Plan
- Proposal Plans
- Application Information
- Applicant's Professional Reports
- Representation
- Applicant's response to representations
- Publically Notified Plans

Respectfully submitted

Concurrence

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**Melanie Scott**  
**Senior Statutory Planner**

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**Deryn Atkinson**  
**Manager Development Services**