

**COUNCIL ASSESSMENT PANEL MEETING
14 August 2019**

AGENDA – 8.1

Applicant: Dan Edwards	Landowner: Australian Executive Trustees Ltd
Agent: Access Planning	Originating Officer: Marie Molinaro
Development Application:	19/404/473
Application Description: Two (2) frost fans associated with horticulture (maximum height 13.7m)	
Subject Land: Lot:19 Sec: P6008 FP:155234 CT:5454/242	General Location: Lot 19 Forreston Road, Forreston <i>Attachment – Locality Plan</i>
Development Plan Consolidated : 24 October 2017 Map AdHi/3	Zone/Policy Area: Watershed (Primary Production) Zone
Form of Development: Merit	Site Area: 33 hectares
Public Notice Category: Category 3	Representations Received: 9
Notice published in The Advertiser on 14 June 2019	Representations to be Heard: 5

1. EXECUTIVE SUMMARY

The purpose of this application is to construct two frost fans associated with a vineyard. The fans are intended as protection for the vineyard from damage during frost events. Frost fans work by drawing down warm air from above and mixing it with cold air, which lifts temperatures at crop levels and assists in the prevention of frost damage.

The subject land is located in the Watershed (Primary Production) Zone and the proposal is a merit, Category 3 form of development. Nine (9) opposing representations were received during the public notification period of which five (5) wish to be heard in support of their representation.

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

The main issues relating to the proposal are the noise impact on residential amenity when the fan is in operation, and the potential impact on visual amenity.

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

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- Construction of two frost fans
- Both fans are the Orchard Rite 2430 three blade propeller model

- The fan propeller blades are supported by a 10.7m high monopole
- The combined height of the monopole and the fan blades are 13.7m
- The diesel engines controlling the fan operation are located in a single enclosed cabinet located at the base of each monopole
- The monopoles and engine cabinets are finished in grey galvanised steel
- The fan blades are finished in a grey, composite material
- The frost fans are located in the western portion of the land, spaced approximately 325m apart
- Frost fan 1 is located towards the north west of the site, approximately 112m from the Martin Hill Road boundary
- Frost fan 2 is south-west of frost fan 2 and is 158m from the southern boundary. It is 97.5m from the nearest boundary, being the eastern side boundary
- Frost fan 1 is approximately 260m south of the nearest dwelling on an adjoining allotment, being 480 Forreston Road, Forreston
- Frost fan 2 is approximately 365m north-east of the nearest dwelling on an adjoining allotment being 81 Quinns Road, Forreston

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Attachment - Applicant's Professional Report**.

3. BACKGROUND AND HISTORY

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
25 February 2004	03/815/473	Vineyard sign – (1)

4. REFERRAL RESPONSES

No referrals were required for this application.

5. CATEGORISATION & CONSULTATION

PDC 70 is the non-complying development trigger in the Zone, with all development not listed in PDC 70 being non-complying. Frost fans are listed in PDC 70, so the proposal has been assessed as a merit form of development. The inclusion of frost fans in PDC 70 signals that they are an expected form of development in the Zone, subject to full assessment against the relevant provisions of the Development Plan.

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. Nine (9) opposing representations were received from adjacent property owners/occupiers, including the two closest dwelling owners.

The following representors wish to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Christopher J Pinchbeck	1 Norsworthy Road, Forreston	Appearing personally
Brett Graham	74 Norsworthy Road, Forreston	Appearing personally
Gary & Judith Smith	18 Norsworthy Road, Forreston	Appearing personally
Andrew & Lisa Tilley	404 Forreston Road, Forreston	TBA
Michelle Sanders	480 Forreston Road, Forreston	TBA

The applicant or his representatives, Adam Williams of Access Planning and Alex Morabito from Marshall Day Acoustics, may be in attendance.

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

- Negative impact on residential amenity as a result of noise generated by the fans
- Negative visual impact of the fans
- In relation to amenity impacts the proposal will not enhance amenity for residents and visitors as sought as an Objective of the Watershed (Primary Production) Zone
- The noise assessment report provided by the applicant is flawed as it does not consider topography impact, provides average predicted levels only and is inconsistent with the manufacturer product information
- Acoustic treatments to nearby residences should be provided by the applicant
- There are other alternative methods available to limit frost damage, which will result in no noise or visual amenity impacts
- Frost may be blown by the fan onto neighbouring properties, containing vineyards

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

The representations are 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 33 hectares in area; and is irregular in shape. The land has a primary street frontage to Forreston Road, and a secondary street frontage to Martin Hill Road.

Forreston Road is to the west of the land, and is an arterial roadway. Martin Hill Road is to the north of the site, and is a sealed Council roadway. Neither Forreston Road or Martin Hill Road are designated scenic routes as per Figure AdHi(EC)/1 of the Development Plan.

The land contains a vineyard, and bore pump shed. The topography of the land is undulating, but generally sloping down to the west and flattening out at this point. Two watercourses flow through the land in an east-west direction with the fall of the land. The land is mainly clear of native vegetation, except for scattered trees located towards the south of the site, and plantings along the eastern side boundary.

Access to the vineyards is by existing internal gravel tracks.

ii. The Surrounding Area

The locality is predominantly comprised of large irregular shaped allotments, used generally for horticulture, grazing and residential purposes.

The proposed frost fans are generally in the order of 260-340m from the nearest dwellings on adjacent land – 480 Forreston Road, Forreston and 368 Martins Hill Road, Forreston.

iii. Development Plan Policy considerations

a) *Zone Provisions*

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

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

Objectives: 1, 2, 3, 4 & 5

PDCs: 1, 11, 14, 15, 16, 17, 39, 41, 42, 43 & 70

Form of Development

Principle of Development Control (PDC) 1 provides guidance as to how buildings (including structures) can maintain the natural rural character by being sited in unobtrusive locations.

In particular, buildings should:

a) *Be located well below the ridge line;*

The proposed fans are located below the ridge line.

b) *Be located within valleys or behind spurs;*

The proposed fans are located at low points of the land. The siting of the fans is dictated by their ability to effectively operate. The topography of the land flattens out towards the west.

- c) *Be located not to be visible against the skyline when viewed from public roads and especially from the Mount Lofty Ranges Scenic Road;*

The subject land is not located on a Scenic Route as designated in the Development Plan. Frost fan 1 will likely skyline against the scenery to the low-lying surround land as the site flattens out. However the fan has a slender design, and minimal footprint, similar to the existing powerline poles located in close proximity to the frost fan 1 location. The powerlines are an existing intrusion on the natural setting of the land.

- d) *Be set well back from public roads, particularly when the allotment is on the high side of the road;*

The fans are located at low points in the land, and are well setback from public roads. Frost fan 1 is approximately 137m from Forreston Road and 112m from Martin Hill Road. Frost fan 2 is approximately 270m from Forreston Road and 437m from Martin Hill Road.

- e) *Be sited on an excavated rather than a filled site to reduce the vertical profile of the building;*

The frost fan needs to be at a certain height above ground level to be effective, so it is not technically feasible to set the fan at a lower level to reduce its height.

- f) *Where possible, structures to be screened by existing native vegetation when viewed from public roads and especially from the Mount Lofty Ranges Scenic Road; and*

Frost fan 1 is expected to be the most visible from both Forreston Road and Martin Hill Road. This fan is most exposed to view from Martin Hill Road as the topography of the land flattens out at this point. In addition, there is a lack of vegetated screening along Martin Hill Road frontage.

There are substantial mature native plantings along the Forreston Road frontage, which in combination with the road alignment should limit views of frost fan 1 to an acceptable level.

Landscape planting along the Martin Hill Road frontage is considered to have minimal effect in screening frost fan 1 given its height. The base compound area of the fan is very small, so screening of the compound area is not considered necessary.

- g) *Maximise the retention of existing native vegetation and the protection and retention of watercourses in their natural state.*

The positioning of the frost fan will not result in any native vegetation removal.

The proposal on balance is considered to be mostly consistent with PDC 1. As the proposal is consistent with the design guidance criteria of PDC 1, it is also considered that the proposal is consistent with PDC 14 which calls for development to not detract from the natural and rural landscape character of the region.

PDCs 11 and 39 are identical, both stating that buildings should not impair the character of rural areas by reason of their scale or siting. If necessary, buildings should be screened by trees or shrubs. In reference to these PDCs it is noted that the height scale of the frost fans is not consistent with those PDCs of the Zone which seek the profile of buildings to be low. However, the height of the frost fans is standard and is required to ensure that they operate effectively. However, the bulk and scale of the fans is reduced by their slender design and minimal footprint on the land. The fans are sited at the low point of the land, and the construction does not require any native vegetation removal. The proposal is considered to be sufficiently consistent with PDCs 11 and 39 on this basis.

Objective 5 does seek the enhancement of the amenity and landscape of the south Mount Lofty Ranges for the enjoyment of residents and visitors.

Objective 5 is considered to be a positively phrased Objective, similar in intent to the PDCs discussed above relating to landscape/visual amenity, which are written in the negative.

Whilst the proposal in a strict sense will not enhance the landscape amenity, it is on balance not considered to offend the PDCs intended to minimise landscape/visual amenity impacts. In addition, a balanced approach should be taken in considering possible adverse landscape/visual amenity impacts against these Objectives and Principles of the Zone which seek ongoing primary production retention and protection. The fans have been designed and sited to be effective for their intended purpose of crop protection. In any event, it is considered uncommon that a development proposal would enhance amenity, but often a neutral or negligible impact is achieved.

Amenity impacts in relation to noise are discussed in detail later in the report – refer to section headed Interface Between Land Uses.

Rural Development

Objective 3 seeks the long-term sustainability of rural production, and is supported by PDC 42 which seeks rural areas to be retained for primary production purposes, and other uses compatible with maintaining rural productivity.

The proposal is considered to assist in ensuring the continuation of primary production, in this circumstance horticulture, by protecting the vineyard crops from frost damage.

Concern was raised in the representations that the frost fans could push cold air onto neighbouring vineyard sites. It is understood that frost fans work by drawing down warm air and mixing it with cold air. That is, the fans do not push cold air away from the vineyard that they are installed on. In any event, the fans in this proposal are in a location that is lower than the existing adjoining vineyards to the east and south-east so it is unlikely that cold air could be pushed upslope.

b) *Council Wide provisions*

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

- *The retention of rural areas primarily for forestry, primary production and conservation purposes and the maintenance of the natural character and rural beauty of such areas*
- *Protect community health and amenity from adverse impacts of development*
- *Protect desired land uses from the encroachment of incompatible development*
- *Protection of the scenic qualities of natural and rural landscapes*
- *Protection of productive primary production land from conversion to non-productive or incompatible uses, and encouragement of full-time farming of rural land*

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

Animal Keeping and Rural Development

Objective: 1

PDCs: 1 & 4

Objective 1 and PDC 1 are the same as Objective 3 and PDC 42 of the Watershed (Primary Production) Zone, which have been discussed above in the report.

PDC 4 states that the planning, design and undertaking of horticulture should minimize impacts that ensure acceptable outcomes relating to the emission of dust, noise, odour or spray drift. Dust, odour or spray drift will not result from the fans, but the spinning blades and engine operation of the fans will generate notable noise levels. Further discussion on noise impact is included later in the report – refer to section headed Interface Between Land Uses.

The applicant has advised in their response to the representations that the following alternative frost crop protection methods have been considered, but are not viable:

- Frost irrigation system
Deemed not be a feasible option due to a lack of water, and ability to supply water to operate a frost sprinkler system.
- Helicopters
Provide the same protection as a frost fan, but are noisier.

Interface Between Land Uses

Objectives: 1, 2 & 3

PDCs: 1, 7 & 14

Amongst other matters PDC 1 seeks for development to not detrimentally affect the amenity of the locality through vibration. In the matter of *Frost Protection Australia Pty Ltd v The Barossa Council* [2017], expert advice from an acoustic engineer with experience in vibration impacts presented during this Court case was that “ground borne vibration was not likely to be perceptible at distances of greater than five metres from the base of the fans, and cause no impact at surrounding residences.”

Using the advice from this Court case as a guide, the proposal is considered to be consistent with PDC 1.

PDC 7 is directly applicable to noise generating activities and states that development that emits noise (other than music noise) should include noise attenuation measures that achieve the relevant *Environment Protection (Noise) Policy 2007* criteria when assessed at the nearest existing noise sensitive premises. The applicant has provided an environmental noise assessment report. The report (included in Attachment Applicant's Professional Report) concludes that the fans when in operation will achieve the *Environment Protection (Noise) Policy 2007* criteria level at the nearest dwellings, the sensitive premises.

The *Environment Protection (Noise) Policy 2007* a policy prepared by the Environment Protection Authority (EPA) sets out specifically the noise control provisions applicable to frost fans – refer ***Attachment Environment Protection (Noise) Policy 2007***. Additionally, the EPA publication titled *Evaluation Distances for Effective Air Quality and Noise Management* provides advice on separation distances. It recommends a distance of 2000m for frost fans from sensitive uses – refer ***Attachment Evaluation Distances for Effective Air Quality and Noise Management 2016***.

It is recognised that the proposed frost fans will have a significantly lesser separation distance at 260-380m from the nearest dwellings (sensitive uses), than the EPA recommended separation distance. However, compliance with the *Environment Protection (Noise) Policy 2007* is considered to negate a reduced separation distance between land uses. This is noting that the *Evaluation Distances for Effective Air Quality and Noise Management 2016* document is a guide only, including a mechanism for an applicant to demonstrate that a separation distance, other than the recommended distance is appropriate. Consequently, the distances quoted in the document should not be adopted as absolute criteria, but rather as indicative distances that may be adjusted having regard to specific site circumstances.

For the purpose of determining the relevant allowable noise level for noise-affected premises, the land use category applicable in this circumstance is 'rural industry'. This is based on primary production being the promoted land use in the Watershed (Primary Production) Zone. In addition, the EPA has confirmed that the use of the rural industry land use category for assessing compliance with the Policy in this circumstance is correct.

The rural industry land use category of the Policy allows a higher noise threshold for rural industry land uses compared to the other rural living land use category. The rural industry land use category allowable noise level for noise affected premises is 55 decibel [dB(A)] outside the noise affected premises.

The Marshall Day Environmental Noise Assessment Report (the Report) concludes that at a point outside the dwelling at 480 Forreston Road, Forreston (representor, Andrew & Lisa Tilley's dwelling) the predicted level of noise is 49 dB(A). The Report's conclusion does consider the operation of both fans at the same time.

Further supporting information from the noise assessment report author provided in the response to representations notes that the Environment Protection (Noise) Policy 2007 is based on acceptable external noise levels. That is, if the external noise level is met there is no requirement to assess internal noise levels. Based on this, and as the noise levels are within the Environment Protection (Noise) Policy criteria, it is not considered necessary to consider acoustic treatments as requested by some representors such as window glazing or landscape buffers to lower internal noise levels.

Further information in the response to representations provides a detailed summary of the methodology used to provide the predicted noise levels, including how terrain is factored into the assessment results.

The word average has been used in the assessment, in recognition that noise fluctuates up and down, so therefore the predicted noise levels will be above and below for short periods of time.

In the instance of inconsistency between the noise levels noted in the manufacturer product information guide, and the noise assessment report, the Report shall prevail. The Report is based on calculation methodology and independent testing.

Based on the report the proposal is considered to achieve the Environment Protection (Noise) Policy 2007 criteria and is therefore consistent with PDC 7.

PDC 14 is directly applicable to the proposal and states that frost fans associated with primary production should not lead to unreasonable impact on adjacent land uses. As discussed above, it has been demonstrated via the Marshall Day Environmental Noise Assessment Report that the proposal will achieve the noise criteria set out in the EPA document Environment Protection (Noise) Policy 2007.

With regard to the Noise Policy threshold, staff have been advised by the EPA that noise at a certain level such as 55 dB(A) will sound quite loud if the background level of noise is low, such as at night in a rural area where noise can often be between 30-35 dB(A). However, this threshold has been set in recognition that frost fans typically operate occasionally throughout each year, and usually in the cooler months when nearby dwellings are closed up (e.g. doors and windows closed).

In regards to the anticipated operation of the fans, the applicant has provided advice in their response to the representations that the fans are expected to operate infrequently from September to November. However, usage will be restricted to nights when the ambient temperature reaches a critically low level of around 1.0 degree Celsius. There will be an exception to this when the fans will need to be operating during the day for maintenance purposes. The maintenance period is expected to be 1-1.5 hours per year.

Weather data provided from the Bureau of Meteorology by the applicant shows that over the past 25 years there have been approximately 14 frost events between September and November as observed at the nearest weather station at Mount Crawford Forest.

Recommended condition 2 requires that the fans do not start up unless the temperature is 1 degree Celsius or less, and that they switch off when a temperature of 2 degrees Celsius is achieved, except for when maintenance is required.

Using compliance with the EPA Noise Policy as a guide for what would be a reasonable noise impact, and considering all of the above, the proposal is considered to be sufficiently consistent with PDC 14.

It is acknowledged there will be a change to amenity (low-level noise) conditions currently enjoyed by nearby residential property occupiers resulting from the proposal.

Whilst the proposal is therefore not enhancing amenity in this regard, the frost fan noise impact is not considered to be unreasonable when considered against achieved compliance with the Environment Protection (Noise) Policy criteria and Development Plan Principles.

As mentioned elsewhere in the report, seeking the enhancement of residential amenity should be balanced against the Objectives and Principles of the Development Plan which seek the ongoing primary production retention and protection.

Orderly And Sustainable Development

Objectives: 10

PDCs: 1

Objective 10 seeks the protection of productive primary production land from conversion to non-productive or incompatible uses, and the encouragement of full-time farming of rural land. As discussed earlier in the report, the proposal is considered to be a mechanism for the protection of a primary production (horticulture) use.

The retention and encouragement of primary production uses are a fundamental objective of the Watershed (Primary Production) Zone. The proposal is consistent with Objective 10 and PDC 1.

7. SUMMARY & CONCLUSION

The proposal is for the construction of two frost fans on an existing vineyard that is located in the Watershed (Primary Production) Zone.

The siting and design of the frost fans is considered to limit their visual impact to an acceptable level, in accordance with the qualitative visual amenity provisions of the Zone.

The applicant has demonstrated through expert advice that the anticipated noise level of the frost fans when in operation will not exceed the quantitative noise levels for nearby dwellings as set out in the Environment Protection (Noise) Policy 2007. Compliance with the Environment Protection (Noise) Policy criteria is considered to sufficiently demonstrate that the level of noise should not unreasonably impact on adjacent residential land uses, despite the reduced setback distance to sensitive receptors, as set out in the EPA document Evaluation Distances for Effective Air Quality and Noise Management 2016.

The proposal is sufficiently consistent with the relevant provisions of the Development Plan, and it is considered that 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 19/404/473 by Dan Edwards for Two (2) frost fans associated with horticulture (maximum height 13.7m) at Lot 19 Forreston Road Forreston 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 site plan, received by Council 7 June 2019
- Amended elevation plan, received 7 June 2019
- Orchard Rite product information brochure, received by Council 22 May 2019
- Environmental Noise Assessment (ref. Rp 001 20190372) by Marshall Day Acoustics, dated 13 May 2019

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

(2) Frost Fan Operation

The frost fans shall be set with a fan 'start' temperature of 1 degree Celsius and a fan 'stop' temperature of 2 degrees Celsius, except for daytime maintenance purposes (maximum 2 times per year).

REASON: To ensure the proposed development operation is limited to that which is necessary for efficient operation.

NOTES

(1) Development Plan Consent Expiry

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

(2) EPA Environmental Duty

The land owner is reminded of their duty, that the operation of the frost fan shall be in accordance with the provisions of the Environment Protection (Noise) Policy 2007 relating to frost fans.

9. ATTACHMENTS

Locality Plan
Proposal Plans
Applicant's Professional Report
Representations
Applicant's Response to Representations
Environment Protection (Noise) Policy 2007
Evaluation Distances for Effective Air Quality and Noise Management 2016

Respectfully submitted

Concurrence

Marie Molinaro
Statutory Planner

Deryn Atkinson
Manager Development Services

**COUNCIL ASSESSMENT PANEL MEETING
14 August 2019**

AGENDA – 8.2

Applicant: Anthony Donato	Landowner: G M & J M Goodwin
Agent: Anthony Donato	Originating Officer: Damon Huntley
Development Application:	18/697/473
Application Description: Demolition of existing dwelling & construction of replacement two storey detached dwelling, attached decks (maximum height 2.7m), removal of native vegetation including 1 Significant Tree (SA Blue Gum) & associated earthworks (non-complying)	
Subject Land: Lot:50 Sec: P1104 DP:18130 CT:5066/524	General Location: 44 Teringie Drive, Teringie SA 5072 <i>Attachment – Locality Plan</i>
Development Plan Consolidated: 24 October 2017 Map AdHi/3	Zone/Policy Area: Hills Face Zone
Form of Development: Non-complying	Site Area: 3,500m ²
Public Notice Category: Category 3 Non Complying Notice published in The Advertiser on 22 February 2019	Representations Received: One (1) Representations to be Heard: One (1)

1. EXECUTIVE SUMMARY

The purpose of this application is for the proposed construction of a two-storey detached dwelling following the demolition of an existing detached dwelling. The proposed dwelling incorporates attached side and rear decking with a maximum vertical height of 2.7 metres. The application includes minor earthworks and removal of native vegetation necessary for the construction of the new dwelling and new waste water system.

The subject land is located within the Hills Face Zone. The proposal represents a non-complying form of development. One (1) representation in opposition of the proposal was received during the Category 3 public notification period.

The proposed replacement dwelling is larger than the existing detached dwelling and two-storey in nature. The detached dwelling is to be positioned in a similar location on the site to the existing dwelling. The proposal would retain the existing residential land use of the site, in an area of Teringie which comprises a mixture of dwellings forming a semi-rural and residential character. On balance, the visual appearance of the proposed dwelling is not considered to be detrimental to the character of the area, given that the subject land is primarily surrounded by a dense spread of large native trees. The proposed residential dwelling will not be readily visible from the Adelaide Plains, nor would the building be prominent from within the wider Hills Face Zone.

As per the CAP delegations, the CAP is the relevant authority for Category 3 non-complying development where representors wish to be heard.

The main issues relating to the proposal are the impact on the semi-rural character of the area, impact on residential amenity, removal of native vegetation, and compliance with the mandatory bushfire protection provisions of the *Minister's Code: Undertaking development in Bushfire Protection Areas*.

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 **CONCURRENCE** from the State Commission Assessment Panel (SCAP) be sought to **GRANT** Development Plan Consent.

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- Demolition of an existing single-storey detached dwelling and construction of a replacement two-storey detached dwelling comprising attached wrap-around rear and side decking (maximum height 2.7m), front verandah, and associated earthworks.
- The proposed dwelling features a part gable, part hipped-roof formation with a maximum ridge height of 7.2m.
- The dwelling measures 17.4m in depth, 42.0m in width and has a maximum wall height of 5.5m.
- The dwelling layout is predominantly limited to the upper-level which includes an open plan kitchen and living space, and four (4) bedrooms. The master bedroom includes an ensuite bathroom and walk-in-wardrobe. The layout also consists of an entry hall, secondary living and study room, bathroom, laundry, and double garage under the main roof. The lower-level of the dwelling solely comprises a home cellar room with associated stair well.
- External finishes include a combination of both white Easylap Scyon and terrain Maxline wall cladding, monument Colorbond® Maxline roof sheets and monument timber/steel decking with steel wire balustrading.
- The main face of the dwelling is to be setback 8.596m from the primary frontage boundary of the site. The position of the dwelling has a minimum side setback of 3.952m from the western boundary, a minimum side setback of 3.4m from the eastern boundary, and a rear boundary setback of 67.1m.
- Excavation of approximately 350mm is proposed to accommodate the base level of the front verandah.
- The proposal includes removal of native vegetation for which the land owner is required to seek Native Vegetation Clearance approval under *NV Regulation 12(33)*. Clearance of native vegetation is limited to that associated with the construction of the new dwelling and the waste control system. The vegetation clearance includes removal of 1 Significant Tree (SA Blue Gum) within the vegetation management zone required under the *Minister's Code: Undertaking development in Bushfire Protection Areas*.
- The installation of a 10,000 litre underground water storage tank in combination to an existing water tank with new pump and new connection point to comply with the mandatory provisions of the *Minister's Code: Undertaking development in Bushfire Protection Areas*.

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
07 March 2006	2006/128/473	Significant Tree Removal – one (1) manna gum.

Revised Sheet Number SK01a Rev 3 and Sheet Number SK01 Rev 5 were received by Council on 15 July 2019 as a result of Council negotiations with the Applicant to address compliance in respect of the mandatory provisions of the *Minister’s Code: Undertaking development in Bushfire Protection Areas* (the Minister’s Code).

4. REFERRAL RESPONSES

- **CFS**
The SA Country Fire Service has no objection to the proposal and have directed four (4) standard conditions which form the mandatory provisions of the *Minister’s Code: Undertaking development in Bushfire Protection Areas* (refer to recommended conditions 6-9).
- **NVC**
The Native Vegetation Council has advised that a Significant Tree is at “*increased risk of clearance and should be protected either by moving structures away from it or placing an agreement over the tree to protect it from clearance.*” The land owner is to seek Native Vegetation Council approval for any clearance of native vegetation under *NV Regulation 12(33)* (refer to notation 5).
- **AHC EHU**
Council’s Environmental Health Unit has granted pre-approval to install a waste water treatment system on the site - dated 15 July 2019 (Wastewater Application 19/W109/473).

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

5. CATEGORISATION & CONSULTATION

The application was determined to be a non-complying form of development as per the Hills Face Zone non-complying list in relation to the triggers for detached dwelling development, detailed in Principle of Development Control 26 in the Development Plan. In particular, a dwelling already exists on the allotment, the proposed dwelling features a vertical distance between a point of the external wall and finished ground level immediately below that point which exceeds three metres, the proposed dwelling comprises a floor level directly above another floor level and the proposal includes the clearance of native vegetation.

The application was categorised as a Category 3 form of development in accordance with Section 38(2) (c) of the Development Act 1993 requiring formal public notification and a public notice. One (1) representation in opposition to the proposed development was received during the public notification period. This representation was from an adjacent property owner.

The following representor wishes to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Sarah Shelton and Anthony Shirley	45 Teringie Drive, Teringie	Sarah Shelton and Anthony Shirley

The Applicant – Anthony Donato may be in attendance.

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

- The additional maximum ridge height of the proposed dwelling roof line as compared to the roof height of the existing dwelling, and;
- The use of Colorbond © “Monument” Maxline roof sheeting expressed as a dark tone against the natural backdrop of the surrounding area.

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

A copy of the submission is included as **Attachment – Representations** and the response is provided in **Attachment – Applicant's Response to Representations**. A copy of the plans which were provided for notification is 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 generally forms a rectangular shaped allotment along the southern side of Teringie Drive. The land has an area of 3,500 square metres, having a minimum width of 45.6 metres measured across the front northern boundary, and a maximum width of 67.02 metres along the rear southern boundary. Land levels fall across the site from north to south with a slope ranging between a maximum of 1-in-1 to a minimum of 1-in-4. The allotment extends in a southerly direction to a maximum depth of 92.9 metres. The site includes an existing single-storey detached dwelling positioned towards the front of the site, and a small domestic outbuilding located between the flank of the dwelling and the eastern side boundary. The property benefits from the presence of native trees and vegetation which is densely spread across the majority of the allotment. A significant tree (SA Blue Gum) is positioned approximately 9m from the existing dwelling. The site has two existing vehicular access points which are gained directly from Teringie Drive.

ii. The Surrounding Area

The surrounding area is made up of various sized allotments to the west of the subject land, with larger land holdings located to the north, east, and south. The wider area to the west of the site includes a small network of local roads and cul-de-sacs which comprise deep and irregular shaped allotments and detached dwellings. The concentration of smaller allotments is limited to the area south of Norton Summit Road, and reflects a historical pattern of residential settlement, presumably prior to 1975. The general formation of larger allotments to the north, east, and south of the subject land maintains a natural and open character to the surrounding area. Teringie Drive follows the contour of the land falling from east to west, and is generally influenced by low levels of local traffic. Residential dwellings along Teringie Drive are of mixed size, scale, and architectural appearance. Dwellings in the locality surrounding the subject land primarily address Teringie Drive with front setback distances ranging between 45 metres to 5 metres. The adjoining land to the western flank of the site is Norman Cole Reserve with a public tennis court and play equipment. Surrounding land along Teringie Drive is characterised by a broad spread of mature native trees, along with several exotic species lining property boundaries and situated around the environs of dwellings. This wider backdrop of vegetation provides a pleasant contribution to the semi-rural and residential character of the area.

iii. Development Plan considerations

The subject land is situated within the the Hills Face Zone. The following policies are considered to be the most relevant provisions within the Adelaide Hills Council Development Plan relating to the proposed development:

- i. Preserve and enhance the natural character in the zone.
- ii. Limit the visual intrusion of development in the zone, particularly when viewed from roads within the zone and from the Adelaide Plains.
- iii. Buildings to be located in unobtrusive locations, in particular, below ridge lines.
- iv. Excavation and/or filling of land to be kept to a minimum so as to preserve the natural form of the land and native vegetation.
- v. Profile of buildings to be low and the roof lines should complement the natural form of the land.
- vi. Development should not occur on land where the slope poses an unacceptable risk of soil movement, land slip or erosion.
- vii. Prevent the loss of life and property resulting from bushfires.

RESIDENTIAL DEVELOPMENT:

ZONE/COUNCIL WIDE	OBJECTIVES & PDCs
Hills Face Zone	Objectives: 1(a) & 2(b)(c) PDCs: 2, 3, 4, 9, 10, and 14
Council Wide: Residential Development	<u>Residential Development:</u> Objectives: 1 and 2 PDCs: 1, 2, 3, 5, 9, 13, 14, 17, 18, and 22

The application is for the proposed demolition of an existing single-storey detached dwelling and construction of a replacement two-storey detached dwelling comprising attached wrap-around rear and side decking (maximum height 2.7m), front verandah, and associated earthworks. The Hills Face Zone Objective 2 envisages a zone that accommodates low intensity agricultural activities allowing for the preservation and enhancement of the natural character of the zone. In addition, the desired character statement for the Hills Face Zone indicates that the zone is not a residential zone for urban expansion. Whilst the proposal does not bare any connection to an agricultural activity, the proposal intends to retain the existing residential use of the land without incorporating any additional use or purpose of the site. The sole retention of the existing residential use of the land aligns with the desired character statement for the Hills Face Zone, as the proposal is not further increasing development within the zone, thus not initiating pressure for additional services in the area.

The two-storey dwelling proposed is intended to be located in a similar position to the existing dwelling on the site, therefore maximising use of the flattest area on the upper portion of the allotment. Objective 2(a) of the zone envisages minimal visual impact of built form both within the zone and from the Adelaide Plains. Whilst the footprint of the proposed dwelling is larger than the existing dwelling, the position of the proposed building has been carefully considered so as to encompass a synonymous layout to the existing dwelling on the site. Given that the proposed dwelling is to be replacing an existing dwelling on the land, coupled with its relatively similar parameters, it is not considered that the proposal is inconsistent with the intent of the Hills Face Zone Objectives 1 and 2. In maintaining the status quo of the current land use, the proposed replacement dwelling is considered to be an acceptable form of development within the Hills Face Zone.

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

DESIGN AND APPEARANCE:

ZONE/COUNCIL WIDE	OBJECTIVES & PDCs
Hills Face Zone	Objectives: - Nil PDCs: 2, 4, and 7
Council Wide: <ul style="list-style-type: none"> - Design and Appearance - Siting and Visibility - Residential Development 	<p><u>Design and Appearance:</u> Objectives: 1 PDCs: 1, 3, 4, 7, 9, 17, 18, 20, and 21</p> <p><u>Siting and Visibility:</u> Objectives: -Nil PDCs: 4, 5, 6 and 7</p> <p><u>Residential Development:</u> Objectives: 1 PDCs: 9, 13, and 17</p>

The desired character statement for the Hills Face Zone states that *“in those parts of the zone, where prior to 1975, concentrations of smaller than average allotments were created, special attention needs to be paid to the scale, design and landscaping of development because there are fewer location options for development on these allotments.”* Furthermore, Council Wide (Design and Appearance) Objective 1 seeks development of a high design standard and appearance that responds to and reinforces positive aspects of the location environment and built form. As a replacement of the existing dwelling on the site, the proposed two-storey dwelling design includes a depth of 17.4 metres, and a width of 42 metres. Whilst the width of the dwelling is generally wider to that of a traditional standard-size dwelling, the design approach appears to correspond to the slope of the site, where the depth of the dwelling is relatively compact, and positioned between a 2.75 metre difference in land levels between the main face of the dwelling and the base level of the attached decking at the rear. The internal floor layout of the residence is primarily concentrated within the upper-level, with the predominant footprint of the floor level and combined decking cantilevered above finished ground level to a maximum height of 2.75 metres. The cellar room at the lower level is to be positioned directly below the internal kitchen space, and comprises a floor area of 40.9 square metres. Given the limitation of the sloping levels across the allotment, it is considered that the combined layout design and location of the dwelling is sensible and consistent with Objective 1 (Council Wide - Design and Appearance), and PDC 6 (Council Wide – Siting and Visibility). The layout of the dwelling incorporates a double garage which forms part of the main building. Whilst the additional footprint of the garage contributes to the prominent width of the building, this arrangement conforms to PDC’s 13 and 14 (Council Wide – Residential Development).

To compare the location of the proposed dwelling to the existing dwelling, the proposed building would be setback an additional 700mm, with the rear face of the dwelling extending to a further depth of 3.8 metres. The attached decking would extend beyond the rear wall of the dwelling to a further depth of 6.2 metres.

The dwelling comprises two-storeys with a contemporary architectural appearance, incorporating quality materials and finishes. In terms of the design response of the proposed dwelling, it is considered that the building exhibits carefully controlled elevations in which the ratio of window to wall is suitably balanced to provide a pleasing composition. The roof form and pitch, front verandah, and side and rear wrap around decking are considered to integrate positively to the overall design of the dwelling. As such, the overall architectural design and appearance of the dwelling is considered to be in accordance with PDC 1 (Council Wide - Design and Appearance).

Principle of Development Control 7 (Council Wide – Siting and Visibility) recommends that external surface materials of buildings be non-reflective and not detract from the visual character and amenity of the landscape. The proposed dwelling is to feature both white Easylap Scyon and terrain Maxline cladding, combined with monument Colorbond© Maxline roof sheeting. The use of white coloured Easylap Scyon would commonly be regarded as a bright tone within an external colour scheme. However, this colour is to be integrated in combination with terrain Maxline cladding, a colour which offers a natural earthy tone and only used as a contrast. Additionally, the portions of external wall featuring Easylap Scyon are for the most

part recessed below the front verandah, and rear canopy above the attached decking, thus further reducing the exposure of the brighter coloured cladding. The proposal features the use of Colorbond® monument roof sheets. While monument presents as a darker Colorbond® tone, it is a colour that does not emit external glare or bright reflection. Accordingly, it is considered that the proposed external finishes and colour scheme would be respectful when viewed against the wooded and natural backdrop surrounding the site. No fencing or alternative boundary treatment has been included as part of this application proposal.

Building Height

The Hills Face Zone PDC 1 anticipates detached dwellings within the zone to be of a single-storey form, and positioned in order to preserve and enhance the natural character of the zone. The proposed layout of the residence is primarily comprised across the upper-level of the building, with the floor/decking-level elevated above the finished ground level. The building forms two-storeys by virtue of the small cellar room at the lower-level. The building elevates to a maximum vertical wall height of 5.5 metres, and a hipped-roof elevating to maximum ridge height of 7.2 metres. The height of the replacement dwelling would be in the order of 500mm higher than the existing dwelling on the site. When viewed from the direct vantage point of the public road, it is considered that the building would project as a single-storey building, albeit in respect of the prevalent fall in land levels. Given the dense spread of large native trees to the south and east of the dwelling, the building would not be directly exposed to views from the Adelaide Plains, and would not form an overbearing or otherwise incongruous structure where viewed from within the zone. On balance, it is considered that the height of the building would not be significant to impact either upon the character of the area or the wider Hills Face Zone, as a natural backdrop to the Adelaide Plains.

Overlooking

The attached decking incorporated as part of the dwelling design would primarily address the rear southern portion of the subject land. The nearest adjoining property at 46 Teringie Drive is separated by a distance of some 30 metres to the location of the proposed dwelling. Given the sufficient separation distance between adjoining properties, coupled with the presence of mature trees lining the shared side boundary of the site, it is considered that the proposal would not give rise to exchange of intrusive views toward the side and rear garden amenity space of the dwelling at 46 Teringie Drive. No other adjoining or surrounding properties are to be unduly impacted by overlooking. It is therefore considered that there would be no undue material impacts to the amenity enjoyed by the occupants of adjoining and nearby land. The proposal is considered to be consistent with PDC 18 (Council Wide – Design and Appearance).

Stormwater

Stormwater generated from the dwelling is to be diverted to an existing 50,000 litre concrete water storage tank on the site located to the rear of the dwelling. The proposed drawing titled: "Overall Site Plan" Sheet No. SK01a Rev 3 denotes stormwater overflow to be diverted to a 600mm deep diversion trench with plastic tunnel piping to direct stormwater runoff around and away from the proposed effluent dispersal field. Given the spacious size of the allotment and the densely

wooded nature of the rear portion of the site, it is considered that there would be no intrusive impacts relating to potential trespass of stormwater to adjoining land. Should the application be granted Development Plan Consent, a standard condition of consent is to be imposed to ensure stormwater overflow is treated within the internal boundaries of the property through appropriate on-site techniques such as dedicated vegetated swales, stone filled trenches, or other suitable outlet infiltration mechanisms (refer to recommended condition 10).

ORDERLY DEVELOPMENT AND INTERFACE BETWEEN LAND USES:

ZONE/COUNCIL WIDE	OBJECTIVES & PDCs
Hills Face Zone	Objectives: - 2 PDCs: - 2, 3, 4, 7, 9, 14, 15, 22
Council Wide <ul style="list-style-type: none"> - Orderly and sustainable development - Interface between land uses 	<p><u>Orderly and Sustainable Development:</u> Objectives: 1, 3, 4, and 5 PDCs: 1, and 9</p> <p><u>Interface Between Land Uses:</u> Objectives: 1, 2 and 3 PDCs: 1 and 2</p>

Orderly Development

The application is for the proposed replacement of a detached dwelling on the site, having a similar overall scale and positioned in virtually the same location on the site as the existing dwelling. The proposal is therefore considered to be both orderly and suitable as the existing residential land use is to be maintained. Whilst the intent of the zone envisages low intensity agricultural activities, regard must be given to the similar characteristics of both the existing and proposed buildings. In terms of the layout of the site, the development is to be undertaken without incurring any significant alteration to the land form, with the location of the existing vehicular access from Teringie Drive to be maintained. As no additional vehicle access points are required, the proposal will not alter or unduly increase traffic movement to and from the site in accordance with PDC 9 (Council Wide – Orderly and Sustainable Development).

Interface Between Land Uses

As discussed earlier in this report, areas of Teringie contain a historical pattern of residential dwellings, a number of which are located along Teringie Drive, both adjoining and adjacent to, the subject land. As such, it is considered that the proposed replacement dwelling will not result in any adverse conflict between surrounding residential properties, and other land within the locality. The adjoining land to the western flank of the site is a Council reserve with a public tennis court and play equipment. As the existing residential use of the land is to be retained, it is considered that there would be no negative amenity impacts from adjoining or nearby land. Accordingly, it is considered that the proposal is consistent with PDC 1 (Hills Face Zone), and PDCs 1 and 2 (Council Wide – Interface Between Land Uses).

SIGNIFICANT TREES AND NATIVE VEGETATION:

ZONE/COUNCIL WIDE	OBJECTIVES & PDCs
Hills Face Zone	Objectives: - 2(b) PDCs: 22
Council Wide <ul style="list-style-type: none"> - Landscaping - Significant Tree 	Objectives: - nil PDCs: 1 Objectives: 1 and 2 PDCs: 1, 2, and 3

Significant Trees

The proposed development intends to retain the vast majority of existing mature trees and vegetation across the allotment. Principle of Development Control 3 (Significant Trees) recommends that significant trees should be preserved, and tree-damaging activities should not be undertaken unless tree(s) are within 20 metres of a residential building within a Bushfire Prone Area. It is noted that the proposed building would be positioned in close proximity to large native trees on the site, one of which is a SA Blue Gum (*Eucalyptus leucoxylon* ssp). This particular tree would be located within 1.5m of the rear decking of the proposed dwelling. In accordance with Schedule 3 Regulation 17(1) (b) of the *Development Regulations 2008*, a tree-damaging activity in relation to a significant tree is an act that does not require development authorisation, where such tree(s) is/are located within 20 metres of a dwelling in Bushfire Protection Area identified as High Bushfire Risk in the relevant Development Plan. The subject land falls within a High Bushfire Risk Bushfire Protection Area as per Figure AdHi(BPA)/1 of the Adelaide Hills Council Development Plan (Consolidated 24 October 2017). It has been confirmed that this SA Blue Gum tree is located within a 20 metre minimum separation distance to the existing dwelling on the site and thus exempt from requiring approval to be removed under the Development Act currently. On this basis no requirement for replacement planting is considered necessary.

Originally it was the owner’s intent to retain the Significant Tree (SA Blue Gum) in the redevelopment of the site. However as the tree will overhang the roofline of the proposed dwelling and deck it will require removal in accordance with the Minister’s Code. The SA Country Fire Service Schedule 8 referral response received 29 March 2019 provided no objection to the proposed development, subject to compliance with Part 2.3.5 of the Minister’s Code for a vegetation management zone (VMZ) to be established and maintained within 20 metres of the dwelling or to the boundaries of the property. The general undertaking of this development proposal intends to retain the substantial balance of trees and vegetation on the site, which is consistent with Objective 2 (Hills Face Zone), and PDC 3 (Council Wide – Significant Trees). Additional removal of native vegetation requires subsequent clearance approval under the Native Vegetation Act where it is 10 metres or more from the existing dwelling.

Native Vegetation

As mentioned above, the overall aim of the development proposal includes the retention of the majority of trees on the site, with no further unnecessary removal of vegetation proposed. Inherently, the location of the land being within a High Bushfire Risk Bushfire Protection Area will necessitate the removal of vegetation for a vegetation management zone within a 20 metre radius of the dwelling in accordance with the Minister’s Code. In addition, vegetation clearance is also required for the installation of the waste control system. Thus it is the applicant’s intent to limit the area of vegetation clearance to that necessary for the construction of the dwelling and waste control system. Correspondence from the Native Vegetation Council (NVC) dated 07 March 2019 has indicated that the landowner must seek approval from the NVC for any native vegetation proposed to be removed as part of the development by submitting a native vegetation clearance application under *Regulation 12(33) for a new dwelling or building*. A further standard note in respect of Native Vegetation Clearance requirements is to be imposed should the application be granted Development Plan Consent (refer to notation 5).

HAZARDS:

POLICY/ZONE/COUNCIL WIDE	OBJECTIVES & PDCs
Hills Face Zone	Objectives: - Nil PDCs: 4
Council Wide - Hazards - Sloping Land	Objectives: 4 PDCs: 3, 4, 7, 9, 14, 25, and 27 Objectives: 1 PDCs: - 1, 3, 4, and 5

As the subject land is located in a High Bushfire Risk Bushfire Protection Area, the property is at risk of exposure to a future bushfire event. The SA Country Fire Service Schedule 8 referral response received 29 March 2019 has directed four (4) conditions relating to fire-fighting vehicle access, access to water supply, and vegetation management should the proposed development be granted Development Plan Consent (refer to recommended conditions 6-9). The SA Country Fire Service advised Council on 16 July 2019 that the proposed measures to protect the property in the event of a bushfire can be compliant with the mandatory provisions of the Minister’s Code, and therefore the proposal satisfies PDC 7 (Council Wide – Hazards). The SA Country Fire Service referral response has advised that the existing crossover on the eastern side of the front boundary is able to be used in combination with the public road to form a ‘T’ shaped turnaround area for large bushfire fighting vehicles to defend the property in the event of a bushfire.

The property is not located in an area that is subject to floodwaters in a 1-in-100 year average return interval flood event, and therefore no prevalent risk of flooding is considered. In accordance with PDC 27 (Council Wide – Hazards), the proposal does not include an excessive level of earthworks.

With regard to the location and elevated position of the dwelling on the site, it is considered that the structure would not give rise to soil erosion, or compromise the stability of the land.

Council's Environmental Health Unit has granted pre-approval to install a new waste water treatment system dated 15 July 2019 (Wastewater Application No. 19/W109/473).

7. SUMMARY & CONCLUSION

The development proposal to construct a two-storey detached dwelling following the demolition of the existing dwelling will not have an adverse impact on the natural character of the area, nor will the structure be readily visible from within the wider Hills Face Zone, or the Adelaide Plains.

The proposed dwelling is to be located in a similar location on the allotment to the existing dwelling, and this location is consistent with the predominant pattern of residential development that exists within the locality. It is considered that the proposed external finishes and colour scheme of the dwelling would be respectful to the wooded and natural backdrop surrounding the site.

The adopted design approach ensures that excavation of land is kept to a minimum so as to preserve the natural land form from unacceptable risk of erosion and soil movement. While some vegetation clearance is required in order to comply with the mandatory bushfire protection provisions of the Minister's Code, the proposed development entails retention of existing mature trees and vegetation across the site, with the exception of the vegetation clearance necessary for the vegetation management zone required by the SA CFS, and for the installation of the waste control system. In this respect, the vegetation to be cleared is considered to be reasonable and necessary for the construction of the replacement dwelling.

On balance, the proposal is considered to meet the policy intent of the Hills Face Zone and accordingly would not undermine the objectives of the Hills Face Zone.

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

8. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and seeks the CONCURRENCE of the State Commission Assessment Panel to GRANT Development Plan Consent to Development Application 18/697/473 by Anthony Donato for Demolition of existing dwelling & construction of replacement two storey detached dwelling, attached decks (maximum height 2.7m), removal of native vegetation including 1 Significant Tree (SA Blue Gum) & associated earthworks (non-complying) at 44 Teringie Drive Teringie 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:

- Letter to Council relating to development application details written by Anthony Donato dated 19 September 2018 (received by Council dated 19 September 2018);
- Amended Overall Site Plan drawn by LC of Anthony Donato Architects Sheet No. SK01a Rev 3 dated June 18 (received by Council dated 15 July 2019);

- Amended Site Plan drawn by LC of Anthony Donato Architects Sheet No. SK01 Rev 5 dated June 18 (received by Council dated 15 July 2019);
- Amended Floor Plan drawn by LC of Anthony Donato Architects Sheet No. SK02 dated June 18 (received by Council dated 09 May 2019), and;
- Amended Elevation Plans drawn by LC of Anthony Donato Architects Sheet No. SK03 Rev 2 dated June 18 (received by Council dated 09 May 2019).

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

(2) External Finishes

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

WALLS: Terrain or similar with White contrast

ROOF: Colorbond© Monument or similar

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

(3) Residential Lighting

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

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

(4) 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) CFS Access Requirements

Private roads and access tracks shall provide safe and convenient access and egress for bushfire fighting vehicles as follows:

- Access to the building site shall be of all-weather construction, with a minimum formed road surface width of 3 metres and must allow forward entry and exit for large fire-fighting vehicles
- The all-weather road shall allow fire-fighting vehicles to safely enter and exit the allotment in a forward direction by incorporating either:
 - i. A loop road around the building, OR
 - ii. A turning area with a minimum radius of 12.5 metres, OR
 - iii. A 'T' or 'Y' shaped turning area with a minimum formed length of 11 metres and minimum internal radii of 9.5 metres
- Private access shall have minimum internal radii of 9.5 metres on all bends

- **Vegetation overhanging the access road shall be pruned to achieve a minimum vehicular clearance of not less than 4 metres in width and a vertical height clearance of 4 metres**

REASON: To provide safe access to properties in the event of a bushfire.

(6) CFS Access To Dedicated Water Supply

A supply of water shall be available at all times for fire-fighting purposes:

- **Water supply outlet shall be easily accessible and clearly identifiable from the access way. Stand alone tanks shall be identified with the signage 'WATER FOR FIRE FIGHTING' and the tank capacity written in 100mm lettering on the side of each tank and repeated so that the sign is visible from all approaches to the tank. The sign shall be in fade-resistant lettering in a colour contrasting with that of the background (ie blue sign with white lettering.)**
- **Access to the dedicated water supply shall be of all-weather construction, with a minimum formed road surface width of 3 metres**
- **Provision shall be made adjacent to the water supply for a flat hardstand area (capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes) that is a distance equal to or less than 6 metres from the water supply outlet**
- **SA CFS appliance inlet is rear mounted; therefore the outlet/water storage shall be positioned so that the SA CFS appliance can easily connect to it rear facing**
- **A gravity fed water supply outlet may be remotely located from the tank to provide adequate access**
- **All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level**
- **All water supply pipes for draughting purposes shall be capable of withstanding the required pressure for draughting**
- **Ideally a remote water supply outlet should be gravity fed, where this is not possible the following dimensions shall be considered as the maximum capability in any hydraulic design for draughting purposes:**

The dedicated water supply outlet for draughting purposes shall not exceed 5 metre maximum vertical lift (calculated on the height of the hardstand surface to the lowest point of the storage) and no greater than 6 metre horizontal distance.

The suction outlet pipework from the tank shall be fitted with an inline non return valve of nominal internal diameter not less than that of the suction pipe and be located from the lowest point of extract from the tank. All fittings shall be installed to allow for easy maintenance.

REASON: To minimise the threat and impact of bushfires on life and property.

(7) CFS Water Supply

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

- **A minimum supply of 22,000 litres of water shall be available at all times for bushfire fighting purposes**
- **The minimum requirement of 22,000 litres may be combined with domestic use, providing the outlet for domestic use is located above the 22,000 litres of dedicated fire water supply in order for it to remain as a dedicated supply**
- **The bushfire fighting water supply shall be clearly identified and fitted with an outlet of at least 50mm diameter terminating with a compliant SA CFS fire service adapter, which shall be accessible to bushfire fighting vehicles at all times**
- **The water storage facility (and any support structure) shall be constructed of non-combustible material**
- **The dedicated fire-fighting water supply shall be pressurised by a pump that has:**
 - i. **a minimum inlet diameter of 38mm AND**
 - ii. **is powered by a petrol or diesel engine with a power rating of at least 3.7kW (thp) OR**
 - iii. **a pumping system that operates independently of mains electricity and is capable of pressuring the water for fire-fighting purposes**
- **The dedicated fire-fighting water supply pump shall be located at or adjacent to the dwelling to ensure occupants safety when operating the pump during a bushfire. An “Operations Instruction Procedure” shall be located with the pump control panel**
- **The fire-fighting pump and any flexible connections to the water supply shall be protected by a non-combustible cover that allows adequate air ventilation for efficient pump operation**
- **All bushfire fighting water pipes and connections between the water storage facility and a pump shall be no smaller in diameter than the diameter of the pump inlet**
- **All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level**
- **A fire-fighting hose (or hoses) shall be located so that all parts of the building are within reach of the nozzle end of the hose and if more than one hose is required they should be positioned to provide maximum coverage of the building and surrounds (ie at opposite ends of the dwelling)**
- **All fire-fighting hoses shall be capable of withstanding the pressures of the supplied water**
- **All fire-fighting hoses shall be of reinforced construction manufactured in accordance with AS 2620 or AS 1221**
- **All fire-fighting hoses shall have a minimum nominal internal diameter of 18mm and maximum length of 36 metres**
- **All fire-fighting hoses shall have an adjustable metal nozzle, or an adjustable PVC nozzle manufactured in accordance with AS 1221**
- **All fire-fighting hoses shall be readily available at all times**

REASON: To minimise the threat and impact of bushfires on life and property.

(8) CFS Vegetation

Landscaping shall include bushfire protection features which will prevent or inhibit the spread of bushfire and minimise the risk of life and/or damage to buildings and property.

This shall be achieved by establishing and maintaining a Vegetation Management Zone (VMZ) within 20 metres of the dwelling (or to the property boundaries - whichever comes first) as follows:

- i. The number of trees and understorey plants existing and to be established within the VMZ shall be maintained such that when considered overall a maximum coverage of 30% is attained, and so that the leaf area of shrubs is not continuous. Careful selection of the vegetation will permit the 'clumping' of shrubs where desirable, for diversity, and privacy and yet achieve the 'overall maximum coverage of 30%'.
- ii. Reduction of vegetation shall be in accordance with SA Native Vegetation Act 1991 and SA Native Vegetation Regulations 2017.
- iii. Trees and shrubs shall not be planted closer to the building(s) than the distance equivalent to their mature height.
- iv. Trees and shrubs must not overhang the roofline of the building, touch walls, windows or other elements of the building.
- v. Shrubs must not be planted under trees and must be separated by at least 1.5 times their mature height from the trees' lowest branches.
- vi. Grasses within the zone shall be reduced to a maximum height of 10cm during the Fire Danger Season.
- vii. No understorey vegetation shall be established within 1 metre of the dwelling (understorey is defined as plants and bushes up to 2 metres in height).
- viii. Flammable objects such as plants, mulches and fences must not be located adjacent to vulnerable parts of the building such as windows, decks and eaves.
- ix. The VMZ shall be maintained to be free of accumulated dead vegetation.

REASON: To minimise the threat and impact of bushfires on life and property.

(9) 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 shall 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.

(10) CFS Conditions To Be Completed Prior To Occupation

The Country Fire Service Bushfire Protection Conditions [four (4) conditions] shall be substantially completed prior to the occupation of the building and thereafter maintained in good condition.

REASON: To minimise the threat and impact of bushfires on life and property.

NOTES

(1) Development Plan Consent

This Development Plan Consent 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 the appeal is determined, whichever is later). Building Rules Consent must be applied for prior to the expiry of the Development Plan Consent, or a fresh development application will be required. The twelve (12) month period may be further extended by written request to, and approval by, Council. Application for an extension is subject to 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) CFS Bushfire Attack Level

Compliance with the fire protection requirements is not a guarantee the dwelling will not burn, but its intent is to provide a “measure of protection” from the approach, impact and passing of a bushfire.

The Bushfire hazard for the area has been assessed as BAL FZ (Flame Zone).

The buildings shall incorporate the construction requirements for buildings in Bushfire Prone areas in accordance with the Building Code of Australia Standard AS3959 “Construction of buildings in bushfire prone areas”.

(5) Department of Environment and Water (DEW) – Native Vegetation Council

The applicant is advised that any proposal to clear, remove limbs or trim native vegetation on the land, unless the proposed clearance is subject to an exemption under the Regulations of the Native Vegetation Act 1991, requires the approval of the Native Vegetation Council. The clearance of native vegetation includes the flooding of land, or any other act or activity that causes the killing or destruction of native vegetation, the severing of branches or any other substantial damage to native vegetation. For further information visit:

[www.environment.sa.gov.au/Conservation/Native_Vegetation/
Managing_native_vegetation](http://www.environment.sa.gov.au/Conservation/Native_Vegetation/Managing_native_vegetation)

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

(6) Tree Removal Or Pruning Not Included In This Application

This consent does not convey any approval for the pruning or removal of any regulated/significant trees that may be present on the subject land unless included in the description.

For criteria on regulated/significant trees please refer to the following:

http://www.ahc.sa.gov.au/webdata/resources/files/Protecting_Reg_and_Sig_Trees_Comm_Info.pdf

Please be advised that a separate Development Application must be lodged for such works.

9. ATTACHMENTS

Locality Plan
Proposal Plans
Application Information
Referral Responses
Publically Notified Plans
Representation
Applicant's response to representations

Respectfully submitted

Concurrence

Damon Huntley
Statutory Planner

Deryn Atkinson
Manager Development Services

**COUNCIL ASSESSMENT PANEL MEETING
14 August 2019**

AGENDA – 8.3

Applicant: Bird in Hand Pty Ltd	Landowner: Woods Vineyard Pty Ltd
Agent: Heynen Planning Consultants	Originating Officer: Sam Clements
Development Application:	18/828/473
Application Description: Expansion to existing mixed use development comprising cellar door, restaurant & function facility (400 person capacity), including building alterations & 4 storey additions with an additional restaurant, ancillary bars, viewing deck and underground cellar, construction of sewer pumping main, associated car parking, combined fence and retaining walls & earthworks and Variation to Development Authorisation 473/65/10 to vary Conditions 2 & 3 relating to hours of operation & overall capacity of the premises (excluding outdoor concerts) and to delete Conditions 9 & 10 relating to other operational restrictions (non-complying)	
Subject Land: Lot:1 Sec: P5246 FP:142154 CT:5261/544	General Location: 150 Pfeiffer Road Woodside Attachment – Locality Plan
Development Plan Consolidated : 24 October 2017 Map AdHi/18 & 57	Zone/Policy Area: Watershed (Primary Production) Zone & Onkaparinga Valley Policy Area
Form of Development: Non-complying	Site Area: 29.7 ha
Public Notice Category: Category 3 Non Complying Notice published in The Advertiser on 28 June 2019	Representations Received: 6 Representations to be Heard: Nil

1. EXECUTIVE SUMMARY

This application is seeking to expand an existing mixed use development comprising a cellar door, restaurant and function facility to have an overall 400 person capacity. The proposal includes building alterations and four storey additions which comprise an additional restaurant, associated ancillary bars, viewing deck and underground cellar, the associated earthworks and car parking. The proposal also includes the construction of private sewer pumping main to connect the property to SA Water sewer. The proposal subsequently varies Development Authorisation 10/65/473, namely conditions 2 and 3 relating to hours of operation and the overall capacity of the premises (excluding outdoor concerts) and supersedes conditions 9 and 10 relating to other operational restrictions.

The subject land is located within the Watershed (Primary Production) Zone and the Onkaparinga Valley Policy Area and the proposal is a non-complying form of development. One representation in opposition and five representations in support of the proposal were received during the Category 3 public notification period.

The proposed expansion of this existing mixed use development is considered to be orderly and economic development that expands the economic base of the region in a sustainable manner. The proposal value adds to and does not diminish the primary production activities that occur on

the subject land. The proposal will result in a beneficial impact on water quality in the Mount Lofty Ranges watershed.

The proposed building additions are considered to achieve a high standard of design. Whilst the additions are of a significant height, their bulk and scale is reduced by the building's articulation, the deep setbacks from boundaries, the indented setback of the upper levels of the building and the significant amount of glazing on the northern, eastern and southern elevations. The majority of these upper level additions (up to three storeys above ground level) are to be transparent or see through and due to this the addition, has the appearance of an open structure with a rolling roof form. Excavation and filling of land has been minimised and the proposed additions are below both the ridgeline and Bird in Hand Road to the south.

Noise impacts from the development have been adequately addressed. The expansion to these existing uses will value add to primary production, contribute to the development of a sustainable tourism industry and increase the economic base of the region. The proposal will also have a beneficial impact on water quality in the Mount Lofty Ranges Watershed.

As per the CAP delegations, the CAP is the relevant authority for commercial development with a construction value over \$2.5 million in accordance with clause 6 of the CAP Delegation Policy.

The main issues relating to the proposal are amenity impacts from noise and increased traffic, the scale of the uses, the bulk and scale of the building additions, car parking and water quality impacts.

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

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- Expansion of an existing mixed use development comprising a cellar door, restaurant and function facility to include an additional restaurant, a bar, viewing deck and underground cellar. The mixed use facility is proposed to have an 400 person overall capacity
- Hours of operation
 - Sunday to Thursday 9.00am to 10.00pm
 - Friday and Saturday 9.00am to 12.00am
- Building alterations and four storey additions (three storeys above ground level)
 - Each floor features a dumb waiter for the transfer of barrels/wine, and an oval staircase and lift for patron and staff access
 - Underground floor cellar with an area of 735m² and a vaulted ceiling to support new floor above
 - Ground floor (existing building) - the existing external walls are to remain with new openings on the north and east elevations. The existing cellar door area is proposed to become private tasting rooms and this level is to be utilised as function space with four bars. The existing restaurant is to remain with a new kitchen proposed, which is to occupy some 139m² of the winery building/area to the rear. Existing guest facilities are located within the existing restaurant and in the outside toilet block

- Upper (second) floor - this floor has an area of 350m² and internally features a second restaurant with associated bar and guest toilet facilities. The outdoor area is a large roof terrace on three levels featuring tables for outdoor dining and large open areas for casual sampling and/or functions. Planter boxes separate the dining and the more casual terrace levels and break up the large open terrace areas. The perimeter of this terrace area has glass balustrading. These terraces, including access ramp to the upper terrace, have an area of 440m²
- Roof (third) floor - this floor features a small bar slightly larger in area than the oval staircase on this level. The bar is located under the main rolling or flowing shaped roof form of the proposed addition with a small outdoor deck of 58m² in area
- The additions to the proposed building are almost entirely sited within the footprint of the existing building with only the roof form protruding an additional 3.9m from the eastern side of the building and 21.4m from the southern side. The length of the roof structure is 38m
- Noting the rolling or flowing nature of the roof, the height of the building varies considerably from 9.7m to 15.2m above the finished floor level. From the ridge of the existing cellar door function centre building roof (to be removed) the new additions are 3.9m higher at the lowest point and 9.85m higher than the highest point of the existing building
- To the east of ground floor level (currently a small car park) entrance terraces are proposed with external stairs, ramps (to the cellar and ground levels) and masonry planter boxes (up to 1.3m in height). This elevated platform wraps around the north side of the building to provide access to the main entrance on the northern side of the building. This platform is up to 1.6m above the ground level in the north-eastern corner
- Combined fence/screening and retaining walls to the south-eastern corner and along the south ground level elevation of the building to screen water storage tanks and winery equipment. At its highest point in the south-eastern corner this wall is up to 4.2m in height
- The applicant has advised that the final external finishes, materials and colours have not been settled. Materials and finishes discussed to date include:
 - Rusted steel for entry and feature elements
 - Rusted steel and glazing to clad the Nest Bar
 - Brick, render and timber to external walls (similar to patina of existing walls)
 - Natural timber clad walls (to age in situ)
 - Alucabond or similar metal composite system to the roof
- Associated earthworks to create the cellar under the existing building and to provide a ramped access
- The existing car parking area to the east of the building is to be expanded within the headland between vineyard areas to have 88 car spaces along with the existing overflow car park to the north-east (45 spaces) of the building additions between the dam and vineyard
- Stormwater infrastructure will be installed for detention and water quality purposes to manage car park area runoff. This includes new pipes and swales to car park areas to direct runoff to a rock lined swale and bio-retention basin before discharge to the water course
- The construction of a private sewerage pump system (pump pit with up to 3000L capacity) on the subject land and a private sewer line to connect the property SA Water sewer. The development application includes an SA Water Trade Waste Authorisation and SA network connection permission for all wastewater on the site (excluding winery wastewater) to be delivered to the SA Water sewer network. A separate Section 221 authorisation permit has

been lodged for the laying of a pipeline of some 2.3km within the road reserve of Pfeiffer, Riverview and Gemas Roads to connect the site to the SA Water Wewak pumping station (Wewak and Gemas Roads are private roads within the Woodside Army Barracks at Inverbrackie)

- Variation to previous Development Authorisation 473/65/10 to vary Conditions 2 and 3 relating to hours of operation and the overall capacity of the premises (excluding outdoor concerts) and to delete Conditions 9 and 10 relating to other operational restrictions as below:

Condition 2

The restaurant/function area shall close no later than 11 pm on Fridays and Saturdays

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

Comment: As detailed above, the hours of operation are proposed to be amended.

Condition 3

At any one time, the overall capacity of the restaurant/function area/outdoor lawn area shall be limited to a maximum of 75 persons, with the exception of:

- A. One function per week of up to 150 persons standing (or 110 persons if seated); and*
- B. Four functions per calendar year of up to 400 persons; and*
- C. Two outdoor concerts/functions per calendar year of up to 1500 persons*

REASON: To ensure the proposed development is undertaken in accordance with the approved plans, to ensure that neighbouring properties are not impacted on negatively by this development and to ensure the waste control system is adequate.

Comment: The applicant has indicated that this condition will be maintained in respect to the number of functions/events and their capacity, but the capacity limitation (75 persons) within the ground level (cellar door, function and restaurant) no longer needs to apply as the property is to be connected to the SA Water sewer network. An overall capacity of 400 persons for these uses, including the second restaurant will apply. This application does not seek to change any details/requirements relating to the outdoor concerts.

Condition 9

All food waste, dishes, linen and effluent waste water from the events exceeding 75 persons shall be disposed of offsite. No use of the on-site dishwasher shall occur when events exceeding 75 persons are held. Records/documentation shall be retained for 12 months by the applicant to verify the above, and such records shall be made available to Council on request.

REASON: To protect the environment and maintain the amenity of the locality.

Comment: This condition is redundant as the property is to be connected to the SA Water sewer network.

Condition 10

During all functions/events where the maximum capacity exceeds 75 persons, the use of the permanent toilets shall be restricted to performing artists and VIP's only by secure entry. Adequate portable toilets shall be provided on-site for each event exceeding 75 persons in accordance with Council's requirements.

REASON: To ensure the effluent capacity of the existing approved waste water disposal system is not exceeded and to protect the environment.

Comment: This condition is redundant as the property is to be connected to the SA Water sewer network.

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
17 July 2019	18/827/473	Variation to 17/674/473- to vary building dimensions and internal floor plan of winery building
14/03/18	17/674/473	Winery , horticultural & office building
15/01/18	16/930/473	Vary location of overflow car park for special events
05/08/17	16/536/473	Signage
05/05/17	16/906/473	Toilet block
22/07/17	16/392/473	Increase outdoor concert capacity from 3000 to 3500 persons
21/3/17	15/361/473	Dwelling additions and alterations
02/05/16	15/214/473	Additions and alterations to winery building to relocation bottling line
21/03/16	15/871/473	Freestanding advertising sign and sculpture
4/11/15	14/724/473	Increase in outdoor concert capacity to 3000
27/08/15	14/717/473	In ground swimming pool and barriers
29/10/14	14/649/473	Relocation and addition to water storage tank
1/05/14	14/178/473	Variation to 10/56/473 to allow two indoor concerts with a capacity of 2100 over two nights
12/4/13	12/750/473	Change of use and alteration addition to existing buildings, offices and boardroom
12/04/13	12/718/473	Alteration and addition to barrel store- additional cellar door sales area and storage
22/03/13	12/688/473	Variation to the development authorisation 473/931/10- a reduction in size of cellar door in barrel store building and change of location
22/03/13	10/931/473	Change of use of the existing barrel store to include cellar door sales

27/03/13	10/65/473	Periodic special events (up to 2 times per calendar year) and increase in capacity of dining/function centre - 110 for seated & 150 for non- seated, & increase capacity of indoor and outdoor functions area for a maximum of 400 persons
27/03/13	12/734/473	Variation to development authorisation 473/65/10 to vary condition 3 to permit use of the barrel store for functions in addition to the existing restaurant.
27/08/12	10/189/473	Alterations and addition to dwelling including two storey additions & carport, associated earthworks
3/05/2010	09/873/473	Winery waste water effluent dam
30/01/09	08/1087/473	Advertising display (Sign B)- Directional signage location on the intersection of Pfeiffer and Bird in Hand Roads
16/03/09	08/758/473	winery building (barrel store) associated with existing winery
3/11/08	08/757/473	Additional cellar door sales area and advertising sign (1.8m x 0.9m) associated with existing winery, restaurant and cellar door and amendment to the operating hours of the restaurant (9am to midnight 7 days per week)
2/03/07	06/979/473	Staged alterations and additions to the existing winery. Stage 1: Construction of new winery shed, increase in the winery crush from 500 to 2000 tonnes per annum, new grape receiveal and crushing facility, alterations to the existing waste treatment plant with conversion of the existing dam to spill detention basin and installation of new water storage tank (181KL) Stage 2: Alteration to the existing winery building to establish a 75 seat restaurant and cellar door sales facility with associated parking, and new toilet facilities
21/10/02	00/1173/473	Winery and olive bottling plant

4. REFERRAL RESPONSES

- **EPA (pre-lodgement referral)**

The subject is located in Watershed Priority Area 3. Any development within this area is required to achieve a 'negligible adverse' impact on water quality. As the site features a Schedule 22 activity (Activity of Major Environmental Significance) the EPA has the power of DIRECTION.

Wastewater

It has been determined by the EPA that the proposed wastewater management (connection to SA Water sewer) will have a beneficial impact on water quality in Watershed. The EPA highlighted that the Council may need to consider odours associated with the private pipeline delivery system (i.e. wastewater held within the pipeline or storage pit for long periods of time).

Stormwater

Given the assumption that there would be no increase in off-site discharge and the proposal includes the stormwater treatment drain (runoff will pass through swales and a sedimentation basin) prior to discharge, the proposed development should result in runoff being treated to a higher standard than what is occurring currently on the site. The EPA is satisfied that the proposed stormwater management system would achieve beneficial impact or at least a negligible impact on water quality within the Watershed.

Construction Management

Provided that the submitted Soil, Erosion and Drainage Management Plan is implemented during the construction process, the EPA is satisfied that runoff will be appropriately managed.

The EPA has directed three conditions and four notes (refer recommended conditions 3-5).

- **AHC Engineering**

Engineering issues/comments:

- There appears to be no parking for buses
- There appears to be no designated disabled parking
- Parking spaces, and aisle width, should be dimensioned
- The primary parking areas scale at in excess of 210m in length. Query if there is a possibility that the configuration be changed to allow at least double sided aisles
- It may be preferable if the primary car park is sealed, and has a dedicated footpath

- **AHC EHU**

No wastewater requirements, as the property is to be indirectly connected to SA Water sewer.

The EPA response is included as ***Attachment – Referral Responses.***

5. CATERGORISATION & CONSULTATION

The proposal was treated as non-complying development as it does not meet some exemptions detailed in PDC 70 of the Watershed (Primary Production) Zone, namely:

- The gross leasable area of the cellar door is greater than 250m²
- The restaurants combined have more than 75 seats for customer dining purposes

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. Six (6) representations were received. Of these representations one (1) is opposing the proposal, and five (5) are in support of the proposal. All were from adjacent and nearby properties.

No representors wish to be heard.

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

6. PLANNING & TECHNICAL CONSIDERATIONS

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

i. The Site’s Physical Characteristics

The subject site is 29.74 hectares and irregular in shape with frontages to three roads, namely Pfeiffer Road (primary frontage of 681 metres), Drummond and Bird In Hand Roads. Access to the property is via a main entry (eastern most access point) on Pfeiffer Road as well as two private and/or staff access points.

The subject site contains the winery buildings, including restaurant and cellar door, function centre use within the combined restaurant, former barrel hall and a licenced outdoor area to the north of the these buildings. There is also a new winery, horticulture and office building currently under construction (nearing completion) to the south of the existing winery buildings and the existing offices (building to the north of the existing restaurant) are temporarily proposed to be a cellar door and finally (as currently approved/conditioned in Development Approval 17/674 and 18/827) as a meeting room and office related storage rooms.

The site also features vineyards surrounding the buildings on southern, western and eastern sides of the site and a dam, winery wastewater dam, dwelling (in the front middle portion of the site), watercourse, two silo structures 15-18 metres in height and a 300,000 litre water storage tank. On-site car parking was previously located to the north of the winery building (now a landscaped garden area) and is now retrospectively proposed, including the expanded car park area, to be located in the vineyard headland area to the east of the former barrel hall.

Whilst not part of or altered by this proposal, the land that is utilised for the outdoor concert parking is the Woodside airstrip.

ii. The Surrounding Area

The locality comprises large rural allotments.

To the north-west is the Woodside airstrip. This site features the second closest off-site dwelling, which is located approximately 315 metres from the building to be extended, namely the existing cellar door and function centre building (former barrel hall). To the north-east is a large allotment which is used for livestock grazing and is also the large Adelaide Polo Club grounds which is in the process of being developed. It currently features two playing fields, car parking, a shed, horse holding yards and a

dwelling (caretaker's residence). This Polo Club site features the closest off-site dwelling, which is located approximately 300 metres from the proposed extension site.

To the east is a large rural residential and livestock grazing allotment which features a State Heritage listed chimney and flue of the former Lone Hand Gold Mine. The dwelling and rural buildings are grouped in the north-west portion of the site. This dwelling is some 420 metres from the cellar door and function centre building on the site. There is a current mining application by the owners Terramin Exploration Pty Ltd being assessed by the State. Further to the east is the Petaluma Winery.

The dwellings to the south are located 330 to 400 metres away from the expansion area. These allotments are used for rural residential combined with livestock grazing or viticulture. The Art Wine vineyard also features a cellar door.

Based on the Council rating information, the large allotment on the other side of the Drummond Road to the west is a dairy farm, which also features a dwelling. This dwelling is some 1.1km away from the existing cellar door and function centre building.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

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

Policy Area

- *The retention of existing rural character by ensuring the continuation of farming and horticultural activities*

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

Objectives: 1

PDCs: Nil

The proposed expansion of existing uses on the site will not negatively impact on the horticultural (viticulture) activities that occur on the land. The proposed development utilises the existing footprint of the building with both below ground and upper level additions. No vineyard rows are required to be removed as part of the proposal and whilst the proposed new kitchen encroaches into a winery building, the development will not impact on the overall crush capacity of the existing winery. The expansion to the existing uses; including the additional restaurant and associated ancillary bars will value add and complement the existing primary production activities that occur on the land. The proposal is considered to be consistent with Objective 1.

Zone

- *Maintenance and enhancement of natural resources of the south Mount Lofty Ranges*
- *Enhancement of the Mount Lofty Ranges Watershed as a source of high quality water*

- *Long term sustainability of rural production*
- *Enhance of the amenity and landscape for the enjoyment of residents and visitors*
- *Development of sustainable tourism industry with attachment and facilities that relate to and interpret the natural and cultural resources of the south Mount Lofty Ranges*

The following are considered to be the relevant Zone provisions:

Objectives: 1, 2, 3, 5 & 6

PDCs: 1, 2, 3, 4, 7, 9, 11, 14, 15, 16, 17, 42, 44, 66, 67 & 69

Accordance with Zone

As confirmed by the EPA, the proposed development will have a beneficial impact on the water quality as the site will be connected to the SA Water sewer network and the quality of stormwater runoff will be improved as runoff is proposed to pass through swales and a sedimentation basin. The proposal will therefore enhance the natural resources of the Mount Lofty Ranges, consistent with Objectives 1 and 2.

The proposal will not result in the loss of any primary production activities on the land. No vineyard rows are required to be removed to facilitate the building additions or to expand the car park areas. The proposed car park areas utilise the existing headland areas of the vineyard. Specifically, the 45 space overflow car park is in-between the dam and vineyard in the north-eastern portion of the site and the main 88 space car park is within the headland east of the existing cellar door and function centre building. Tractor movements will occur outside of the hours of operation of the mixed use development to ensure the car park areas can also still be used as headland areas. The proposed expansion will value add to the primary production uses (viticulture and the associated 2000 tonne crush winery) of the land and ensure their longevity. The proposal is considered to be consistent with Objective 3.

Whilst the proposed building additions are of a significant height, their bulk and scale is reduced by the buildings articulation, the deep setbacks from boundaries, the indented setback of the upper levels of the building and the significant amount of glazing on the northern, eastern and southern elevations. These mostly glazed walls allow the upper portion of the building (all of the third storey and the second storey in part) to be transparent or seen through and therefore have the appearance of an open structure with a rolling roof form. Of note, only the western portion of the proposed building additions are three storeys and this portion of the building is still lower in height than the existing adjacent silos which are up to 15 metres in height. Despite the size and height of the additions they are considered to be of less bulk and scale in appearance than the large winery sheds on the site and due to the landform, they will not be particularly visible in the locality. The additions will be most visible when approaching from the east on Pfeiffer Road. Based on the above, and provided that the colour and material selections are unobtrusive in accordance with recommended condition 7, the proposed alterations and additions to the existing building will not impair the amenity of the locality and surrounding landscape. The proposal accords with Objective 5.

The proposed development will allow the Bird in Hand winery to cater for more guests on the site, with an overall capacity of up to 400 persons for all uses. The multi-use function and cellar door space, and additional restaurant with ancillary bars will be a unique attraction within the region and the Adelaide Hills. The proposal will allow more visitors to appreciate the produce grown and processed in the region. The contemporary design provides quite a contrast to the character/style to the more traditional buildings on the site, which may also contribute to the attraction of this venue for tourists. The architectural statement details how the design of the building additions are an interpretation of the natural features of the region, the site and the Bird in Hand brand (i.e. birds nest bar, landscaped external deck and rolling roof form are an abstract interpretation of rolling hills). The proposal is considered to contribute to the development of sustainable tourism industry, consistent with Objective 6.

Form of Development

The proposed below ground level and upper level additions utilise the footprint of an existing building. There are substantial earthworks required to create the below ground cellar level and ramp access, but this will be completely concealed and therefore not visible within the landscape. The proposed additions will not skyline and will be below the ridgeline to the south, noting that the roof level of 403.88 is approximately 4m below the Bird in Hand Road level and is 8.1m below the ridgeline level directly behind the proposed building additions. As mentioned, the proposed building additions are set well back from public roads and the upper level portion of the building is further setback from Pfeiffer Road than the existing ground level portion of the building. The proposal is considered to accord with PDC 1.

The building additions are not considered low profile, but for the reasons already highlighted in some detail above, this 'transparent' three storey portion of the building is not considered to be obtrusive, nor detract from the desired natural character of the Zone. Whilst the landform falls from the south to north, the landform does also rise to the west and therefore the rolling roofline does debatably complement the natural form of the land. As mentioned, the transparent nature of the building additions, the increased setback of the upper level to the front boundary and the variations in the roof height and form break up the mass of the proposed building additions. The roof overhang beyond the wall lines will also create some shadowed and shaded areas. Whilst the proposal addition results in a portion of the building being three storeys above the ground level, the proposed additions are not considered to be bulky in appearance. Existing landscaping and proposed landscaping on the entrance terrace and roof terrace areas (planter beds) will also soften the appearance of the building. The proposal is considered to sufficiently accord with PDCs 2, 11, 14 and 15.

The subject site is connected to mains water and will be connected to SA Water sewer and therefore the site will have a safe and efficient effluent disposal system. Noting this will be a contained form of wastewater management, the risk of pollution to water resources is greatly reduced, hence the reason the EPA have determined this proposal to have a 'beneficial impact' from a water quality perspective. Whilst not designated on the proposal plans there is ample area on the site to the rear of the buildings to accommodate refuse storage. This currently appears to occur behind

the winery building in between the new office, winery and horticultural building. This area is not visible from public roads. The proposal is consistent with PDC 3.

The proposed additions are above and below the existing footprint of the building and therefore are no closer to watercourses than the existing building. However, the main car park is located closer to a watercourse. It is considered necessary the stormwater management plan and the soil, erosion and drainage management plan demonstrate how the potential impact on this watercourse is to be minimised (see recommended reserved matter 1).

The proposed additions are not located to the side of the building as PDC 7 (part a) suggests, but the proposal sufficiently complies with other provisions relating to siting location and design of buildings, as discussed elsewhere in the report. The proposal is consistent with part (b) of PDC 7.

The proposal utilises existing access tracks and headland areas for internal access within the site and the car park areas. The visual impact of driveway and car parking areas is therefore minimised. The proposal accords with PDC 9.

The proposed development will not prejudice primary production activity in the locality or on the subject land and as mentioned elsewhere, will not result in the loss of any of the vineyard rows on the subject land. The proposal value adds and, supports the viticulture and winery activities on the land. The proposal accords with PDCs 16 and 17.

Watershed Areas - Cellar Door Sales Outlets, Restaurants and Shops

As mentioned before, the proposed mixed use development does not introduce new uses, but rather creates larger areas for the existing cellar door, function centre and restaurant uses. The bars are ancillary to these uses and in particular, the bars on the second and third level will not operate as a separate standalone use. The second restaurant and the expanded cellar door and function centres uses are located on the same allotment as a winery and vineyard. There are no details in the application documents to suggest sales of non-beverage or non-food related items will increase on the allotment. The restriction to 75 seats for restaurants and 250 square metres for cellar door floor areas are a quantitative measures to ensure the uses are associated with, and do not dominate primary production uses on the land and, to minimise water quality and amenity impacts. Noting the site is to be connected to the SA Water sewer network these restrictions, particularly in relation to water quality impacts are seen as less applicable. As mentioned, the proposal will not result in the loss of any primary production activities on the land and amenity impacts to adjacent properties have been addressed. Whilst the uses are large in scale and capacity (combined 400 persons), they are still considered to complement the primary production activities on the land. The Bird in Hand winery is large winery (2000 tonne crush) within the Adelaide Hills Council area and there is no impact on size of the existing vineyard. The setback of the proposed expanded uses to natural features and bores does not change as a result of the development. The proposal is sufficiently consistent with the policy intent of PDCs 66, 67 and 69.

b) Council Wide provisions

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

- Orderly and economic development
- Retention of rural character
- Development that does not undermine the objectives of the zone and policy area
- Development that protects the character and amenity of the locality
- Safe and convenient traffic movements and sufficient on-site car parking
- Retention, protection and restoration of the natural resources and environment
- Environmentally sustainable and innovative tourism development that does not adversely affect the use of the agricultural land for primary production

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

Animal Keeping & Rural Development

Objectives: 5

PDCs: 1

As the proposed expansion will have a beneficial impact from a water quality perspective and value add to primary production activities on the site, it is considered that the proposed development will expand the economic base of the region in an environmentally sensitive and sustainable manner. The proposal will increase employment opportunities in the hospitality and tourism sector in the region, and temporarily create increased construction employment. As mentioned, the primary production uses and activities that occur on the land will not be negatively impacted upon by the proposed development but will add value to these activities. The proposal is therefore considered to be consistent with Objective 5 and PDC 1.

Crime Prevention

Objectives: 1

PDCs: 5 & 10

Due to the late hours of operation of the proposed mixed use development and the distance car parks are located from the building, a low level pedestrian pathway or driveway and, car park lighting is considered necessary to ensure pedestrian safety (see recommended reserved matter 1). Noting the proposed building additions are largely glazed walls and there are large roof terrace and deck areas, there is good passive surveillance over the car park, driveway and outdoor areas from the building. The proposal can therefore achieve compliance with Objective 1 and PDCs 5 and 10.

Design and Appearance

Objectives: 1

PDCs: 1, 3, 4, 5, 9, 15, 20, 21, 22, 23 & 27

The proposal exhibits a high standard of contemporary design that is well considered in relation to the building height, mass and proportion, materials, articulation and shading. Also, the building additions will not incorporate highly reflective materials and the applicant has agreed to a condition that requires the materials to be utilised to be dark natural tones that blend in with natural environment. The proposal is

considered to be consistent with Objective 1 and PDCs 1 and 3. (See recommended condition 7).

The details of where plant and equipment is to be located have not yet be considered or demonstrated. Noting the architectural nature of the proposal it is considered that a condition to address PDC 4 (requiring the concealing of plant and equipment) is sufficient (see recommended condition 8). The roof terrace area and roof deck are integrated into the design of the building additions and have glass balustrading which enables uninterrupted views over the site and a line of sight to Pfeiffer Road. The proposal accords with PDC 5.

The addition has not been designed to blend or match the existing cellar door and function centre (former barrel hall) building. As mentioned, the contemporary design provides a contrast to the character or style of the more traditional buildings on the site. The design of the additions demonstrate a high standard of design and are well considered and, based on this it not considered a detrimental issue that the additions do not complement the character or style of the existing building. Whilst the proposal is considered inconsistent with PDC 8, the proposed additions provide a contemporary architectural focal point or feature, on the site.

As mentioned, the proposal minimises alteration to the existing land form by utilising the existing building footprint, consistent with PDC 9. The proposed development is not visible from and will not impact on views of or the setting of the State Heritage listed item on the adjacent site (PDC 15).

The main frontage of the building with the proposed additions addresses the primary frontage, but the design of the additions is such that all elevations are well considered and provide visual interest. The proposed building additions are well articulated, emphasize pedestrian entrance points and do not provide uninterrupted blank walling. As mentioned, the design is such that the proposed upper level additions are more transparent (i.e. can be seen through, with large portions of the north, east and south elevations being glazed). The proposal is considered to accord with PDCs 20, 21, 22 and 23.

As mentioned, storage, loading and service areas have not been shown on the plans but currently occur to the rear of the existing buildings and are thus screened from public view. The proposal accords with PDC 27.

Interface Between Land Uses

Objectives: 1, 2 & 3

PDCs: 1, 2, 7, 8, 9, 10 & 12

The proposed uses have currently operated to 11pm on any day of the week. The proposal now seeks to reduce this on Sunday to Thursday to 10pm and increase operations to 12am on Friday and Saturday. Whilst the proposal will increase vehicle movements to and from the site, there will be no increased risk to traffic safety created by the proposed development. Light spill should not be an issue provided the driveway and car park lighting is restrained and low level.

Odours from the sewerage pumping pit and rising main (pipeline) should be minimised if the recommendations in Gama Consulting report are adhered to (see recommended condition 13).

An Acoustic Engineers Report has been provided that assesses the proposal's impact on the nearby sensitive receivers. The report considered impact from music noise, engineering plant, people noise, service vehicles and car park noise. It is also noted that the report is quite conservative in that the assessment uses the noise level limitations for a 'Rural Living' area rather than a 'Rural Industry' area. The following requirements or restrictions were recommended:

- The building envelope elements will be re-assessed by the Acoustic Engineer once the architectural design is finalised
- The restaurant doors to the viewing deck should be kept closed when a function is taking place inside the restaurant
- To control plant vibration and radiation of structure borne noise, appropriate vibration isolators will be specified for all engineering plant
- If any speakers are to be installed externally to the proposed restaurant (Level 1) and bar (Level 2), only background music should be played through them. Given that conversation at normal voice level results in sound pressure level of 60dBA at 1m, the sound pressure level from any speakers should not exceed 65dBA at 1m

Assumptions made in the assessment include:

- A maximum of 150 persons at any one time on the roof terrace
- The external building materials
- Assumed 10 speakers uniformly distributed around the restaurant interior at 2,000mm above floor level generating reverberant sound level of 90dBA (LA10)

See recommended conditions 9-11.

As the above report is based on some assumptions (sound system and persons outside on the roof terrace and bar deck) there is need for conditions to address these matters. These potentially could be altered if a more detailed acoustic report (not based on assumptions) is supplied at a later stage (i.e. prior to Building Rules Consent). Based on the above recommended restrictions being in place, it has been determined that the proposal will achieve compliance with *Environment Noise Protection (Noise) Policy* and the specific provisions (PDCs 9 and 10) relating to music noise. The proposal is considered to be sufficiently consistent with Objectives 1, 2 and 3, and PDCs 1, 2, 7, 8, 9 and 10.

It is considered sufficient for a suitable condition to address PDC 12 which relates to odours from restaurants (see recommended condition 12).

Natural Resources

Objectives: 1, 2, 5, 6, 7, 10, 13 & 14

PDCs: 1, 2, 3, 4, 5, 6, 8, 10, 11, 12, 13, 14, 15, 17, 20, 21, 22, 23, 24, 37, 38, 39, 41, 42 & 44

As mentioned, although the proposal seeks to expand the existing mixed use development on the site to allow for a 400 person capacity, it results in beneficial impact on water quality. The site will be connected to the SA Water sewer network and the proposal includes water sensitive urban design techniques (i.e., grass lined swales and bio-retention basin) to better manage run-off from car park and driveway areas. The Hydrological Engineer and author of the stormwater report details that there is minimal increase to the imperviousness of the site and therefore runoff by surfacing the driveway and car park areas with rubble as opposed to these areas being compacted grassed access tracks and headland areas. Whilst no water quality model has been provided, it has been accepted by the EPA that the stormwater management measures detailed have beneficial impact to water quality. Provided the stormwater management plan and SEDMP are updated to ensure the impact on the watercourse that flows through the diagonal headland area is minimised, the Council administration are satisfied that natural resource impacts have been sufficiently addressed. Recommended reserve matter 1 addresses the provision of the revised stormwater management and SEDMP plans. The proposal is sufficiently consistent with the Objectives and PDCs of the Council-wide section relating to water quality, stormwater management and protection of watercourses.

The removal of one native tree within the existing headland area is proposed to facilitate the one way egress driveway (the driveway between the main car park and overflow car park areas). There is currently an existing access track between this tree and the vineyard area to the east. The removal of this native tree is subject to native vegetation clearance permit being granted. The proposal is partly consistent with PDCs 37, 38, 39, 41, 42 and 44 and the ultimate decision in relation to this tree removal rests with the Native Vegetation Council.

Orderly and Sustainable Development

Objectives: 1, 3, 4 & 10

PDCs: 1, 2, 3, 5, 6, 8, 9 & 13

The proposal does not prejudice the achievement of these provisions of the Development Plan, and the development is considered to be orderly and economic. The proposal expands the economic base of the region in a sustainable manner and value adds to and, does not diminish the primary production activities that occur on the subject land. The proposal will utilise SA Water sewerage infrastructure within 2.3km of the site, maximising existing infrastructure in the area. The proposal sufficiently accords with Objectives 1, 3, 4 and 10, and PDCs 1, 2, 3, 5, 6, 8 and 9.

The site is adjacent to the former Lone Hand gold mine and therefore the area is known for mineral deposits. The proposed development is not considered to be incompatible with mining operations and this mixed use development expansion should not increase costs associated with extracting of the resource if the mining permit is achieved for mining on the adjacent land (now referred to as the Bird in Hand gold mine). However, the proposal is not considered to be at odds with PDC 13.

Siting and Visibility

Objectives: 1

PDCs: 1, 2, 3, 4, 5, 6, 7, 8, 9 & 10

These provisions are largely a repeat of the form of development provisions within the Zone. A summary of the points already made above is detailed below:

- The proposed additions are within the footprint of the existing building and therefore excavation and filling has been minimised
- Existing access tracks and headland areas have been utilised
- The additions are not considered low profile, but there are no negative impacts on the rural landscape as a result of this
- The mass and bulk of the upper level additions is minimised due to their transparent/void nature (predominantly glazed walls that can be seen through)
- The proposed additions are well articulated and feature shadowed and shaded areas
- The additions are both below the ridgeline and Bird in Hand Road to the south
- The additions are set well back from the public roads and boundaries. The proposed upper level additions are set further back from the primary frontage than the existing ground level of the building
- The colours and material selections are yet to be confirmed, but should complement the surrounding landscape
- Landscaping is incorporated into the design to soften the entrance stairs, terrace area and roof terrace

The proposal is considered to sufficiently accord with Objective 1 and PDCs 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10.

Tourism Development

Objectives: 1, 2, 3, 5 & 6

PDCs: 1, 2, 3, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 18, 19 & 21

The proposed development to expand the existing uses on the site is associated with a winery and vineyard. The development provides a link to these rural activities, the agrarian landscape and the natural rural setting of the locality. As mentioned, the proposed additions utilise the existing footprint of the building and do not damage or degrade any natural features on the site or, impact on primary production activities continuing on the site. The proposal can improve the quality of water runoff into the watercourse and overall is deemed to have a beneficial impact on watershed. Whilst the proposal will allow the site to hold up 400 persons within the multi-use facility, these activities will complement and value add to the existing primary production activities. They are not considered to overcommercialise the site and impact on the character of the locality. The proposal could potentially increase vitality to the neighbouring Woodside Township. The proposal is considered to be sufficiently consistent with Objectives 1, 2, 3, 5 and 6, and PDCs 1, 2, 3, 5, 6 and 7.

The appearance of the upper level addition is discussed extensively above. The proposal is considered to achieve a high standard of design and appearance. The proposed expanded uses are well separated from the dwelling on the site. This dwelling has its driveway and access point onto Pfeiffer Road. The subject land does

not have lower agricultural potential, but as discussed above, no vineyard rows are to be removed as part of the development. This form of tourism development is in association with horticultural and winery development. The proposal is sufficiently consistent with PDCs 8, 9, 11, 12, 13, 14, 15 and 16.

It is not envisaged that the proposal will impact on rural industries occurring on nearby land or give rise to demand for infrastructure and services. The proposed development does have reliance on mains services. Whilst water reuse could be more of a feature of the design, connecting the site to mains sewer network is seen as a major beneficial outcome. The proposal sufficiently accords with PDCs 18 and 19.

The driveway and car parking areas utilise existing access tracks and headland areas within the site and are considered to be unobtrusive. The car park areas are screened to a degree by the vineyards areas and the dam. The proposal accords with PDC 21.

Transportation and Access

Objectives: 2

PDCs: 1, 6, 8, 13, 14, 25, 26, 32, 33, 34, 35, 36, 37, 38, 39, 40 & 41

The proposed development will utilise an existing access point into the site. This two-way access point will be able to cater for the increase traffic movements. The access point has good sightlines and provides access to an all-weather public road. Safe and convenient access is thus provided to the site. The proposal utilises headland areas for access driveways and car parking. A Traffic Engineer designed the car parking areas and therefore they are consistent with Australian Standard AS 2890. The proposal is therefore consistent with PDCs 25, 26 and 32.

As the proposed development is an integrated multi-use building the car parking requires cannot be easily determined by the use of a floor area calculation based on land use. Council staff accept the use of the 'restaurant' car parking rate based on seating numbers. Based on the 400 person capacity of the mixed use facility the car parking requirement is 133 spaces, which has been provided. The car parking for the proposed development is therefore sufficient.

The only concern with the car parking provided is the recent authorisation for the winery, horticultural and office building (17/674 and 18/827) showed 36 angled spaces within the headland area where the main car park is proposed in this further development. It is considered necessary that it is demonstrated that the 133 spaces are dedicated to the cellar door, function and restaurant uses and the office and winery car parking is located elsewhere on the site (see reserved matter 1).

Based on the planning submission, the car parks will be delineated with fixed logs or by similar means. Given the car parks are within headland areas of the vineyard, it would need to ensure that tractors can drive over the object used to delineate car parking spaces. Also, the applicant has offered a condition that tractor movements occur outside the hours of operation of the proposed development. The Council administration are accepting of this approach to ensure no area of vineyard is required to be removed to facilitate car parking on the site. The proposal sufficiently accords with Objective 2 and PDCs 1, 6, 8, 13, 14, 34, 35, 36, 37, 38, 39, 40 and 41.

Whilst all the car parks and driveway will be compacted gravel surface, the three car park spaces designated for persons with a disability will be suitably surfaced with a concrete hardstand. It is also considered necessary that a suitably surfaced pathway is provided from these car park spaces to the access ramp (see recommended reserved matter 1). The proposal will achieve consistency with PDC 33.

Waste

Objectives: 1 & 2

PDCs: 1, 2, 3, 4, 5, 6, 7, 11, 12, 13 & 14

Given the size of the site and the presence of the cellar door, function centre and restaurant uses on the site it is considered appropriate that the storage and disposal of solid waste can be addressed via condition (see recommended conditions 25 and 26). As detailed above, waste storage already is provided for on-site and any additional waste bins can be stored in a screened location that is not visible from public roads.

As mentioned above, the wastewater pump pit has been sized by a wastewater engineer and the proposed design of the system that will pump wastewater to the SA Water network is to the satisfaction of both SA Water and the EPA. The pump pit is located within close proximity to the dwelling on the site and these mixed uses and therefore it is within the applicant/owner's best interests to maintain the system to ensure odours can be minimised. The proposal is sufficiently consistent with the solid waste and wastewater management provisions within this Council-wide section.

7. SUMMARY & CONCLUSION

The proposed development will allow the Bird in Hand winery to cater for more guests on the site regularly, with an overall capacity of up to 400 persons. The multi-use function and cellar door space, and additional restaurant with ancillary bars will be a unique attraction within the Mount Lofty Ranges Region and the Adelaide Hills. The proposal will allow more visitors to appreciate the produce grown and processed on the site and in the region.

The proposed expansion of this existing mixed use development is considered to be orderly and economic development that expands the economic base of the region in a sustainable manner and value adds to, and does not diminish, the primary production activities that occur on the subject land.

Whilst the proposed building additions are of a significant height, their bulk and scale is reduced by the buildings articulation, the deep setbacks from the site's boundaries, the indented setback of the upper levels of the building and the significant amount of glazing on the northern, eastern and southern elevations. These mostly glazed walls allow the upper portion of the building (all of the third storey and the second storey in part) to be transparent or seen through and, therefore have the appearance of an open structure with a rolling roof form. The contemporary additions provide a contrast to the character of former barrel hall building and the other buildings on the site, but represent a high standard of design that will be an architectural focal point or feature on the site.

Excavation and filling of land has been minimised and the proposed additions are below both the ridgeline and Bird in Hand Road to the south. The colours and material selections are yet to be confirmed, but should complement the surrounding landscape.

Whilst this is an expansion to the existing uses on the site, the proposal will actually result in a beneficial impact on water quality in the Mount Lofty Ranges watershed through the proposed connection to the SA Water Sewer treatment plant. The EPA has no objection to the proposal.

Despite its non-complying nature, 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 **CONCURRENCE** from the State Commission Assessment Panel be sought to **GRANT** Development Plan Consent, subject to conditions.

8. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and seeks the CONCURRENCE of the State Commission Assessment Panel to GRANT Development Plan Consent to Development Application 18/828/473 by Bird in Hand Pty Ltd for Expansion to existing mixed use development comprising cellar door, restaurant & function facility (400 person capacity), including building alterations & 4 storey additions with an additional restaurant, ancillary bars, viewing deck and underground cellar, construction of sewer pumping main, associated car parking & earthworks and Variation to Development Authorisation 473/65/10 to vary conditions 2 & 3 relating to hours of operation & overall capacity of the premises (excluding outdoor concerts) and to delete conditions 9 & 10 relating to other operational restrictions (non-complying) at 150 Pfeiffer Road Woodside subject to the following conditions:

(1) Reserved Matter

The Council Development Assessment Panel requires the following matters which are reserved pursuant to Section 33(3) of the Development Act 1993 to be addressed to the reasonable satisfaction of Council staff:

- Submission of a revised car parking plan that clearly demonstrates the location of car parking areas to be allocated for the existing winery and office uses, noting that 37 car park spaces were approved within DA 17/674 in the headland area (main car park) now proposed to be utilised by patrons. The car parks detailed only provide for the 400 person capacity for the cellar door, restaurant and function centre uses.
- Submission of revised site plan that demonstrates a suitably sealed pathway of at least 1.5m in width to link the three parking spaces for people with a disability with the building access ramps
- An updated stormwater plan and SEDMP that gives consideration to the watercourse that passes through the eastern end of the proposed main car park
- Submission of a lighting plan for the car parking areas, pedestrian pathways and driveways to demonstrate that vehicle and pedestrian safety will be addressed, and amenity impacts from light spill are minimised (low level lighting is recommended)

NOTE: Council reserves the right to attach further conditions in relation to these matters.

REASON: To demonstrate adequate provision of on-site car parking and lighting and that the stormwater plan and SEDMP that gives due regard to the watercourse on the site.

(2) 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:

- Statement of effect (22 pages) prepared by Garth Heynen of Heynen Planning Consultants received by Council 20 June 2019
- Correspondence (5 pages) prepared by Garth Heynen of Heynen Planning Consultants received by Council 09 April 2019
- Pumping line plan prepared by Grieve Gillet Andersen dated 22 May 2019, received by Council 20 June 2019
- Correspondence prepared by David Pennington (AWE) titled Re: Bird In Hand Winery- 2nd revision of Stormwater Management for the Proposed Car Parking, dated 13 June 2018, received by Council 4 October 2018
- Gama Consulting report titled Sewerage Pump System Design & Documentation, Rev 1, dated 11 July 2018, received by Council 4 October 2018
- Amended location plan (DA00) and site plan (DA01) prepared by Grieve Gillett Andersen received by Council 20 June 2019
- Demolition/Existing plan (DA11), Floor plans (DA21, 22 & 23), elevations (DA31 & 32) and site section (DA 32) prepared by Grieve Gillett Andersen received by Council 4 October 2018
- Location plan- scene location (SP01) prepared by Grieve Gillett Andersen received by Council 09 April 2019
- Photomontages titled scenes 1 to 7 (SP02-08) prepared by Grieve Gillett Andersen received by Council 09 April 2019
- Car parking plans (O1C_SH01 and SH02) prepared by CIRQA dated 29/03/18 received by Council 4 October 2018
- Stormwater management plans (sheets 1 to 3, Rev D) prepared by Australian Water Environments received by Council 4 October 2018
- Environmental Noise Assessment report prepared by BECTEC Pty Ltd dated 20 March 2019, received by Council 9 April 2019
- Architectural statement (11 pages) prepared by Grieve Gillett Andersen dated July 2019, received by Council 26 July 2019

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

EPA Conditions

(3) EPA Requirement- Construction of Stormwater Management Infrastructure

Prior to Building Rules Consent, the detailed design of the stormwater management system (including sedimentation basin, swale and bio-retention system must be prepared and approved by the Council in consultation with the EPA. This detailed design is to be prepared in accordance with the treatment train specified in the letter from David Pennington (AWE) to Garth Heynen (Heynen Planning Consultants), titled *Re: Bird In Hand Winery- 2nd revision of Stormwater Management for the Proposed Car Parking*, dated 13 June 2018, and must:

- a. Ensure groundwater resources are not impacted
- b. Mitigate flood risk

c. Ensure the stormwater management is adequately maintained

The stormwater management system must be established and operational upon occupation of the approved development and thereafter maintained to the reasonable satisfaction of the Council.

REASON: EPA directed condition. To ensure stormwater is appropriately management to mitigate floor risk to maintain water quality.

- (4) EPA Requirement- Implementation of Soil, Erosion & Drainage Management Plan**
The Soil, Erosion and Drainage Management Plan (SEDMP) (Drawing No. D03 of 3 Rev E, Project No. P17386) prepared by Australian Water Environments and dated 4 December 2017 must be implemented during the construction process to prevent soil and pollutants leaving the site or entering watercourses during the development of the site.

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

- (5) EPA Requirement- Wastewater Management**
Upon occupation of the approved development and thereafter, all wastewater (sewerage) generated at the site (not including wastewater generated from the wine manufacturing process) must be collected and delivered as detailed in the Gama Consulting Report titled *Sewerage Pump System Design & Documentation, Rev 1* to the SA Water sewerage network.

REASON: To ensure the efficient management of wastewater is achieved upon occupation of the development and that water quality impacts are minimised.

Amenity

- (6) External Lighting**
Flood lighting and any external lighting shall be restricted to that necessary for safety and security purposes only and shall be directed and shielded in such a manner as to not cause nuisance to adjacent properties to the reasonable satisfaction of Council.

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

- (7) External Finishes**
All external materials and finishes shall be of subdued colours which blend with the natural features of the landscape and are of a low-light reflective nature to the reasonable satisfaction of Council.

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

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

(8) Plant and Equipment

All plant and equipment shall be located within the existing or proposed building additions or if on the ground should be concealed by screens or similar to the reasonable satisfaction of Council.

REASON: To maintain the visual amenity of the locality.

(9) Noise Protection

Noise within the habitable rooms (windows closed) of the adjacent residential properties shall not exceed 47 dB(A) between the 'day' hours of 7.00am to 10.00pm and 40 dB(A) between the 'night' hours of 10.00pm to 7.00am.

REASON: Noise emission that results from the development should not detrimentally affect the amenity of the adjacent residential properties and be in accordance with the recommendations of the approved Acoustic Engineering Report and Environment Protection (Noise) Policy 2007.

(10) Noise Control- Operational Restrictions

The following operational restrictions shall be adhered to:

- All deliveries shall occur between the hours of 8.30am to 5.00pm Monday to Friday
- The roof terrace shall be restricted to 150 persons at any one time
- The upper level restaurant doors to the roof terrace (viewing and sitting deck) shall be fixed with automatic door closers to ensure the doors are kept closed when music is being played and/or function is taking place inside the restaurant
- The doors of the ground level restaurant, function and cellar door spaces shall be fixed with automatic door closers to ensure doors are kept closed when music is being played and/or a function is taking place
- Amplified music shall be restricted to within the cellar door and function centre space on the ground level (former barrel hall)
- External speakers outside the proposed restaurant (Level 1) and bar (Level 2) shall only play low level background music to permit persons in these areas to be able to have a conversation at normal voice level

REASON: The business operations of the approved development are undertaken in accordance with the requirements of the approved Acoustic Report to ensure the amenity of the locality is maintained by minimising noise impacts.

(11) Noise Control- Construction Requirements

The following construction requirements for acoustic attenuation shall be adhered to:

- Appropriate vibration isolators will be specified by a suitably qualified Acoustic Engineer and installed on all engineering plant
- The construction of the following building envelope elements or elements that possess the same acoustic attenuation properties:
 - Façade – profiled metal sheet cladding to the external side of steel frame and 1 layer of 13mm plasterboard to the internal side with cavity infill of 50mm, 12kg/m³ glasswool
 - Glazing – 10.38mm laminated glass

- Roof – profiled metal sheet roof deck over 75mm, 14kg/m³ glasswool and ceiling of perforated/ slotted timber with 10% open area overlaid with 75mm, 32kg/m³ polyester
- Notwithstanding the above, the sound transmission through the building envelope elements shall be re-assessed by a suitably qualified Acoustic Engineer once the architectural design is finalised.

REASON: To ensure the construction is undertaken in accordance with the approved Acoustic Report to ensure the amenity of the locality is maintained by minimising noise impacts.

(12) Odour Control- Restaurant

The restaurant kitchen shall be fitted with an exhaust duct and stack (chimney) that is capable of discharging exhaust emissions.

REASON: To minimise amenity impacts (vapour, fumes or odour) to adjacent properties.

(13) Odour Control & Sewer Pumping

The sewer pumping from the pump pit shall occur in accordance with the recommendations of the Gama Consulting report dated July 2018, namely:

- Pumping to empty the pit shall occur daily
- Both pits shall be activated simultaneously at least once a week to aid in the cleansing of the rising main (private pipeline)

REASON: To ensure wastewater is managed efficient, in accordance with the approval documentation, and to minimise odour to adjacent properties and to properties adjacent the rising main.

General Operational Restrictions

(14) Hours of Operation

The approved cellar door, function centre and restaurant uses shall be restricted to the following hours of operation:

- Sunday to Thursday 9.00am to 10.00pm
- Friday and Saturday 9.00am to 12.00am

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

(15) Operation of Bars

The bars shown on the approval plan, namely on the first and second level shall be genuinely only be operated in association with the additional restaurant (first level) herein approved. Specifically, the bars shall only be operated when the first level restaurant is open.

REASON: To ensure the bars are an ancillary component of the restaurant use and that the development operates in accordance with the approval.

(16) Capacity of Site For The Cellar Door, Function Centre & Restaurant Uses

The licensed premises overall capacity (excluding the operation of outdoor concerts) shall be restricted to a maximum capacity of 400 persons at any one time.

REASON: For efficient wastewater management (sizing of sewer pumping pit) and ensure to there is sufficient on-site car parking.

(17) Number of Functions

The number of functions/special events shall be restricted to the following:

- One function per week of up to 150 persons
- Four functions per calendar year of up to 400 persons

REASON: As offered by the applicant, to maintain the current number of functions/special events on the site (as authorised in 10/65/473). To minimise amenity impacts associated with hosting of large special events.

(18) Restriction On Display/Sale of Non-Beverage/Non-Food Items In Cellar Door

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

REASON: To ensure the sampling of wine and the retail sale of such is the predominant activity within the cellar door.

Car Parking & Vehicle Movements

(19) Turning Area For Service Vehicles

All vehicles shall enter and exit the site in a forward direction.

REASON: For safe and convenient movement of vehicles.

(20) Gravel Car Parking Designed In Accordance With Australian Standard AS 2890.1:2004.

Upon occupation on the approved development, all car parking spaces, driveways and manoeuvring areas shall be designed, constructed, and suitably delineated in accordance with Australian Standard AS 2890.1:2004. Delineation and directional signage shall be clearly visible and maintained in good condition at all times. Driveways, vehicle manoeuvring and parking areas shall be constructed of compacted gravel prior to commencement of the use and maintained in good condition at all times to the reasonable satisfaction of the Council.

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

(21) Unloading And Storage Of Materials And Goods

All materials and goods shall at all times be loaded and unloaded within the confines of the subject land. Materials and goods shall not be stored on the land in areas delineated for use as car parking.

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

(22) Tractor Movements

Tractor movements shall not occur within the vineyard areas that in close proximity to the approved car park areas (eastern portion of the site) within the hours of operation of the development herein approved.

REASON: Noting that the car parking areas are located within the headland areas of the vineyard. To ensure there is no conflict between vehicle and tractor movements.

Stormwater Management

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

Within three (3) months of completion of the roof installation, all roof water must be directed to the onsite dam or the sedimentation basin.

Stormwater overflow management shall be designed so as to not permit trespass into the effluent disposal areas (winery wastewater dam). 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.

(24) Stormwater Water Quality

The vegetated swales and sedimentation basin shall be suitably planted in accordance with the approved report prepared by David Pennington (AWE) titled *Re: Bird In Hand Winery- 2nd revision of Stormwater Management for the Proposed Car Parking*, dated 13 June 2018, upon occupation of the approved development.

REASON: Development should minimise the risk of pollution of water catchment areas.

Solid Waste Management

(25) Removal Of Solid Waste

All solid waste including food, leaves, papers, cartons, boxes and scrap material of any kind shall be stored in a closed container or bin that has a close fitting lid. The containers/bins shall be stored in a screened area so that they are not visible to Gorge Road.

REASON: To maintain the amenity of the locality.

(26) Regular Removal Of Solid Waste From The Site

All waste shall be removed from the subject land at least once weekly. Collection of waste shall be carried out only between hours of 9am and 7pm on a Sunday or public holiday and 7am to 7pm any other day.

REASON: To maintain the amenity of the locality.

NOTES

(1) **Development Plan Consent**

This Development Plan Consent 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 the appeal is determined, whichever is later). Building Rules Consent must be applied for prior to the expiry of the Development Plan Consent, or a fresh development application will be required. The twelve (12) month period may be further extended by written request to, and approval by, Council. Application for an extension is subject to payment of the relevant fee.

(2) **Section 221- Road Alteration Authorisation Required**

Prior to any works within the road reserves of the Pfeiffer and Riverview Roads being undertaken associated with the laying of a private sewer line an authorisation under Section 221 of Local Government Act must be obtained.

(3) **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.

(4) **Obligations Under The Environment Protection (Water Quality) Policy 2015**

The application is reminded of its obligation as required by Clause 11 of the Environment Protection (Water Quality) Policy 2015, to not discharge a class 2 pollutant (which included green waste such as lawn clipping) into any water or cavity in the land. As such, it recommended that any mowing of the sale occur in such way that all cut grass is removed and none is left to be washed in to the creek during a rain event.

(5) **Maintenance of Bio-Retention System**

Maintenance of the bio-retention system should occur in accordance with the recommendations in the letter from David Pennington (AWE) to Garth Heynen (Heynen Planning Consultants) titled *Re: Bird In Hand Winery- 2nd revision of Stormwater Management for the Proposed Car Parking*, dated 13 June 2018.

(6) **EPA Information Sheets**

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

(7) **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.

(8) Department of Environment and Water (DEW) – Native Vegetation Council Note

The applicant is advised that any proposal to clear, remove limbs or trim native vegetation on the land, unless the proposed clearance is subject to an exemption under the Regulations of the Native Vegetation Act 1991, requires the approval of the Native Vegetation Council. The clearance of native vegetation includes the flooding of land, or any other act or activity that causes the killing or destruction of native vegetation, the severing of branches or any other substantial damage to native vegetation. For further information visit:

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

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

9. ATTACHMENTS

Locality Plan
Proposal Plans
Application Information
Applicant's Professional Reports
Referral Responses
Representations
Applicant's response to representations

Respectfully submitted

Concurrence

Sam Clements
Team Leader Statutory Planning

Deryn Atkinson
Manager Development Services

**COUNCIL ASSESSMENT PANEL MEETING
14 August 2019**

AGENDA – 8.4

Applicant: Urban Habitats	Landowner: Nathan Pastoral Pty Ltd
Agent: -	Originating Officer: Sam Clements
Development Application:	18/751/473
Application Description: Two storey detached dwelling with access via free and unrestricted right(s) of way over Section 1140 & Section 1139, attached deck (maximum height 1.7m) & verandah, domestic outbuilding (shipping container), water storage tanks (2 x 22,000L) & associated earthworks	
Subject Land: Sec: 1492 HDP:105500 CT:6006/633	General Location: Section 1492 Scott Creek Road Scott Creek Attachment – Locality Plan
Development Plan Consolidated: 24 October 2017 Maps AdHi/40 & AdHi/88	Zone/Policy Area: Watershed (Primary Production) Zone - Rural Landscape Policy Area
Form of Development: Merit	Site Area: 2.8 Ha
Public Notice Category: Merit Category 2	Representations Received: 1 Representations to be Heard: 1

1. EXECUTIVE SUMMARY

The purpose of this application is for a two storey detached dwelling, with attached verandah and deck with a maximum height of 1.7m above natural ground level, a domestic outbuilding, two water storage tanks and associated earthworks.

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

The proposed dwelling will not be visible from public roads or highly visible within the locality. The dwelling is of a low profile and modest proportions and has been designed to work with the slope of the land featuring a suspended floor. The dwelling is clad in appropriate materials and is appropriately setback from natural features. The proposal will not negatively impact upon the natural rural character of the locality as the dwelling has been sited on an existing cleared and reasonably level area of the site in order to minimise native vegetation clearance and the earthworks required for the proposed driveway, turnaround and car parking areas. The CFS is satisfied that a site can be developed with a dwelling provided their directed requirements are met. Wastewater management has been adequately addressed and it is considered that the proposal should not negatively impact on water quality.

As per the 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 native vegetation impact, wastewater management, bushfire and water quality impacts.

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 detached dwelling suspended on stilts up to 1.7m above natural ground level. The overall height is 6.6m from the finished floor level and up to 8.3m above natural ground level
- Roof and walls clad in corrugated vertical cladding in Colorbond Monument©
- Attached deck with a maximum height 1.7m above natural ground level
- Attached verandah
- Domestic outbuilding (shipping container). The applicant is willing to accede to a condition that this is painted in the Colorbond colour Monument©
- Two water storage tanks with a capacity of 22,000 litre
- Water storage tanks corrugated iron in Colorbond Woodland Grey©
- Associated earthworks- to create a bench area for the store room part of the dwelling, a benched area for the water storage tanks, to improve the grade of the effluent disposal area and to create a CFS appliance turnaround area. The maximum level of excavation is 900mm and the maximum level of fill is 1.5 metres
- Native vegetation clearance of 0.14 ha to meet the CFS vegetation management zone requirements and to facilitate a 170m² effluent disposal area (improvement of the gradient and removal of large surface rocks to allow for surface irrigation)

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

DECISION DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
23 September 2015 (WITHDRAWN)	15/435/473	Single storey detached dwelling, deck (maximum height 2.7m), associated earthworks, swimming pool, 60 kilolitre water storage tank & outbuilding (studio)

- Given the secluded nature of the subject land, the applicant originally proposed the two storey dwelling under current assessment to be clad (roof and walls) in unpainted zincalume. Following public notification, the applicant amended the cladding to be Colorbond Monument©

4. REFERRAL RESPONSES

- **CFS**
The CFS have no objection to the proposal and have recommended a group of standard conditions relating to access, water supply requirements, including access to this supply, and vegetation management (refer recommended conditions 6-10). The CFS specifically highlighted that the coverage of vegetation within 20m of the proposed dwelling site to west, north-west, south, east and south-east is greater than 30 percent.
- **NVC**
Granted a clearance permit to clear 0.14 ha of native vegetation to establish a dwelling and associated structures, provided development approval is achieved. The owner is required to pay a Significant Environmental Benefit (SEB) contribution of \$4,814.13 into the Native Vegetation Fund to offset this clearance.
- **AHC EHU**
Council's Environmental Health Officer has granted pre-approval to install a waste water treatment system (refer 19/W082/473).

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

5. CATEGORISATION & CONSULTATION

The proposal was treated as an on-merit form of development as dwellings that meet the criteria in PDC 70 of Watershed (Primary Production) Zone are afforded a non-complying exemption as summarised below:

- (a) The previous planning authorisation has been withdrawn (see history above)
- (b) No other application for planning authorisation is being or has been made and, not yet determined
- (c) Where the dwelling complies with Table AdHi/5:
 - a. The dwelling is not located on land subject to flooding
 - b. The dwelling will be connection to an approved on-site waste water treatment system (pre-approval for 19/W082/473 granted)
 - c. The effluent drainage field will be setback at least 50m from any watercourse
 - d. As the waste system utilises surface irrigation disposal the slope of the effluent drainage field is the applicable criteria. The natural slope of the land (1 in 4) will be modified (filled and retained on the low side) to achieve a finished slope of no greater than 1 in 5
 - e. The aerobic tanks are not located within a flood plain
 - f. The dwelling is sited at least 25m from any watercourse

The application was categorised as a Category 2 form of development in accordance with Section 38(2) (c) of the Development Act 1993 requiring formal public notification and a public notice. The proposal was treated as category 2 as the height of the deck attached to the dwelling is greater than 1 metre above natural ground level. One opposing representation from

an adjacent property owner was received who wishes to be heard in support of their representation.

The following representor wishes to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Jean Clayton	813 Scott Creek Road Scott Creek	Personally

The owner of the property Mr Andrew Nathan (Nathan Pastoral Pty Ltd) will be in attendance.

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

- Zinalume cladding
- The location and size of the effluent disposal area
- Stormwater management, particular inadequate management of overflow from water storage tanks
- Excessive native vegetation clearance
- Risks associated with the rock removal in the effluent disposal area
- Inaccuracies on the proposal plans
- Issues associated with the unrestricted rights of way over Section 1139 (civil law matter)

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

A copy of the submission is included as **Attachment – Representations** and the response is provided in **Attachment – Applicant's Response to Representations**. A copy of the plans which were provided for notification is 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 2.8 hectares in area and is vacant with only an unauthorised shipping container present on the land. The land is very steep and densely covered with native vegetation. Hadrian Creek flows through the north, east and western boundaries of the subject allotment.

The subject allotment is 'land locked' with unrestricted rights of way for access over Sections 1140 and 1139 providing access to Scott Creek Road. The driveway within the unrestricted rights of way over the two allotments is some 340m in length.

The proposed building site is at contour level 290 and the ridge top in the north-western corner of the site is also at 290. The valley floor is some 15m lower at contour level 275. The general area where the dwelling and curtilage is located has a slope of 1 in 5, but within this area there are both areas of greater or lesser slope. There is an existing driveway and small pad area where the shipping container is sited. A fire track continues east from this location down to the watercourse.



ii. The Surrounding Area

The locality is made up of allotments ranging in area from 1 to 7.4 hectares that are predominantly used for rural residential purposes with some low intensity livestock grazing.

The land with the locality is generally densely covered with native vegetation and Hadrian Creek is a prominent natural feature. Beyond the adjacent allotment to the south is the Scott Creek Conservation Park, which is some 250 metres to the south. This Conservation Park is densely covered in native vegetation and features a ridgeline up to contour level 370, therefore up to 80 metres above the subject land.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

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

Policy Area

- *Policy Area primarily for primary production with rural living in localities where allotments are small*
- *Maintain a scenically attractive rural character*
- *Protection of water resources for pollution and minimization of fire risk.*

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

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

PDCs: 2, 4, 5 & 6

As detailed above, the allotments in this locality are generally small and are heavily vegetated and therefore not particularly suitable for primary production. Rural living is the predominant land use in the locality. The development of this property for rural living purposes accords with the surrounding land uses and will therefore not create potential nuisance. The proposal is consistent with Objectives 1 and 2, and PDC 2.

The proposed dwelling is located on a land locked allotment some 390m from Scott Creek Road and 260m from Gurr Road North. The site is in a secluded location that is screened both by dense vegetation and the undulating land form. Whilst the proposed dwelling is not likely to be highly visible from adjacent land or visible from any public roads, it is considered to be of a high standard of design and appearance and is clad in material and colours that will blend well with the natural environment. The outbuilding (shipping container) will not be visible from public roads or highly visible from adjacent land, but the applicant has offered to paint this building an appropriate colour (see recommended condition 2). The development will not detract from the scenically attractive rural character of the locality, consistent with Objective 3 and PDC 6.

Whilst native vegetation clearance is required, the clearance is limited to only what is required to achieve the vegetation management zone sought by the CFS and to ensure efficient wastewater management on the site. As mentioned above, the Native Vegetation Council is satisfied that vegetation clearance has been minimised and have granted a clearance permit subject to Development Approval being granted. The dwelling and effluent disposal area (EDA) is sufficiently separated from the watercourse on the land. The Wastewater Engineer and Council's Environment Health Unit (EHU) are satisfied that the effluent disposal area will function efficiently provided the proposed works to improve the slope and remove large surface rocks are undertaken. As mentioned, the EHU have granted pre-approval to install the wastewater system. The proposal appropriately balances the competing requirements to retain native flora and to minimise bushfire risk. The proposal is considered to be consistent with Objectives 4, 5 and 6, and PDCs 4 and 5.

Zone

- *Maintenance and enhancement of natural resources of the south Mount Lofty Ranges*
- *Enhancement of the Mount Lofty Ranges Watershed as a source of high quality water*
- *Preservation of remnant native vegetation*
- *Enhance of the amenity and landscape for the enjoyment of residents and visitors*

The following are considered to be the relevant Zone provisions:

Objectives: 1, 2, 4 & 5

PDCs: 1, 2, 3, 4, 8, 9, 10, 11, 14, 15, 16, 17, 23, 24, 29, 30, 31, 32, 36, 37 & 39

Accordance with Zone

Whilst the proposal will result in some clearance of native vegetation to ensure an adequate vegetation management zone or asset protection zone is established and to ensure efficient management of effluent, the proposed dwelling and outbuilding are proposed in a current cleared area of the site. This site is also the most suitable for access and for separation from the watercourse. As appropriate separation distances from the dwelling and EDA to the watercourse have been achieved, the proposal should not negatively impact on water quality. The proposed dwelling is not likely to be visible in the locality and will therefore not negatively impact on the amenity and

landscape of the locality and the region. The proposal is sufficiently consistent with the pertinent Objectives of the Zone, namely Objectives 1, 2, 4 and 5.

Form of Development

The proposed dwelling and outbuilding are to be sited approximately 75m below the ridgeline to the south within the Scott Creek Conservation Park. The proposed buildings are therefore well below the ridgeline, but are not at the base of the valley in order to achieve a sufficient separation distance from the watercourse. The dwelling is sited more than 25m from the watercourse that flows through the site and the EDA is at least 50m from the watercourse.

The dwelling is suspended above the natural ground level on stilts and therefore excavation and filling has been minimised. Only minor excavation and filling is required for the storage room and water storage tanks. The filling to the EDA is over a large area but is only required to improve the slope. The filling will be graded over the whole area with a 500m high rock retaining at the bottom the filled area. As mentioned, the dwelling has been sited in a cleared area to minimise native vegetation clearance and the proposed buildings are separated significant distances from public roads. The proposal will not detract from the existing natural and rural landscape, and it is considered that the siting of the dwelling has been well considered. The proposal is considered to be consistent with PDCs 1, 4, 14 and 15.

Whilst the proposed dwelling is two storeys, the building is still considered low profile as the second storey is largely contained within the roof space. The proposed building has an overall height 6.6m from the finished floor level (up to 8.3m from the natural ground level), which includes a wall height of 3.6m and a 45 degree roof pitch. There are limited variations in wall and roof lines, but the dwelling is considered to be of modest proportions and the verandah and deck provide a shadowed area and articulation. The proposal is sufficiently consistent with PDCs 2 and 39.

A water storage tank with a capacity of 22,000 litres has been included in the proposal for potable water supply. The other 22,000L tank proposed is the dedicated bushfire fighting supply and therefore cannot be used for other purposes. As the dwelling is currently proposed to be a weekend retreat, this water supply should be sufficient. An additional tank/s could be installed and/or proposed at a later date if required. The proposal sufficiently accords with PDC 3.

The number of outbuildings has been limited to one shipping container and an attached storage area/room has been included in the dwelling design. The proposal therefore accords with PDC 8.

Access to the land locked property is reliant on existing rights of way over adjacent properties' driveways. The driveway to the already benched area where the shipping container is located already exists. The driveway is to be modified to achieve a CFS compliant turnaround area. Utilising the existing driveway within the site and the fire track as part of the CFS turnaround minimises the extent of the earthworks required. The proposal is therefore consistent with PDC 9.

As mentioned, the site is not considered suitable for primary production activities and, noting the residential use of adjacent land, the proposal will not prejudice primary production. The proposal accords with PDCs 16 and 17.

Residential Development

As mentioned above, whilst the proposed dwelling is sited in an existing cleared area there is an insufficient separation distance from native vegetation to eliminate the need for any vegetation clearance for the proposal. The CFS requires the vegetation coverage within 20m of the dwelling to be reduced to 30 percent. As mentioned above, the Native Vegetation Council is satisfied that the proposed clearance is within the limits of the clearances permitted under the Native Vegetation Regulations. They have approved the clearance application subject to conditions. The proposal is therefore consistent with PDC 23(c).

The outbuilding (shipping container) will be used for domestic storage and therefore will be ancillary to the proposed dwelling consistent with PDC 24.

Conservation

As mentioned above, the proposed dwelling and outbuilding has been sited to minimise clearance of native vegetation. The clearance proposed is only what is necessary for a dwelling of modest proportions and to both minimise fire hazard (vegetation management zone) and achieve efficient and appropriate effluent management. The proposal is considered to be sufficiently consistent with PDCs 29, 30, 31, 32, 36 and 37.

b) Council Wide provisions

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

- Development of a high standard and appearance

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

Design and Appearance

Objectives: 1

PDCs: 1, 3, 7 & 9

As mentioned above, the proposed dwelling is of modest proportions, its external colour selections will blend in with the natural environment and the design features sufficient articulation. Whilst the proposed dwelling is not likely to be directly visible from any adjacent or nearby dwellings, or public roads, the building does not incorporate reflective materials. The proposed dwelling will not adversely alter the character of the area and the stilt design minimises alteration to the existing land form. The proposal is considered to be consistent with Objective 1 and PDCs 1, 3, 7 and 9.

Energy Efficiency

Objectives: 1

PDCs: 1, 2 & 3

The single living area within the dwelling with access to the outdoor deck area is oriented to the north-east and the majority of windows are oriented to the north, north-west. Based on this, there will be good solar access to the dwelling and deck area. There would also be roof area suitably orientated to allow for future solar photovoltaic cells. The proposal accords with Objective 1 and PDCs 1, 2 and 3.

Hazards

Objectives: 1, 2, 5 & 7

PDCs: 1, 6, 7, 8, 9, 10, 11, 25, 26 & 27

As detailed above, the CFS have assessed the proposal and have determined the site to be suitable for residential development provided their directed requirements relating to access, water supply, access to this dedicated water supply and vegetation management are complied with. Based on this the proposal will achieve compliance with the *Minister's Code: Undertaking development in Bushfire Protection Areas*. If the CFS deemed that the site could not be adequately and effectively protected they would not support residential development on this site. The suitability of the materials and treatment of the suspended slab will be addressed at the Building Rules stage. The proposal is considered to be sufficiently consistent with Objectives 1, 2, 5 and 7, and PDCs 1, 6, 7, 8, 9, 10 and 11.

There is no evidence that the land is subject to landslip, but excavation and fill has been kept to a minimum and the modified slope for the EDA will be retained. The proposal should achieve compliance with PDCs 25, 26 and 27.

Natural Resources

Objectives: 1, 2, 5, 6, 7, 8, 10, 12, 13 & 14

PDCs: 1, 2, 3, 4, 5, 6, 8, 10, 11, 12, 13, 17, 22, 23, 24, 37, 38, 39, 41, 42 & 44

As detailed above, the wastewater will be efficiently managed on the site and the EDA and dwelling have been appropriately setback from the watercourse that flows through the site. The proposal should therefore not have a negative impact on water quality. Stormwater is to be directed to water storage tanks for reuse within the dwelling. Erosion control has been provided at the overflow point. This overflow point is some 60m from the representor's property boundary. The proposal is therefore considered to be sufficiently consistent with the provision relation to water quality protection and stormwater management, namely Objectives 1, 2, 5, 6, 7, 10, 12, 13 and 14, and PDCs 1, 2, 3, 4, 5, 6, 8, 10, 11, 12, 13, 17, 22, 23 and 24.

The proposal's impact on native vegetation has been discussed in detail in the Zone assessment above. The proposal sufficiently accords with Objective 8 and PDCs 37, 38, 39, 41, 42 & 44.

Residential Development

Objectives: 2

PDCs: 3, 5, 9, 10, 13 & 14

The development of the land will not create conditions that will exceed the capacity of existing public roads. The maintenance of the existing driveway with Sections 1139 and 1140 which the subject land has the benefit of an unrestricted right of way over, is a civil law matter. The applicant has indicated that proposed dwelling, which used a weekend retreat, will be powered by a solar system (off grid). The applicant is aware that a further development application may be required for this. Wastewater management and water supply have been appropriately addressed. The dwelling has been designed to work with the slope of the land, be separated as far as practicable from the watercourse and native vegetation, and achieve an external outlook and good solar access. The domestic outbuilding will not be visible from adjacent land or the public road. The proposal sufficiently accords with Objective 2 and PDCs 3, 5, 9, 10, 13 and 14.

Siting and Visibility

Objectives: 1

PDCs: 1, 2, 3, 4, 5, 6, 7, 8, 9 & 10

These provisions are largely a repeat of the form of development and residential development provisions within the Zone. A summary of the points made above is detailed below:

- The proposed dwelling is of modest proportions and is considered to be low scale
- Excavation and filling of land has been kept to a minimum and will not exceed a vertical height of 1.5m
- The proposed dwelling will not be visible or highly visible in the locality
- The external material selections of the building are non-reflective and will blend into the natural environment
- The proposed buildings are grouped together on the site and are sited well below the ridgeline
- The existing driveways/fire track has been utilised

Based on the above, the proposal is considered to accord with Objective 1 and PDCs 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10.

Sloping Land

Objectives: 1

PDCs: 1, 2, 3, 4, 5, 6 & 7

As detailed above, the elevated slab design minimises filling of land to that necessary only for the attached storage area/room, water storage tanks and to improve the slope of the EDA. Parts of the subject land have a slope greater than 1 in 4, but the dwelling and driveway areas are developed on cleared and more level land. The effluent disposal area is to be located on steep land but must be located in this area to achieve a 50 metre separation from the watercourse and as mentioned, the slope

of this area will be modified to achieve a more suitable grade for effluent disposal. Existing driveways have been utilised and the filled area to improve the slope of the EDA will be retained with rocks to ensure slope stability. The proposal is consistent with Objective 1 and PDCs 1, 2, 3, 4, 5, 6 and 7.

7. SUMMARY & CONCLUSION

The proposed dwelling will not be visible from public roads or highly visible within the locality. The dwelling is low profile, of modest proportions and has been designed with a suspended floor to work with the slope of the land. The dwelling is clad in appropriate materials and is appropriately setback from natural features. The proposal will not negatively impact upon the natural rural character of the locality.

The dwelling has been sited on an existing cleared and reasonably level area of the site in order to minimise native vegetation clearance and earthworks required for the driveway, turnaround and car parking areas associated with the dwelling construction. The Native Vegetation Council is satisfied that the clearance is only what is required to achieve an appropriate vegetation management zone as required by the CFS and efficient effluent management.

The CFS is satisfied that a site can be developed with a dwelling provided their directed requirements are met. The proposal will not prejudice primary production activities as there are none evident within this locality. A pre-approval for a wastewater management system has been granted and therefore appropriate siting of the waste control system has been achieved. Also, based the wastewater application proposal details to improve the slope and remove the surface rocks within the EDA, it is considered that the proposal should not negatively impact on water quality. Stormwater will be directed to retention tanks allowing sediments to settle and the overflow point will include erosion control measures located a satisfactory distance from boundaries to avoid impact on neighbouring land.

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 18/751/473 by Urban Habitats for Two storey detached dwelling with access via free and unrestricted right(s) of way over Section 1140 & Section 1139, attached deck (maximum height 1.7m) & verandah, domestic outbuilding (shipping container), water storage tanks (2 x 22,000L) & associated earthworks at Section 1492 Scott Creek Road Scott Creek 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 location plan (s1, Rev D) prepared by Urban Habitats received by Council 9 July 2019**

- Amended elevations (s4 & 5, Rev C) prepared by Urban Habitats received by Council 9 July 2019
- 3D images (s6, Rev C) prepared by Urban Habitats received by Council 23 May 2019
- Amended vegetation clearance plan (s7, Rev B) prepared by Urban Habitats received by Council 9 July 2019
- Amended floor plans (s3, Rev B) prepared by Urban Habitats received by Council 23 May 2019
- Amended site plan (s2, Rev C) prepared by Urban Habitats received by Council 23 May 2019
- Amended site works plan (s8, Rev A) prepared by Urban Habitats received by Council 23 May 2019

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

(2) External Finishes

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

Dwelling:

WALLS: Monument Colorbond or similar

ROOF: Monument Colorbond or similar

Water Storage tanks: Woodland Grey Colorbond or similar

Outbuilding (shipping container): Monument or similar

The outbuilding shall be painted within six (6) months of the Development Approval and maintained to the reasonable satisfaction of Council.

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.

(3) Vehicle Turning Area

A vehicle turning area shall be provided within the surveyed property boundaries, to facilitate the forward entry and exit of vehicles to and from the land. This turning area shall be substantially completed prior to occupation of the development.

REASON: To reduce interference with the free flow of traffic on adjoining roads.

(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) CFS Access Requirements

Private roads and access tracks shall provide safe and convenient access and egress for bushfire fighting vehicles as follows:

- Access to the building site shall be of all-weather construction, with a minimum formed road surface width of 3 metres and must allow forward entry and exit for large fire-fighting vehicles
- The all-weather road shall allow fire-fighting vehicles to safely enter and exit the allotment in a forward direction by incorporating either:
 - i. A loop road around the building, OR
 - ii. A turning area with a minimum radius of 12.5 metres, OR
 - iii. A 'T' or 'Y' shaped turning area with a minimum formed length of 11 metres and minimum internal radii of 9.5 metres.
- Private access shall have minimum internal radii of 9.5 metres on all bends
- Vegetation overhanging the access road shall be pruned to achieve a minimum vehicular clearance of not less than 4 metres in width and a vertical height clearance of 4 metres
- The all-weather road is to be constructed such that it is protected from water erosion of the traffic surface. The road surface shall be profiled to manage storm water runoff to appropriate drains, at one or both sides of the traffic surface
- The accumulated volumes of water shall be directed via:
 - i. open drains, or
 - ii. culverts and pipes under the traffic surface, and / or away from same, without causing further soil erosion, silting of adjacent areas or water courses or instability of any embankment or cutting.
 - iii. Solid crossings over waterways shall be provided to withstand the weight of large bushfire appliances (GVM 21 tonnes).

REASON: To provide safe access to properties in the event of a bushfire.

(6) CFS Access To Dedicated Water Supply

A supply of water shall be available at all times for fire-fighting purposes:

- Water supply outlet shall be easily accessible and clearly identifiable from the access way. Stand alone tanks shall be identified with the signage 'WATER FOR FIRE FIGHTING' and the tank capacity written in 100mm lettering on the side of each tank and repeated so that the sign is visible from all approaches to the tank. The sign shall be in fade-resistant lettering in a colour contrasting with that of the background (ie blue sign with white lettering.)
- Access to the dedicated water supply shall be of all-weather construction, with a minimum formed road surface width of 3 metres
- Provision shall be made adjacent to the water supply for a flat hardstand area (capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes) that is a distance equal to or less than 6 metres from the water supply outlet
- SA CFS appliance inlet is rear mounted; therefore the outlet/water storage shall be positioned so that the SA CFS appliance can easily connect to it rear facing
- A gravity fed water supply outlet may be remotely located from the tank to provide adequate access

- All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level
- All water supply pipes for draughting purposes shall be capable of withstanding the required pressure for draughting
- Ideally a remote water supply outlet should be gravity fed, where this is not possible the following dimensions shall be considered as the maximum capability in any hydraulic design for draughting purposes:

The dedicated water supply outlet for draughting purposes shall not exceed 5 metre maximum vertical lift (calculated on the height of the hardstand surface to the lowest point of the storage) and no greater than 6 metre horizontal distance.

The suction outlet pipework from the tank shall be fitted with an inline non return valve of nominal internal diameter not less than that of the suction pipe and be located from the lowest point of extract from the tank. All fittings shall be installed to allow for easy maintenance.

REASON: To minimise the threat and impact of bushfires on life and property.

(7) CFS Water Supply

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

- A minimum supply of 22,000 litres of water shall be available at all times for bushfire fighting purposes
- The minimum requirement of 22,000 litres may be combined with domestic use, providing the outlet for domestic use is located above the 22,000 litres of dedicated fire water supply in order for it to remain as a dedicated supply
- The bushfire fighting water supply shall be clearly identified and fitted with an outlet of at least 50mm diameter terminating with a compliant SA CFS fire service adapter, which shall be accessible to bushfire fighting vehicles at all times
- The water storage facility (and any support structure) shall be constructed of non-combustible material
- The dedicated fire-fighting water supply shall be pressurised by a pump that has:
 - i. a minimum inlet diameter of 38mm AND
 - ii. is powered by a petrol or diesel engine with a power rating of at least 3.7kW (thp) OR
 - iii. a pumping system that operates independently of mains electricity and is capable of pressuring the water for fire-fighting purposes.
- The dedicated fire-fighting water supply pump shall be located at or adjacent to the dwelling to ensure occupants safety when operating the pump during a bushfire. An "Operations Instruction Procedure" shall be located with the pump control panel
- The fire-fighting pump and any flexible connections to the water supply shall be protected by a non-combustible cover that allows adequate air ventilation for efficient pump operation

- All bushfire fighting water pipes and connections between the water storage facility and a pump shall be no smaller in diameter than the diameter of the pump inlet
- All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level
- A fire-fighting hose (or hoses) shall be located so that all parts of the building are within reach of the nozzle end of the hose and if more than one hose is required they should be positioned to provide maximum coverage of the building and surrounds (ie at opposite ends of the dwelling)
- All fire-fighting hoses shall be capable of withstanding the pressures of the supplied water
- All fire-fighting hoses shall be of reinforced construction manufactured in accordance with AS 2620 or AS 1221
- All fire-fighting hoses shall have a minimum nominal internal diameter of 18mm and maximum length of 36 metres
- All fire-fighting hoses shall have an adjustable metal nozzle, or an adjustable PVC nozzle manufactured in accordance with AS 1221
- All fire-fighting hoses shall be readily available at all times

REASON: To minimise the threat and impact of bushfires on life and property.

(8) CFS Vegetation

Landscaping shall include bushfire protection features which will prevent or inhibit the spread of bushfire and minimise the risk of life and/or damage to buildings and property.

This shall be achieved by establishing and maintaining a Vegetation Management Zone (VMZ) within 20 metres of the dwelling (or to the property boundaries - whichever comes first) as follows:

- i. The number of trees and understorey plants existing and to be established within the VMZ shall be maintained such that when considered overall a maximum coverage of 30% is attained, and so that the leaf area of shrubs is not continuous. Careful selection of the vegetation will permit the 'clumping' of shrubs where desirable, for diversity, and privacy and yet achieve the 'overall maximum coverage of 30%'.
- ii. Reduction of vegetation shall be in accordance with SA Native Vegetation Act 1991 and SA Native Vegetation Regulations 2017.
- iii. Trees and shrubs shall not be planted closer to the building(s) than the distance equivalent to their mature height.
- iv. Trees and shrubs must not overhang the roofline of the building, touch walls, windows or other elements of the building.
- v. Shrubs must not be planted under trees and must be separated by at least 1.5 times their mature height from the trees' lowest branches.
- vi. Grasses within the zone shall be reduced to a maximum height of 10cm during the Fire Danger Season.

- vii. No understorey vegetation shall be established within 1 metre of the dwelling (understorey is defined as plants and bushes up to 2 metres in height).
- viii. Flammable objects such as plants, mulches and fences must not be located adjacent to vulnerable parts of the building such as windows, decks and eaves.
- ix. The VMZ shall be maintained to be free of accumulated dead vegetation.

REASON: To minimise the threat and impact of bushfires on life and property.

(9) CFS Conditions To Be Completed Prior To Occupation

The Country Fire Service Bushfire Protection Conditions [four (4) conditions] shall be substantially completed prior to the occupation of the building and thereafter maintained in good condition.

REASON: To minimise the threat and impact of bushfires on life and property.

(10) 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 shall 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.

NOTES

(1) Development Plan Consent

This Development Plan Consent 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 the appeal is determined, whichever is later). Building Rules Consent must be applied for prior to the expiry of the Development Plan Consent, or a fresh development application will be required. The twelve (12) month period may be further extended by written request to, and approval by, Council. Application for an extension is subject to 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) CFS Bushfire Attack Level

Compliance with the fire protection requirements is not a guarantee the dwelling will not burn, but its intent is to provide a “measure of protection” from the approach, impact and passing of a bushfire.

The Bushfire hazard for the area has been assessed as BAL FZ (Flame Zone).

The buildings shall incorporate the construction requirements for buildings in Bushfire Prone areas in accordance with the Building Code of Australia Standard AS3959 “Construction of buildings in bushfire prone areas”.

9. ATTACHMENTS

Locality Plan
Proposal Plans
Application Information
Referral Responses
Representation
Applicant’s response to representations
Publically Notified Plans

Respectfully submitted

Concurrence

Sam Clements
Team Leader Statutory Planning

Deryn Atkinson
Manager Development Services

**COUNCIL ASSESSMENT PANEL MEETING
14 August 2019**

AGENDA – ITEM 8.5

Applicant: Stirling and Districts Hospital Inc	Landowner: Stirling Hospital Inc
Agent: Andrew Davidson	Originating Officer: Sarah Davenport
Development Application:	18/1038/473 18/D067/473
Application Description: Land Division - boundary realignment (non-complying)	
Subject Land: Lot:245 Sec: P49 FP:25240 CT:5120/22 Lot:1 Sec: P49 FP:12690 CT:5847/809	General Location: 20 Milan Terrace, Stirling and 1/6-8 Bilney Road, Stirling Attachment – Locality Plan
Development Plan Consolidated : 24 October 2017 Map AdHi/28 & Map AdHi/72	Zone/Policy Area: Public Purpose Zone - Public Lands Policy Area & Mixed Residential Zone
Form of Development: Non-complying	Site Area: 1.336ha
Public Notice Category: Category 1 Non Complying -	Representations Received: N/A Representations to be Heard: N/A

1. EXECUTIVE SUMMARY

The purpose of this application is to realign the existing boundary between 20 Milan Terrace Stirling (CT 5120/22) and 6-8 Bilney Road Stirling (CT 5847/809). The alignment will result in the existing community centre being consolidated within the boundaries of CT 5847/809 to formalise the existing relationship between the community centre building and the retirement village (Pinoak Tiers). The existing Stirling Hospital and car park will be retained on the same allotment.

The land at 20 Milan Terrace is located within the Public Purpose Zone - Public Lands Policy Area and 6-8 Bilney Road is located wholly within the Mixed Residential Zone. The proposal is a non-complying form of development, as the new boundary configuration will cause proposed allotment 11 to encroach into the Public Lands Policy Area. This technically partially creates an additional allotment within the policy area and is a listed non-complying trigger in the Public Purpose Zone in the Development Plan.

Based on the minor nature of the alignment, the development was deemed appropriate to be considered as a Category 1 form of development and therefore did not require public notification, pursuant to Schedule 9 clause 3(c).

As per the CAP delegations, the CAP is the relevant authority for non-complying land divisions.

The main issue with the proposal relates to the partial creation of an additional allotment within the Public Purpose Zone.

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.

2. DESCRIPTION OF THE PROPOSAL

The proposal is for boundary realignment involving two titles which will result in the containment of the Pinoak Tiers community centre within the boundary of the Pinoak Tiers retirement village.

Existing Allotments

Allotment	Area (ha)	Currently containing
Allotment 245 (20 Milan Terrace)	0.7882 ha	Stirling Hospital, car parking and Pinoak Tiers Community Centre
Allotment 1 (6-8 Bilney Road)	0.5477 ha	Pinoak Tiers Retirement Village

Proposed Allotments

Allotment	Area (ha)	Containing
12	0.6059 ha	Stirling Hospital and car parking
11	0.7300 ha	Pinoak Tiers Retirement Village and Community Centre

The plan of division includes:

- An indicative building envelope of the existing community centre to demonstrate setbacks from the property boundaries will comply with building code requirements and that the building will maintain primary frontage to Bilney Road
- The location of easements to demonstrate that the alignment will not interfere with service provision
- The location of sewer inspection points in relation to property boundaries.

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

20 Milan Terrace Stirling – Stirling Hospital Site

Council's records indicate that the hospital has been operating since the 1960's with various applications lodged for alterations and additions as well as internal fit outs since then.

6-8 Bilney Road Stirling – Pinoak Tiers Retirement Village Site

Council records indicate the retirement village was established in the early 1990's, and included the establishment of the community hall in the initial development phase. At the time of development the retirement village was under the same ownership as the hospital.

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
23 May 1994	94/37/330	Retirement Village – 13 Units – Stage 2
15 October 1993	93/485/330	Thirteen Aged Retirement Units, Caretaker's Unit and Community Hall

4. REFERRAL RESPONSES

- **SA WATER**

- The financial requirements of SA Water shall be met for the provision of water supply and sewerage services
- An investigation will be carried out to determine if the connection/s to the development will be costed as standard or non- standard
- It is the developers/owners responsibility to ensure all internal pipework (water and wastewater) that crosses the allotment boundaries has been severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries

- **AHC ENGINEERING DEPARTMENT**

Council's Engineering Department were consulted as part of the assessment process. No issues were raised with the proposal.

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

5. CATEGORISATION & CONSULTATION

The development has been considered as non-complying as the new boundary configuration will cause proposed allotment 11 to encroach into Public Lands Policy Area. This technically partially creates an additional allotment within the policy area and is a listed non-complying trigger in the Public Purpose Zone in the Development Plan.

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

6. PLANNING & TECHNICAL CONSIDERATIONS

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

i. The Site's Physical Characteristics

The subject land comprises two titles which collectively measure in the order of 1.3 hectares in area. The land has been fully developed and contains the Stirling Hospital (established around the 1960's) and the Pinoak Tiers Retirement Village and the associated community hall (established in the early 1990's). Vegetation has been established across the site and will be retained as part of the development. Both sites contain onsite parking and internal roadways and gain direct access from Bilney Road; Additional access to the Stirling Hospital is also gained from Milan Terrace. The site slopes gently from the north- east, down to the south-west; and the proposed alignment will roughly follow the location of an existing moss rock retaining wall which separates the community hall from the hospital and carpark.

ii. The Surrounding Area

The subject site is centrally located within the Township of Stirling and is primarily surrounded by residential land uses to the North, South and West. The Sevenoaks Retirement Village is also in close proximity to the subject land. The land abuts the Country Living Zone to the south-east. Land further north of Milan Terrace is zoned 'District Centre' comprising a mixture of commercial uses, typical for the zone. Bilney Road is a Council maintained no through road, serving the Stirling hospital, the Pinoak Tiers Retirement Village and a handful of residences at the southern end of the road. Some car parking exists on Bilney road, primarily servicing the hospital.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Public Purpose Zone - Public Lands Policy Area and the Mixed Residential Zone and these provisions seek:

Public Lands Policy Area

- *A mixture of private and public development which socially benefits the local community*
- *Development which is sympathetic and compatible with surrounding development within the locality*
- *Provision of integrated movement systems linking to public open space*

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

Objectives: 1

PDCs: 2

Public Purpose Zone

- *A zone which accommodates development that will socially benefit the community*
- *Development which is integrated and aims to promote efficient service delivery including connections to open space*

- *Development which is sympathetic to the amenity of the locality and is of an appropriate form and scale*

The following are considered to be the relevant Zone provisions:

Objectives: 1, 2, 4

PDCs: 4

In accordance with Objectives 1 and 2, the development will not prejudice ongoing use of the community hall as a community facility and in reconfiguring the boundary will appropriately position the community hall in accordance with the current ownership arrangement. Pursuant to PDC4 the ongoing land use is both lawful and consistent with the envisaged uses for the zone.

The zone discourages the creation of additional allotments within Policy Areas, with the intention of avoiding intensification of use within the zone. The proposed boundary realignment is primarily for the purpose of rationalising the current use which is consistent with the broader intent for the zone. The new boundary will only partially encroach into the zone and therefore this policy is not considered detrimental to the application.

Mixed Residential Zone

- *Residential development which delivers varying densities in conjunction with open space and transport systems*
- *Development which supports the viability of community services*
- *Development which reflects good design principles*

The following are considered to be the relevant Zone provisions:

Objectives: 1 & 3

PDCs: 4

Whilst the land most affected by the boundary realignment is located within the Public Purpose Zone, the remainder of proposed Allotment 11 is located within the Mixed Residential Zone. The Mixed Residential Zone is effectively silent on boundary realignments and is more so concerned with built form and types of residential development. Pursuant to Objectives 1 and 3 the development will not inhibit the ongoing residential use of the site or that of the neighbouring allotments. Moreover the intent of the alignment is to support the existing community facility.

Accordance with Zone

Both the Public Purpose and Mixed Residential Zones are silent regarding boundary realignments but place particular emphasis on the provision of community facilities and infrastructure. Though the Public Purpose Zone discourages the creation of additional allotments in whole or part, the nature of the proposal is not for the purpose of creating an additional allotment but to legally rationalise the current land use and ownership.

Appropriateness of Proposal in Locality

The extent of the realignment is minor in relation to the overall size of the subject allotments, and it is not anticipated that the character or amenity of the immediate locality will be impacted upon as a result of the development. The reconfigured boundary will align with the manner in which the site currently reads contextually in the streetscape, following the existing moss rock retaining wall which separates the community hall from the hospital car park. The amended allotment sizes will be appropriate in the context of the locality and will not undermine the continuation of the existing land uses.

b) Council Wide provisions

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

- Orderly and economic development
- 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

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

Infrastructure

Objectives: 1

PDCs: 1

In alignment with Infrastructure Objective 1 and PDC 1, both titles are sufficiently serviced by existing stormwater, sewer and electrical infrastructure and will maintain direct access post realignment. At present, the community hall utilizes the existing stormwater infrastructure, draining across the retirement village site and into the respective stormwater entry pits (SEP's). The alignment will rationalise this drainage arrangement. The development will not warrant any further provision of infrastructure, in accordance with the policy.

Land Division

Objectives: 1, 2 & 4

PDCs: 1, 2 & 7

Objectives 1, 2 and 4 envisage that land division will only be undertaken where it will create allotments which are orderly and appropriate for their intended use and can be sufficiently serviced by public infrastructure. The alignment will rationalise the current use of the land and management of stormwater, in accordance with PDC 1. The boundary will follow the location of an existing retaining wall which separates the community hall from the hospital and will still allow public access to the community centre via Bilney Road. As PDC 2 stipulates, the division will not restrict access to the centre or require any further cut/filling of the land. Furthermore the boundary realignment will not inhibit the use of the site and will follow a perpendicular formation, in accordance with PDC7.

Orderly and Sustainable Development

Objectives: 1, 2, 3, 4, 6

PDCs: 1, 5, 9 & 11

In undertaking the boundary realignment, the community hall will be contained within the same allotment as the retirement village, which owns and manages the building. Furthermore, the community hall building is currently connected to the existing stormwater infrastructure that is located within the boundaries of the retirement village site, and the realignment will not alter the drainage arrangement but will ensure stormwater is being managed within the respective site. It is not envisaged that, additional infrastructure will be required as part of the development. Nor will additional car parking be required as the hall will continue to be internally accessed by residents.

The boundary realignment will not alter or intensify the use of the land nor will neighbouring uses be undermined. The reconfiguration primarily aims to ensure the building is appropriately located for its ongoing management and use.

Overall the proposed boundary realignment is considered to uphold the orderly and sustainable objectives and principles within Council's Development Plan, specifically Objectives 1, 2, 3, 4, & 6 and PDCs 1, 5, 9 & 11.

7. SUMMARY & CONCLUSION

The purpose of this application is to realign the existing boundary between 20 Milan Terrace Stirling (CT 5120/22) and 6-8 Bilney Road, Stirling. The alignment will contain the existing community centre within the boundaries of the existing retirement village which owns and manages the community centre.

The development has been processed as non-complying development as it will partially create an additional allotment within the Public Lands Policy Area within the Public Purpose Zone.

Both sites are sufficiently serviced by existing infrastructure, including water, sewer and electricity. The existing access arrangements to the site will not be altered as a result of the development.

The main issue with the proposal relates to the partial creation of an additional allotment within the Public Purpose Zone, however in considering the merits of the proposal this is not considered detrimental to the application.

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

8. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and seeks the CONCURRENCE of the State Commission Assessment Panel to GRANT Development Plan Consent and Land Division Consent to Development Application 18/1038/473 (18/D067/473) by Stirling and Districts Hospital Inc for Land Division - Boundary realignment (non-complying) at 20 Milan Terrace and 1/6-8 Bilney Road, Stirling SA 5152 subject to the following conditions:

Planning Conditions

- (1) 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:
 - Plan of division prepared by Andrew Davidson Property Development Consultants, reference 3581-PT101.v1, dated 1 November 2018

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

Planning Notes

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

Council Land Division Statement of Requirements

Nil

Council Land Division Notes

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

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 H0080043).

On approval of the application, it is the developers/owners responsibility to ensure all internal pipework (water and wastewater) that crosses the allotment boundaries has been severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.

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

REASON: To ensure requirements of SA Water Corporation are met.

(2) Requirement For Certified Survey Plan

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

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

9. ATTACHMENTS

Locality Plan
Proposal Plans
Application Information
Applicant's Professional Reports

Respectfully submitted

Concurrence

Sarah Davenport
Statutory Planner

Deryn Atkinson
Manager Development Services