

## COUNCIL ASSESSMENT PANEL MEETING

8 July 2020

### AGENDA – 9.1

<b>Applicant:</b> John Ellery	<b>Landowner:</b> J J Ellery & L Ellery
<b>Agent:</b> Urban and Regional Planning Solutions (URPS) – Philip Hartnett	<b>Originating Officer:</b> Melanie Scott
<b>Development Application:</b>	19/322/473
<b>Application Description:</b> Staged application for demolition of existing dwelling, community title land division (1 into 9) and construction of three (3) two storey dwellings & a two storey residential flat building comprising six (6) dwellings, removal of five (5) regulated trees (Eucalyptus obliqua) & one (1) significant tree (Eucalyptus obliqua), retaining walls (maximum height 2.8m), combined fence & retaining walls (maximum height 4.7m), landscaping including replacement plantings & associated earthworks: Stage 1- Demolition and tree removal Stage 2- Driveway construction and civil works Stage 3- Construction of dwellings on lots 1, 2 & 3 Stage 4- Construction of residential flat building (dwellings on lots 4 to 9) and remainder of works	
<b>Subject Land:</b> Lot:57 Sec: 46 DP:26958 CT:5428/116	<b>General Location:</b> 20 Pomona Road Stirling  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 24 October 2017 <b>Maps</b> AdHi/28 & 72	<b>Zone/Policy Area:</b> Mixed Residential Zone
<b>Form of Development:</b> Merit	<b>Site Area:</b> 4098 m <sup>2</sup>
<b>Public Notice Category:</b> Category 2 Merit	<b>Representations Received:</b> 3  <b>Representations to be Heard:</b> 2

#### 1. EXECUTIVE SUMMARY

The purpose of this application is the redevelopment of the subject land to maximise its development potential involving both a community title land division and associated residential buildings. Nine (9) allotments are proposed along with a two storey split level residential flat building containing six (6) dwellings and three (3) two storey dwellings. The proposal also includes the removal of five regulated trees and one significant tree and replacement planting.

The subject land is located within the Mixed Residential Zone and the proposal is a merit form of development. The subject land abuts land located in the Country Living Zone. Four representations in opposition to the proposal were received during the Category 2 public notification period.

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

The main issues relating to the proposal are native vegetation and regulated tree removal, building bulk and scale, the extent of the proposed earthworks, access location and the impact of the development on the character and amenity of the locality and adjacent properties in the Country Living Zone. Neighbours/representors are particularly concerned about the impact on their amenity and on their trees, the bulk and scale of the proposed development and the management of stormwater.

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 **REFUSED** Development Plan Consent.

## 2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- A community title land division to create nine allotments (eight additional)
- Construction of a two storey residential flat building containing six(6) dwellings
- Construction of three(3) two storey dwellings of a modern modular design using Revolution roof cladding, James Hardie Scyon Axon cladding in “monument”, Austral bricks in “Hawthorn”, CFS wall shed in “monument” and “surf mist”
- Clearance of all vegetation including the removal of five (5) regulated trees (Eucalyptus obliqua) and removal of one (1) significant tree (Eucalyptus obliqua)
- Combined fence and retaining wall structures to a maximum height of 4.7m
- Retaining walls to a maximum height of 2.8m
- Construction of a new crossover to Pomona Road and closure of the existing crossover
- Construction of a community title access driveway with turning head and visitor car parks and associated civil works for stormwater drainage
- Landscaping including 15 small and 11 larger replacement trees

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
Lapsed 1 August 2019	16/604/473	Two storey dwelling alterations & additions, deck (3m above finished ground level), retaining walls (maximum height of 1.8m), water storage tank (22,000L), associated earthworks & removal of a regulated tree (Eucalyptus obliqua)
29 April 2010	10/410/473	Significant tree removal (x3) - Eucalyptus obliqua
29 July 1983	83/474/473	Extension to dwelling
9 April 1969	6878	Brick dwelling

Council has consistently advised the applicant the proposal is not supported for a number of reasons which form the basis for the refusal recommendation. There have been amendments to the proposed plans during the course of the assessment. The most notable being a proposal to lessen the impact of the development on street trees, an offer to amend the colour of the upper storey of the dwellings from the chosen colour of “surf mist” to “half shale grey” and most recently a proposal to move the first step of the proposed retaining on the boundary with 18 Pomona Road one metre from the boundary. The proposed changes do not reflect large scale redesign.

#### **4. REFERRAL RESPONSES**

No referrals were required for this application. However, an informal referral was made to the Native Vegetation Council (NVC). In summary, the NVC do not support the extent of native vegetation proposed to be cleared to facilitate this proposal. See ***Referral Responses – Native Vegetation Council***.

##### **Council Engineering Response**

Council Engineering confirm the stormwater calculations for the site are adequate and did comment further detail will be required regarding overland flow from surrounding sites. With regards to access, the proposed access meets engineering requirements as does the existing access to the site.

##### **Council Arboriculture and NRM response**

Council arboriculture staff questioned the accuracy of the arborist report with regards to the proposed access impact particularly on street tree 25 proposed to be kept. Council arboriculture staff do not support the removal of any of the street trees. Further Council Biodiversity Officer commented they do not support the proposal because of the “resulting substantial impact to the roadside biodiversity and amenity. A referral (commentary) to the Native Vegetation Council from the Biodiversity unit would be required if the development were to proceed”. Council Biodiversity also provided detailed commentary on the proposed landscaping plant selection which can be found ***Referral Responses***.

#### **5. CONSULTATION**

The application was categorised as a Category 2 form of development requiring formal public notification in accordance procedural matters in the Mixed Residential Zone as the proposal includes retaining walls exceeding 1.5m above natural ground level and combined fence and retaining structures greater than 3min height. Four (4) representations were received and one (1) was withdrawn within the notification period. Of the three (3) remaining representations all are opposing the proposal and two have requested to be heard. All were from adjacent properties.

The following representors wish to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Jonathan Giesecke & Jane Healey	13 Alta Crescent Stirling	Both
Brendon & Christine Coventry	18 Pomona Road Stirling	Both

The applicant or his representative – Philip Harnett from URPS may be in attendance.

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

- Impact of development on character and amenity
- Loss of privacy
- Large retaining walls and fence on road side and neighbouring land
- Bulk and scale of the development
- Bushfire safety and boundary setbacks
- Tree removal and impact on neighbouring land
- Tree removal on subject land
- Stormwater management
- Extent of hard surfaces proposed and consequential stormwater management
- Proposed access location and traffic conflicts with existing access
- Vehicle glare into neighbouring dwelling
- Overshadowing and loss of sunlight
- Noise pollution from increased population
- Transition from mixed residential to country living (site adjacent the Zone boundary)
- Excessive earthworks
- Excessive building height

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

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

## 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 4098m<sup>2</sup> in area and on the high side of Pomona Road. The land is developed with a split-level (split on the lower floor) two storey dwelling that is approximately 407m<sup>2</sup> in floor area, including the carport and deck areas.

The existing dwelling is sited diagonally across the subject land following the contour of the land, with the front northern corner of the dwelling facing the Pomona Road frontage and setback approximately 25 metres from the road boundary. The dwelling is orientated to the north-west.

The dwelling is accessed via a crossover on the eastern end of the Pomona Road frontage. There is an existing CFS compliant and vehicle turnaround at the top of the driveway.

There is a domestic outbuilding (shed) in the eastern rear corner of the site. The site is high in the south-eastern corner and falls some 15m over a distance of approximately 80 metres to the north-western corner, adjacent to the proposed entry from Pomona Road. The subject land is considered to be relatively steep with a cross fall of 1 in 5 from the rear eastern corner to the western front corner. The property features some 24 mature native trees within the front yard. There is one large mature native tree in the rear southern portion of the site. There is a bore on the land and the dwelling is connected to an on-site waste control system.

ii. The Surrounding Area

The locality is predominantly low density residential with large dwellings on large lifestyle living allotments. The allotments in the locality range from 396m<sup>2</sup> to 5374m<sup>2</sup>. Excluding the four strata units directly on the opposite side of the road, the allotments within the locality generally exceed 948m<sup>2</sup> in area and in particular along Pomona Road they exceed 1133m<sup>2</sup> in area.

The subject land is on the north-eastern boundary of the Mixed Residential Zone. The land on the other side of Pomona Road at 21 Pomona Road was recently divided into 7 allotments ranging in size from 502m<sup>2</sup> to 883m<sup>2</sup>. Regardless of the size of allotments in the locality generous landscaping and vegetation fronting Pomona Road is a common feature of all allotments.

Dwellings in the area are generally well setback from the road with large front gardens. The locality also features a strata titled group of units directly to the north of the subject site, and an office building and tourist accommodation unit to the north-west. A number of the dwellings and buildings within the locality are two storeys.

Land to the north and west on both sides of Pomona Road is included within the Mixed Residential Zone. To the north-west is the District Centre Zone (Stirling Fringe Policy Area) where the aforementioned offices and tourist accommodation are situated. These uses are approximately 30 metres from the front north-western corner of the site. At 7 Pomona Road there is a contemporary office building, which is two storeys high with an undercroft car park. The land to the south and east of the subject land is zoned Country Living.

The Local Heritage Places, specifically the 'House and Stables,' at 7 Pomona Road are well setback from the road and both buildings at least 80m from the front western corner of the subject site. The South Eastern Freeway is a dominant feature in the locality.

iii. Development Plan Policy considerations

a) Policy Area/Zone Provisions

The subject land lies within the Mixed Residential Zone and these provisions seek:

- A residential zone comprising a range of dwelling densities integrated with areas of open space that reflects good residential design principles
- Development which contributes to the desired character of the zone

Assessment against the Desired Character Statement for the Zone

*Development within the zone will comprise a range of dwelling types (such as townhouses, semi-detached dwellings, and residential flat buildings) at densities which take advantage of nearby public transport and the services available within the adjacent centre zones.*

The proposed development includes two 4 bedroom and seven 3 bedroom dwellings. All are multiple storey buildings. There are three free standing dwellings, originally described by the applicant as group dwellings. However, given these dwellings cannot be categorically described as group or detached dwellings as they have road frontage, but no direct vehicular access point to a public road, Council has elected to simply describe these as dwellings. Each dwelling has a floor area greater than 350m<sup>2</sup> and site/allotment area of at least 500m<sup>2</sup>.

The proposal includes six dwellings within the proposed residential flat building which steps its way down the slope of the site from east to west along the rear boundary. A residential flat building is defined as a “single building in which there are 2 or more dwellings, but does not include a semi-detached dwelling, a row dwelling or a group dwelling” in Schedule 1 one of the Development Regulations 2008. Given the stepped nature of the proposed residential flat building further information was sought confirming the building to have a ‘substantial connection’ in line with the Environment, Resources & Development Court interpretation of a residential flat building. The applicant’s planning consultant advised the slab and footings will be one and that each dwelling will have a substantial connection being a two storey party wall between the garage, main bedroom and the stair well of the adjacent dwelling. On discussion with Council building staff regarding construction methods and reciprocal rights for repairs (the latter will be in the scheme description for the community title) the Council administration have accepted this part of the proposal represents a residential flat building. Each dwelling has a similar floor plan and area, being 3 bedrooms and floor area of approximately 318.8m<sup>2</sup>.

The proposal does offer a range of dwelling options as envisaged by the zone with all dwellings containing 3 or 4 bedrooms and a floor area greater than 300m<sup>2</sup>.

*Development will reflect the built-form character and spacious landscaped appearance of adjoining residential areas, to blend the dwelling density forms in this area with the highly regarded character of the surrounding locality.*

The proposal does include landscaping and the dwellings fronting Pomona Road meet the zone setback requirements with all being greater than the required minimum of 3 metres. The proposal includes stepped retaining walls up to 1.35m in combined height above the street level with the dwelling bench levels designed to be up to 2.7m above the street level. The proposed dwellings are two storeys in height and of a modern linear design which combined with their elevated position is not considered

to reflect the form and character of the adjoining residential properties within the Country Living Zone. Further the proposed dwelling density, whilst envisaged in the zone, does not blend with the highly regarded character of the surrounding area.

The removal of mature vegetation at the front of the property to accommodate the proposed dwellings further leads to the conclusion the proposal does not blend with the character of the area. The applicant has argued the zone envisages more dense development. Whilst it is acknowledged that the zone envisages more dense development it is sought in a form that can blend with the existing densities particularly on a site adjacent to a different residential zone, such as the subject land. At the scale of density proposed it is considered the proposal does not blend with the density form of adjoining properties in the Country Living Zone, and the vast desired density differences between the two residential zones is highlighted. This proposal has been designed to maximise the development potential of the site in accordance with the quantitative parameters set for the zone but in the Council administrations opinion, the proposal does not go far enough to balance the visual transition between the two zones and therefore achieve the qualitative measures described in the desired character statement.

*Buildings up to two-storeys in height will be developed within the policy area where potential impacts on adjoining properties such as overlooking, overshadowing and traffic movements have been appropriately addressed.*

Overlooking issues have been addressed by the applicant with the use of obscure glazing, fencing and screening. Arguably this has resulted in unacceptable bulk and scale, particularly for dwelling 4 when viewed from the adjacent property to the south at 18 Pomona Road. The bench level for dwelling 4 is between 1 metre and 4 metres above the current boundary ground level with 18 Pomona Road. This disparity in levels is due to dwelling 4 being the lowest most dwelling in the proposed residential flat building. Noting the building has one split level slab, lowering this portion of the floor level would have a flow on effect. The applicant is not willing to lower this building any further or amend the proposal into two residential flat buildings.

The proposed garage floor level for dwelling 4 is 1m above the boundary level and the main living area and associated private open space is 4m above the floor level of the dwelling at 18 Pomona Road. The proposed portion of the building for residence 4 will have a total height of 10.1m above natural ground level, which includes stepped retaining walls, fence and screening structures with a combined height of 5 metres. This represents a considerable bulk and scale, and consequently visual impact for 18 Pomona Road.

It is furthermore noted that dwellings 8 and 9 are predominantly cut into the site and dwelling 7 has a balance of cut and fill. However, the floor levels of dwellings 4, 5 and 6 are all located above the natural ground level.

*Buildings will be set relatively close to the primary street frontage to create a compact urban streetscape while also achieving visual privacy to dwellings from the street.*

The proposal does propose buildings relatively close to the primary street frontage however the proposal meets the front setback requirements and presents landscaped terraces between retaining walls to the street which are not usual in this locality. In an urban streetscape it is generally desired to present dwellings to the street. The proposal does this with a combination of balconies, retaining walls and landscaping. However the proposed elevation of the dwellings fronting Pomona Road has private open space located forward of the dwellings and does not create visual privacy for the dwellings to the street and more importantly places the dwellings and their associated private open space at risk of noise nuisance from the freeway. The applicant has provided acoustic information which suggests the noise levels likely to be experienced is not unreasonable.

*The design of buildings will promote a high level of residential amenity by facilitating natural ventilation and access to sunlight. Buildings will also be sufficiently separated to provide visual interest, while also allowing views between built forms that provide visual and physical links to surrounding areas. Separation between buildings will also provide visual and acoustic privacy, as well as adequate sunlight to dwellings.*

*Shading elements such as verandahs, eaves and screens that provide for energy efficiency will feature on new dwellings. Development will provide articulated and varied facades which feature balconies, increased setbacks to upper levels and a range of materials in order to create visual interest and reduce the scale of buildings. High quality structured landscaping will also be provided to mitigate the visual impact of large scale building facades, provide visual amenity and shade, and help establish a clear hierarchy of vehicle and pedestrian movement patterns across the policy area.*

These points from the desired character extract above will be addressed against the relevant PDCs later in the report.

*Access points onto public roads will be minimised through the use of common driveways, and the visual and noise impacts of on-site parking will be minimised through the provision of car-parks which are integrated into the design of the buildings. Where a lot is to be created for a multiple dwelling development, an increased driveway width beyond 6 metres may be necessary to allow for two-way traffic movement.*

The proposal does create a common driveway and double garages are incorporated into each of the dwelling designs in accordance with this element of the desired character statement. The proposed common driveway incorporates a crossover greater than 6 metres wide to facilitate two way concurrent vehicle entry and exit and the remaining driveway width is between 4 and 5 metres.

*Landscaping will form an integral part of development when viewed from public open space and roads.*

The applicant has provided a detailed landscaping plan, noting the proposal includes the removal of 47 native trees including 5 regulated trees and 1 significant tree. The extensive removal of native vegetation and proposed landscaping significantly changes the character of the subject land. Originally all the trees on the roadside



verge were also proposed to be removed as part of the application. The proposal has been amended to retain four Eucalyptus obliqua trees on the road side verge, one of which is regulated, and it is now proposed to only remove two street trees, neither of which is regulated. No replacement plantings for roadside tree removal have been sought as the removal has not been supported by Council arboriculture staff.

*The Mount Lofty Ranges Watershed Area is of importance to Adelaide’s public water supply system. The maintenance and enhancement of water quality and prevention of pollution is a priority and given the multi-use nature of the water supply catchments, a balance between best practice watershed protection and development is required.*

The proposal involves the connection of the site to SA Water sewer (as did the previous authorisation for two storey dwelling alterations and additions in DA 16/604) and there will be an enhancement to water quality as a result of the removal of onsite waste from the site. However, the proposal does not take this further and include any water sensitive design or water quality protection measures for stormwater runoff. The proposal puts all the water through detention tanks to the street water table and this water flows to the Aldgate Creek.

The following are considered to be the relevant Zone provisions:

*Objectives:* 1, 2, 4 & 5

*PDCs:* 1, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 21 & 22

*See table below*

<b>Mixed Residential Zone Objectives</b>	<b>Assessment</b>
1 A residential zone comprising a range of dwelling densities integrated with areas of open space, neighbouring centres or public transport nodes	Whilst the applicant will argue the proposal includes a range of dwelling densities with all being multi-level, three bedroom plus and over 300m <sup>2</sup> in floor area they are considered by the Council administration to be very monoclonal. In particular the 6 residential flat buildings are identical in layout and area. Compliance with this PDC is finely balanced.
2 Development that minimises the potential impact of garaging and parking of vehicles on the character of the area	The proposal only has one access point and all garaging is accessed by a common driveway internal to the site. However the chosen location for the access arguably has a major impact to trees on the site and in the roadside verge. This access point for the existing dwelling on site did get development plan consent in the proposed location in 2016 but was for the one dwelling and the proposed driveway was much narrower, and only impacted on one tree. The chosen driveway location and the associated impact on trees on site and in the Council verge contribute to the proposal not minimising impact to natural features and the character of the area. The proposal is not considered to be in accordance with this Objective.
4 Development that reflects good residential design principles	Arguably an opportunity has been lost with the monoclonal nature of the proposal to provide some affordable and environmentally sustainable/energy efficient housing. Further the multi storey layout minimises accessibility to all members of the community,

	creates overshadowing internal to the site and does not offer private open space with a northern orientation for 6 of the 9 proposed dwellings. The materials proposed are not a reflection of local character. The proposal is not considered in accordance with this Objective.
5 Development that contributes to the desired character of the zone	This assessment is detailed above against each point of the desired character statement. Briefly the proposal meets many of the quantitative requirements for the zone as expressed in various principles of development control, at the expense of the qualitative requirements found in the desired character statement for the zone. On balance, the proposal is not considered to contribute to the desired character of the zone.
<b>Principles of Development Control</b>	<b>Assessment</b>
1 The following forms of development are envisaged in the zone: <ul style="list-style-type: none"> <li>▪ affordable housing</li> <li>▪ detached dwelling</li> <li>▪ domestic outbuilding in association with a dwelling</li> <li>▪ domestic structure</li> <li>▪ dwelling addition</li> <li>▪ group dwelling</li> <li>▪ home activity up to 60 square metres (also known as a ‘home business’)</li> <li>▪ residential flat building (up to two storeys)</li> <li>▪ row dwelling</li> <li>▪ semi-detached dwelling</li> <li>▪ supported accommodation</li> </ul>	Residential flat buildings and dwellings are envisaged in the zone. As the proposal includes six dwellings within a residential flat building an opportunity for affordable housing is lost. The proposal is in accordance with this PDC. The development plan does not allow for greater density however residential flat building dwellings could be cheaper than the freestanding dwellings found in the zone. This form of housing would be more affordable in the Council area compared to detached dwellings in the Country Living Zone. At the densities promoted by the zone affordable housing cannot really be achieved in Stirling- On balance the proposal is considered in accordance with this principle of development control.
5 Development should not be undertaken unless it is consistent with the desired character for the zone	As detailed elsewhere in this report, the proposal does not meet many of the qualitative requirements for the zone yet it does meet most of the quantitative requirements. The argument proposed by the planning consultant is that this type of development is envisaged by the numbers and therefore should be supported. The proposal is considered to maximise the development potential of the site. The assessment by the Council staff considers that some weight has to be placed on the qualitative measures in the zone provisions, particularly as the subject land is bounded on two sides by land in another zone and would be described as a transitional site. The transitional nature of the subject land is an important aspect that sets the subject land apart from other land in the zone making many of the qualitative measures assume more importance. The proposal is not considered in accordance with this PDC.

<p>6 Dwellings should be designed within the following parameters:          Parameter Value          Minimum setback from primary road frontage 3 metres          Minimum setback from secondary road frontage 2 metres          Minimum setback from side boundaries 1 metres          Minimum setback from back boundary 4 metres          Maximum site coverage 60 per cent          Maximum building height (from natural ground level) 2 storeys or 8 metres whichever is the lesser          Minimum number of onsite car parking spaces 2 (one of which should be covered)</p>	<p>The three front dwellings meet the front setback requirement with building setbacks at 4.2m, 5.7m &amp; 6.3m from the front boundary.</p> <p>All the proposed dwellings have setbacks greater than or equal to, 2 metres from side boundaries.</p> <p>Dwelling 9 is less than 4 metres from the back boundary.</p> <p>Dwellings 1 and 2 have their garages less than 4 metres from the proposed new community title rear boundary resulting in no visitor parking on those allotments.</p> <p>Dwelling 4 is 10.4 metres above natural ground level in its rear portions and 8.1m at its front portion.</p> <p>Dwelling 3 is 10.1metres above natural ground level.</p> <p>Dwelling 5 is 8.7m above natural ground level.</p> <p>Dwellings 4, 5, 6, 7, 8 and 9 are split level (3 levels) and two storeys.</p> <p>On balance, the dwelling set backs are considered in accordance with the zone requirements. However, the dwelling height variances for dwellings 3, 4 and 5 when considered in conjunction with the considerable retaining structures on the Pomona Road and, eastern and western boundaries, are not considered in accordance with the zone principles of development control. On balance, when considering the transitional nature of the allotment with adjacent land on two sides being in a different zone and that the Development Plan desired character statement in the Mixed Residential Zone envisages transitional design, the height variances lead me to conclude that the proposal is not in accordance with this principle of development control in relation to building height but it accords with the setback and on-site parking provisions.</p>
<p>7 A residential flat building should provide a variety of dwelling sizes (e.g. bed-sit, one, two and three bedrooms) particularly in larger complexes</p>	<p>All 6 dwellings in the residential flat building are 3 bedrooms with a double garage. For the Adelaide Hills Council Mixed Residential Zone this building is considered a larger complex. There is no variety in the proposed dwelling sizes and the proposal is not considered to be in accordance with this PDC.</p>
<p>8 Development should result in high-quality aesthetic and urban design outcomes</p>	<p>The proposal is a modern design with a flat roof and modular presentation to Pomona Road. The Development Plan does not specifically promote contemporary design however the desired character statement does require development to reflect the built form character and highly regarded character of the surrounding locality. There is no other dwelling in the locality which reflects this modular design, nor the building materials proposed. Council sought some independent architectural comment, and received the following:</p>

	<ul style="list-style-type: none"> <li>• The separation between the three dwellings to the front of the site is queried as to whether it is sufficiently separated ‘to provide visual interest, while allowing views between built forms that provide visual and physical links to surrounding areas.’</li> <li>• It is also noted that the objectives and desired character of the Mixed Residential and Country Living Zones are not necessarily overly compatible, and given the location of the subject site on the boundary between these two zones, some consideration of the Country Living provisions should be made in this case.</li> </ul> <p>The Council administration support and share these views. The proposal is considered to not accord with this PDC.</p>
<p>9 Ground floor dwellings and accommodation should contribute to the desired streetscape of a locality and, where applicable, create active, safe streets by incorporating either or both of the following:</p> <p>(a) front landscaping or terraces that contribute to the spatial and visual structure of the street while maintaining adequate privacy for apartment occupants</p> <p>(b) individual entries for ground floor accommodation</p>	<p>The proposed dwellings fronting Pomona Road are a minimum of 3 metres above the streetscape. There is landscaping and terracing proposed and a later endeavour by the applicant at the Council administration’s request, to retain the street trees on the Council verge. Council arboriculture staff have questioned the accuracy of the calculations for the extent of works within the Structural Root Zone (SRZ) particularly for tree 35. The arboriculture advice notes Eucalyptus obliqua are particularly sensitive to any disturbance in their SRZ and it seems doubtful that tree 35 would survive the construction proposed. There have been some variances in the proposed terracing along Pomona Road and at 19 June 2020 the Council was still waiting for clarification of the proposed final finished levels. Whatever the finished look it will represent a significant change to the current streetscape and when considered with the bulk and scale of the proposal is not considered to contribute to the desired streetscape. The larger areas of private open space for dwellings 2 and 3 will be at the front and some privacy may be afforded by their elevation above the street. However they are then at a level to be a direct receiver of freeway noise, noting the bench level for the dwellings is approximately at the same height as the freeway. The proposal is not considered to be in accordance with this PDC.</p>
<p>10 All residential development should be designed to ensure the living rooms have an external outlook</p>	<p>The proposal is considered to be in accordance with this PDC.</p>
<p>11 Development should be designed and sited to relate to the slope of the land, so that:</p> <p>(a) the bulk and scale of the buildings do not dominate the landscape</p> <p>(b) views from adjoining dwellings and public open spaces are maintained</p>	<p>The residential flat building has been stepped down the slope of the site and is at the rear of the site. The proposed building will not dominate the landscape from the public realm as the slope continues to rise behind it. It will however dominate the landscape for the adjacent properties. Views from the dwellings to the south and east being 10 and 13 Alta Crescent will be impacted. Where there is currently vegetation and a distant roof line of a single dwelling there will now be extensive fences and two storey buildings beyond. Of note the floor level of the dwellings at 10 and 13 Alta Crescent respectively is reported at 513 and 506. The level</p>

	<p>of the lowest floor adjacent the southern boundary of proposed residential flat building is 503 through to 509, noting the building is two storeys above this level. It is acknowledged the residential flat building is excavated into the southern boundary. However, there is little room for effective landscaping on this elevation. The bulk and scale of the buildings will dominate the views from 10 and 13 Alta Crescent and also 18 Pomona Road. The proposal is not considered to be in accordance with this PDC.</p> <p>Council sought some independent architectural comment, and received the following:</p> <ul style="list-style-type: none"> <li>The design and siting of the development, particularly the six dwelling block to the rear, is queried as to how well it addresses the requirement for Form and Character to be “designed and sited to relate to the slope of the land so that bulk and scale of buildings do not dominate the landscape, and views from adjoining dwellings are maintained” – particularly with regard to the adjacent properties to the south.</li> </ul> <p>The Council administration support and share this view. The proposal is considered to not accord with this PDC.</p>
<p>12 The development of a residential flat building or of group dwellings should include minimum private open space of at least the area shown in the following table:  <b>Configuration Open space requirement, other than for affordable housing (square metres)</b>          Studio (without separate bedroom) 11          One-bedroom 15          Two-bedroom 18          Three-bedroom or greater 24</p>	<p>Residence 9 has 43m<sup>2</sup> private open space being the least of any of the proposed dwellings.</p> <p>Dwelling 1 has 54.8m<sup>2</sup>.          Dwelling 2 has 22m<sup>2</sup> at the side of the dwelling and 82.8m<sup>2</sup> forward of the dwelling.          Dwelling 3 has 33.8m<sup>2</sup> at the side of the dwelling and 95.7m<sup>2</sup> forward of the dwelling.</p> <p>There is a fence proposed between the forward and side sections of the private open space on dwellings 2 and 3.</p> <p>The proposal meets the quantitative requirements of this PDC.</p>
<p>13 Development should minimise access points to public streets and, wherever possible, site layout should facilitate interconnection with adjoining properties and the sharing of off-street parking and access</p>	<p>One access point is proposed which is 6.2m wide in the north-western corner of the site. The proposed access point is at the cost of a significant tree and other native vegetation on the subject land and two Eucalyptus obliqua on the Council road verge. However, the proposal minimises the access points in accordance with this provision of development control. As mentioned earlier, there is approval for this point of access from a previous dwelling alteration application which has not progressed to development approval. The previous approval included a driveway with a maximum width of 5.5m and proposed the removal of one regulated tree and two non-regulated native trees, all on the subject land. From an engineering perspective there are other access points which meet their requirements and would result in less native tree loss. All this is irrelevant as by proposing one access point the proposal is in accordance with this PDC, but contrary to other provisions.</p>

<p>14 Balconies should allow views and casual surveillance of the street while providing for safety and visual privacy</p>	<p>The balconies (decks) in the residential flat building will allow roof top views. The verandahs and decks on dwellings 1-3 satisfy the provisions of this PDC.</p>
<p>15 Upper level balconies may extend 1 metre closer to the road boundary than the associated dwelling</p>	<p>Dwelling 1 does propose this and the proposal is in accordance with this PDC.</p>
<p>16 Walls and fences along public streets should be designed to contribute positively to the streetscape through variation in materials, landscaping, positioning and articulation</p>	<p>Tiered retaining on the street boundary is proposed to be landscaped. There is minimal fencing proposed forward of the dwellings. Varied materials and articulations are proposed for the dwellings. The design is modular and at odds with the existing streetscape. It is possible further fencing will be required to ensure the development meets minimum standards for noise attenuation from the freeway and the privacy requirements of residents. On the basis of the information provided, it is considered that the proposal meets the requirements of this PDC. However, as fencing to 2.1 metres in height has limited development control this may not be the case in perpetuity.</p>
<p>18 Sheds, garages and similar outbuildings should be designed within the following parameters:  <b>Parameter Value</b>                  Maximum floor area 54 square metres                  Maximum building height 4 metres                  Maximum wall height (from natural ground level) 3 metres                  Minimum setback from side and rear boundaries either on boundary or 600 millimetres                  Minimum setback from a public road or public open space area 6 metres</p>	<p>Garages have been designed as part of the proposed dwellings and meet these design parameters. The proposal meets the quantitative requirements of this PDC.</p>
<p>19 A dwelling should have a minimum site area (and for residential flat buildings, an average site area per dwelling) and a frontage to a public road not less than that shown in the following table:  <b>Dwelling type Site area (square metres)</b>                  Detached 500 minimum 12                  Semi-detached 450 minimum 10                  Group dwelling 500 minimum (average) 15</p>	<p>The three dwellings are on 500.1m<sup>2</sup> to 501.3m<sup>2</sup> allotments and are irregular shaped allotments which vary in frontage from 16.5m to 19.5m and meet the provisions of this PDC.</p> <p>The 6 lots proposed for the residential flat building range from 267.1m<sup>2</sup> to 414m<sup>2</sup> which does meet the average 300m<sup>2</sup> requirement of this PDC. Of note approximately 680m<sup>2</sup> of the site is the common driveway and parking. Due to the residential flat building being proposed at the rear the minimum frontage this requirement is of little relevance, each dwelling (and lot) within the residential flat building has a frontage of 9.3m and the overall combined frontage to the common driveway is well over 15m (approximately 60m). The proposal accords with this requirement.</p>

<p>Residential flat building 300 minimum (average) 15                  Row dwelling 300 minimum 7</p>	<p>Again the proposal meets the quantitative requirements of the development plan.</p>
<p>21 The visual bulk of development adjacent to street frontages and areas of open space should be minimised through the use of colour, building materials, detailing, setback, articulation and fenestration</p>	<p>The proposal does have extensive fenestration (windows) and varied materials on the elevations adjacent to street frontages to minimise the visual impact of the linear contemporary design of the buildings. There is a local heritage building on the northern side of the road some 85 metres to the west. The slope of the site and the residential flat building working its way up the slope with the three level split design, means the proposal has presents as a four storey development from Pomona Road (see elevation drawing 18-015.PL06.D) at the eastern portion of the site. All of the above is set atop a tiered retaining wall which is a minimum of 1.2m above the footpath level. It is considered that the proposal is of significant bulk and scale, and the landscaping will not be able to minimise this impact sufficiently. Again the proposal meets the quantitative requirements of the development plan, however the proposal is not considered in accordance with this PDC.</p>
<p>22 Affordable housing should be distributed throughout the Zone area to avoid over-concentration of similar types of housing in a particular area</p>	<p>There is no affordable housing. The proposal is not considered in accordance with this PDC.</p>

*b) Council Wide provisions*

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

- *Orderly and economic development in accordance with aspirations for the zone*

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

*Design and Appearance*

*Objectives: 1*

*PDCs: 1, 2, 3, 5, 7, 9, 13, 15, 16, 17, 18, 19, 20, 21, 22 & 23*

*Energy Efficiency*

*Objectives: 1, 2*

*PDCs: 1, 2 & 3*

*Hazards*

*Objectives: 1, 4, 5 & 7*

*PDCs: 1, 2, 3, 4, 6, 13, 14, 25 & 27*

*Heritage Matters*

*Objectives: 1 & 3*

*PDCs: 6*

Infrastructure

Objectives: 1

PDCs: 1 & 5

Interface Between Land Uses

Objectives: 1

PDCs: 1, 2 & 3

Land Division

Objectives: 1, 2, 3 & 6

PDCs: 1, 2, 6, 7, 8, 11 & 19

Landscaping, Fences and Walls

Objectives: 1 & 2

PDCs: 1, 2, 3 & 4,

Medium Density Development

Objectives: 1, 2 & 4

PDCs: 4, 5, 11 & 12

Natural Resources

Objectives: 1, 2, 7, 9, 10, 13 & 14

PDCs: 10, 11, 12, 13, 14, 15, 17, 23, 35, 37, 38, .39, 41, 42, 44, 46 & 49

Orderly and Sustainable Development

Objectives: 1, 3, 4, 5, 6 & 7

PDCs: 1, 4, 6, 7, 9 & 14

Regulated Trees

Objectives: 1 & 2

PDCs: 1, 2 & 3

Residential Development

Objectives: 1, 2, 3 & 5

PDCs: 1, 2, 4, 5, 7, 8, 9, 10, 17, 18, 19, 20, 22, 23 & 27

Significant Trees

Objectives 1 & 2

PDCs: 1, 2, 3 & 5

Siting and Visibility

Objectives: 1

PDCs: 1, 2, 4, 6, 7, 9 & 10

Sloping Land

Objectives: 1

PDCs: 1, 3 & 4



Transportation and Access

Objectives: 2

PDCs: 1, 25, 26, 32, 34, 39, 46 & 47

See table below

Council Wide	Assessment
<b>Design and Appearance</b>	
Objective 1 Development of a high design standard and appearance that responds to and reinforces positive aspects of the local environment and built form	The modular design proposed is not found in this locality. Aside from the choice of colour for the upper level which the applicant has offered to alter to a less light colour, the modular design is of a high standard. Despite the modular design being of a high standard the elevation of the site and the combined fences and retaining walls are at odds with the local environment and built form, and will directly impact on neighbours who are within the same and adjoining zone. The removal of all vegetation from the site results in the proposal not responding to the local environment and as well as the built form in the locality. The proposal is considered to not be accordance with this Objective.
PDCs	
1 Buildings should reflect the desired character of the locality while incorporating contemporary designs that have regard to the following: (a) building height, mass and proportion (b) external materials, patterns, colours and decorative elements (c) roof form and pitch (d) façade articulation and detailing (e) verandahs, eaves, parapets and window screens	The proposed buildings are all two storey and the residential flat building proposes three split levels. This has led to height variances in excess of the design parameters set for the mixed residential zone, as discussed in the zone section of this report. The modular design increases the mass and proportion of the buildings and it is considered that pitched roofs would be more in keeping with the character of the area. However, it is acknowledged that if more traditional pitched roof designs were used, the proposal would be more at variance with the height parameters desired for the zone. There are a number of modern building materials proposed including bricks, Scyon cladding, painted compressed fibre cements (cfc) sheets and revolution true oak roofing to vary the mass of the walls. The proposal has a skillion roof form and upper storeys are used on most dwellings to shaded areas such as verandahs and porches on lower storeys. The proposal is a contemporary design which does not reflect the desired character of the locality. Given much of the north western portion of the site is proposed on fill on land which is naturally elevated above Pomona Road the proposal is considered to be of a bulk and scale which is not in accordance with the character of the area and at variance with the aspirations of this PDC.
2 Where a building is sited on or close to a side or rear boundary, the boundary wall should minimise: (a) the visual impact of the building as viewed from adjoining properties	As discussed in the zone assessment, the proposed buildings are close to boundaries whilst mostly meeting Development Plan zone setback requirements. However, the size of the structures (dwellings, fence and retaining structures) on or near the boundary show little regard for the visual impact of the proposal when viewed from adjoining properties. There has been an amendment proposed which relocates one of the retaining walls proposed on the western boundary a metre from that boundary but there is no reduction in

<p>(b) overshadowing of adjoining properties and allow adequate sunlight access to neighbouring buildings especially those on which solar panels have been installed</p>	<p>the combined structures in this location. The property to the west will look up at very high structures above the natural ground level. The properties to the south and east will look from an elevated position at bulky structures where now they have views of vegetation.</p> <p>The applicant has provided some shadow drawings which demonstrate that there will be minimal impact from overshadowing to adjoining properties. Of note, the floor level of the dwelling to the west at 499.68 versus the proposed level for the main living area of proposed dwelling 4 at 503.7m for the ground floor. The applicant has amended proposed retaining walls on the western boundary adjacent the dwelling at 18 Pomona Road, in the aforementioned location 1 metre from the boundary to preserve some existing screening trees. Despite this positive amendment, the overall bulk of the building just 3.4 metres from this boundary is still between 8 and 10 metres above natural ground level. The visual impact of the two storey element at the rear of proposed dwelling 4 is considered an unacceptable visual impact. As mentioned, elevation 4 shows dwellings 4, 5 and-dwelling 6 within the residential flat building all with floor levels above natural ground level. Without further sections and levels, The proposal is contrary this PDC as the visual impact from adjoining properties has not been adequately addressed in the opinion of Council staff.</p>
<p>3 The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare to neighbouring properties, drivers or cyclists</p>	<p>The walls and roof of the upper storey are proposed as Colorbond Surf mist which whilst not reflective is a very light colour that is generally not supported with natural localities within the Council area. The applicant has offered to amend this colour selection to half shale grey should the CAP require it. Staff recommend shale grey as an absolute lightest shade to ensure consistency with this PDC.</p>
<p>5 Balconies should:          (a) be integrated with the overall form and detail of the building          (b) include balustrade detailing that enables line of sight to the street          (c) be recessed where wind would otherwise make the space unusable          (d) be self-draining and plumbed to minimise runoff</p>	<p>Whilst the decks in the residential flat building do not have line of sight to the street on balance the proposal is considered to accord with this PDC.</p>
<p>7 Development should not cause:          (a) unreasonable loss of sunlight or views from existing or proposed development          (b) adverse conditions by significantly altering microclimatic conditions</p>	<p>The proposal does alter the views from all surrounding properties. As those properties are large is it unlikely it will cause an unreasonable loss of sunlight from those properties with the exception of 18 Pomona Road. The removal of 47 native trees, some of which are regulated and significant, from the site is expected to significantly alter microclimatic conditions and will have an adverse impact on the natural character of the area. The applicant has</p>

<p>(c) adverse alteration of the character of the area</p>	<p>argued the rezoning of the land expects this type of clearance and has refuted all efforts to negotiate the retention of any of the vegetation on the subject land which may minimise the impact of the proposal. The applicant did amend the proposed removal of street trees adjacent the proposal. On balance, it is considered that the proposal does not accord with this PDC.</p>
<p>9 Development should take place in a manner which will minimize alteration to the existing land form</p>	<p>With up to 2.3 metres cut and 3 metres of fill the proposal does not minimise the alteration to the existing land form. The proposal is considered to not be in accordance with this PDC.</p>
<p>13 Development visible from the South Eastern Freeway, in both urban and rural areas, should protect and enhance the views from the Freeway</p>	<p>This proposal may be visible from the freeway as the finished level of the ground floor of all the dwellings and the residential flat building is at or slightly above freeway level and the proposal will not enhance views from the freeway, particularly when traffic is moving slowly. The proposal is not considered to be in accordance with this PDC.</p>
<p>15 The design of multi-storey buildings should not detract from the form and materials of adjacent State and local heritage places listed in <i>Table AdHi/1 – State Heritage Places</i> or in <i>Table AdHi/2 – Local Heritage Places</i>.</p>	<p>Whilst not abutting the local heritage place (LHP) at 7 Pomona Road the proposal is adjacent given it is 30 metres from the local heritage place. The opinion of Council’s Local Heritage Adviser that “other recent and underway developments in the immediate context have resulted in a very mixed context, with the only cohesive factor remaining generally being existing vegetation.</p> <p>The construction of the proposed development will not result in additional impact on the context of the LHP, further than what has already occurred. The historic character of the place (in which the LHP is located) is not considered to be further affected by the proposed development.”</p> <p>Council staff concur with this comment and the proposal sufficiently accords with this PDC.</p>
<p>16 Development on land adjacent to a State or local heritage place, as listed in <i>Table AdHi/1 – State Heritage Places</i> or in <i>Table AdHi/2 – Local Heritage Places</i>, should be sited and designed to reinforce the historic character of the place and maintain its visual prominence</p>	<p>As above, “the construction of the proposed development will not result in additional impact on the context of the LHP.</p> <p>The proposal accords with this PDC.</p>
<p>17 The design and location of buildings should enable direct winter sunlight into adjacent dwellings and private open space and minimise the overshadowing of:          (a) windows of main internal living areas          (b) upper-level private balconies that provide the primary open space area for a dwelling</p>	<p>The size of adjacent land and the resulting physical separation of the adjacent dwellings from the proposal when considered with the shadow diagrams provided by the applicant would indicate the proposal to be in accordance with this PDC for the southern and eastern neighbours.</p> <p>The proposal is consistent with this PDC.</p>

<p>(c) solar collectors (such as solar hot water systems and photovoltaic cells)</p>	
<p>18 Development should minimise direct overlooking of the main internal living areas and private open spaces of dwellings through measures such as:              (a) off-setting the location of balconies and windows of habitable rooms with those of other buildings so that views are oblique rather than direct              (b) building setbacks from boundaries (including building boundary to boundary where appropriate) that interrupt views or that provide a spatial separation between balconies or windows of habitable rooms              (c) permanent screening devices (including fencing, obscure glazing, screens, external ventilation blinds, window hoods and shutters) that are integrated into the building design and have minimal negative effect on residents' or neighbours' amenity</p>	<p>The dwellings are positioned so any overlooking east and west delivers an oblique view.</p> <p>The residential flat building proposes obscure glazing on the upper level of the east, south and west elevations. The views from the ground floor areas and outdoor areas are screened by 1.8 metre high fencing and in the case of dwelling 5 a timber slat fence atop the retaining wall.</p> <p>On balance the proposal is considered to be in accordance with this PDC. The size of the proposed fence and retaining wall structures, with a timber screen atop adjacent the western boundary of proposed dwelling 5 will have a negative visual impact on this adjacent property as previously discussed.</p>
<p>19 Permanently fixed external screening devices should be designed and coloured to complement the associated building's external materials and finishes</p>	<p>Retaining is proposed in concrete and finished in sandstone tones with fencing in Colorbond® monument. The proposed timber screen will also be Colorbond® monument. It is considered the retaining, fencing and screening complements the proposed external materials and finishes of the associated buildings, and is therefore considered to meet the requirements of this PDC.</p>
<p>20 Buildings (other than ancillary buildings, group dwellings or buildings on allotments with a battle axe configuration) should be designed so that the main façade faces the primary street frontage of the land on which they are situated</p>	<p>The three proposed dwellings do face the primary street frontage from an elevated position. The proposal is considered to be in accordance with this PDC.</p>
<p>21 Buildings, landscaping, paving and signage should have a coordinated appearance that maintains and enhances the visual attractiveness of the locality</p>	<p>The proposed elevation of the site above the street level with stepped retaining walls and associated landscaping does not maintain or enhance the visual attractiveness of the locality. The proposal substantively alters the visual attractiveness of the locality which is characterised by a presentation of well vegetated yards and hedging to the street. If indeed the street trees can be saved on balance the proposal may be sufficiently in accordance with this</p>

	<p>PDC. Council Arboriculture staff advised the development encroachment zone on street tree 35 is not accurately reflected as it does not include the proposed driveway works. Further the Arboriculture Officer advised that Eucalyptus obliqua is sensitive to any root disturbance. Given earlier advice from the applicant that all trees would be removed and the proposed alteration to land form, it is likely street tree 35 will be adversely affected by the proposal and therefore it is very possible that this tree and possibly others will not survive.</p> <p>The development does propose a coordinated appearance but does not maintain or enhance the existing attractiveness of the locality from a natural character perspective. On balance, the proposal is not in accordance with this PDC.</p>
<p>22 Buildings should be designed and sited to avoid extensive areas of uninterrupted walling facing areas exposed to public view</p>	<p>The buildings have been designed with visual interest with varied wall and window forms and as such will not have uninterrupted walling facing areas exposed to public view as expected by this PDC.</p>
<p>23 Building design should emphasise pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas</p>	<p>There is no pedestrian entry point from Pomona Road. Pedestrian access within the site is all shared with the vehicle access. The proposal is not in accordance with this PDC.</p>
<p><b>Energy Efficiency</b></p>	
<p>PDCs</p>	
<p>1 Development should provide for efficient solar access to buildings and open space all year around</p>	<p>The buildings are orientated with most windows and open spaces on a north south axis. The three dwellings facing Pomona Road will most likely gain efficient solar access. The residential flat building is unlikely to do so as evidenced in the provided shadow drawings from the applicant. Whilst finely balanced I have formed the opinion that based on the limited solar access provided to the six dwellings in the residential flat building the proposal is not in accordance with this PDC.</p>
<p>2 Buildings should be sited and designed:                  (a) to ensure adequate natural light and winter sunlight is available to the main activity areas of adjacent buildings                  (b) so that open spaces associated with the main activity areas face north for exposure to winter sun</p>	<p>The physical separation of the neighbouring dwellings when combined with the provided shadow drawings suggest their access to adequate natural light and winter sunlight is unlikely to be affected by the proposal.</p> <p>The residential flat building does not have activity areas which will have exposure to northern winter sunlight as depicted in the applicants shadow drawings. Some amended plans dated 16 June 2020 were provided which demonstrate some sunlight to indoor upper level areas with the internal courtyard. Of note, the five dwellings proposed within the residential flat building have minimal to no direct winter sunlight to their proposed private open space.</p> <p>Whilst finely balanced, I have formed the opinion that based on the limited solar access provided to the six dwellings in the residential flat building the proposal is not in accordance with this PDC.</p>

<p>3 Development should facilitate the efficient use of photovoltaic cells and solar hot water systems by:</p> <p>(a) taking into account overshadowing from neighbouring buildings</p> <p>(b) designing roof orientation and pitches to maximise exposure to direct sunlight</p>	<p>The proposal does not indicate photovoltaic cells or solar hot water. The skillion roofs have a limited pitch and will not be overshadowed by neighbouring dwellings. The roof has not been designed to maximise exposure to direct sunlight as this would further exacerbate the height exceedances of this proposal. The proposal is not in accordance with this PDC.</p>
<p><b>Hazards</b></p>	
<p>PDCs</p>	
<p>1 Development should be excluded from areas that are vulnerable to, and cannot be adequately and effectively protected from, the risk of hazards</p>	<p>The proposal is in a medium bushfire risk area and has been designed to enable CFS truck access to the site minimising this risk. The CFS provided comment on the proposed plan dated 4 July 2018. They provided some advice on building setbacks from the southern and eastern boundaries which dwellings 9 and 1 do not meet. Whilst finely balanced, I have formed the opinion that the proposal is in accordance with this PDC.</p>
<p>2 There should not be any significant interference with natural processes in order to reduce the exposure of development to the risk of natural hazards</p>	
<p>3 Development should not be undertaken in areas liable to inundation by drainage or flood waters, including land identified on <a href="#">Figures AdHiFPA/ 1 to 19</a> as being subject to flooding, unless the development can achieve all of the following:</p> <p>(a) it is developed with a public stormwater system capable of catering for a 1-in-100 year average return interval flood event</p> <p>(b) buildings are designed and constructed to prevent the entry of floodwaters in a 1-in-100 year average return interval flood event</p> <p>(c) it will not result in pollution of any watercourses</p>	<p>Stormwater management on this site is problematic and has been raised by representors. The natural slope of the site and surrounding land means 18 Pomona Road has historically been the receptor of excess overland flows from the subject land. Anecdotally this has increased over recent years as vegetation has been progressively removed from the subject land. Council engineering staff have indicated the proposal should improve the current situation and includes adequate stormwater management provisions. Council staff remain concerned the subject land is subject to inundation from neighbouring allotments up hill. The applicant has suggested stormwater from other land should not be allowed to progress over other sites. However, these are large parcels of land with gardens and overland natural water flows in times of high rainfall. The applicant has also suggested that it is not reasonable to expect historical overland water flows to be contained. However, buildings need to be protected from flooding in extreme events. Should the proposal be approved, a condition is recommended regarding attention to the courtyards at the rear of the residential flat buildings as they are sunken and may be subject to inundation from overland flows. On balance, the proposal is considered in accordance and able to achieve the requirements of this PDC.</p>

<p>4 Development, including earthworks associated with development, should not do any of the following:</p> <ul style="list-style-type: none"> <li>(a) impede the flow of floodwaters through the land or other surrounding land</li> <li>(b) increase the potential hazard risk to public safety of persons during a flood event</li> <li>(c) aggravate the potential for erosion or siltation or lead to the destruction of vegetation during a flood</li> <li>(d) cause any adverse effect on the floodway function</li> <li>(e) increase the risk of flooding of other land</li> <li>(f) obstruct a watercourse</li> </ul>	<p>As above, the subject land is not within a floodplain but is subject to overland flows from the upper catchment which could result in flooding to the rear courtyards and dwellings within the residential flat building. As mentioned, this could be addressed with further engineering analysis and design solutions.</p>
<p>6 The following bushfire protection principles of development control apply to development of land identified as General, Medium and High bushfire risk areas as shown on the Bushfire Protection Area <a href="#">Figures AdHiBPA/1 to 14</a></p>	<p>The proposed driveway does meet the Ministers Code for Building in Bushfire Prone Areas and the requirements for CFS truck access. The applicant did advise they were still liaising with the CFS regarding the location of water tanks and/or fire hydrants. In all likelihood it is possible for the proposal to meet the requirements of this PDC.</p>
<p>13 Where land division does occur it should be designed to:</p> <ul style="list-style-type: none"> <li>(a) minimise the danger to residents, other occupants of buildings and firefighting personnel</li> <li>(b) minimise the extent of damage to buildings and other property during a bushfire</li> <li>(c) ensure each allotment contains a suitable building site that is located away from vegetation that would pose an unacceptable risk in the event of bushfire</li> <li>(d) ensure provision of a fire hazard separation zone isolating residential allotments from areas that pose an unacceptable bushfire risk by containing the allotments within a perimeter road or through other means that achieve an adequate separation</li> </ul>	<p>The proposal is in a medium bushfire risk area. The bushfire attack level (BAL) for this site is 12.5, the lowest achievable in bushfire prone areas within the Adelaide Hills Council Area. The CFS have commented on the proposal in July 2018. The CFS noted that they are not required to be consulted for development in a medium bushfire risk area. However, they did offer comment regarding building setbacks from neighbouring vegetation and taking into account the type and density of vegetation on neighbouring properties, the following setbacks of future dwellings from the eastern boundary of 5m and the southern boundary or 5m are recommended. Dwelling 9 does not meet either of these recommendations and Dwelling 1 does not meet the eastern boundary recommendation. No further CFS advice has been sought by Council or provided by the applicant. With regard to other CFS requirements, the driveway has been designed in accordance with their requirements satisfied. Other CFS requirements such water tanks and hydrants could be resolved should the proposal secure support.</p>

<p>14 Vehicle access and driveways to properties and public roads created by land division should be designed and constructed to:</p> <p>(a) facilitate safe and effective operational use for fire-fighting and other emergency vehicles and residents</p> <p>(b) provide for two-way vehicular access between areas of fire risk and the nearest public road</p>	<p>As discussed above, the proposal does meet the requirements of this PDC.</p>
<p>25 Development, including associated cut and fill activities, should not lead to an increased danger from land surface instability or to the potential of landslip occurring on the site or on surrounding land</p>	<p>Engineering staff advise that the stormwater calculations provided propose a suitable solution for managing stormwater on the site and should the proposal be approved, a Soil Drainage and Erosion Management Plan (SDEMP) should be required by way of a condition prior to the issuing of Building Rules Consent. As discussed previously, there are overland water flow issues from surrounding site which remain a concern. However, it is likely the proposal will be engineered to be in accordance with this PDC.</p>
<p>27 Development in areas susceptible to landslip should:</p> <p>(a) incorporate split level designs to minimise cutting into the slope</p> <p>(b) ensure that cut and fill and heights of faces are minimised</p> <p>(c) ensure cut and fill is supported with engineered retaining walls or are battered to appropriate grades</p> <p>(d) control any erosion that will increase the gradient of the slope and decrease stability</p> <p>(e) ensure the siting and operation of an effluent drainage field does not contribute to landslip</p> <p>(f) provide drainage measures to ensure surface stability is not compromised</p> <p>(g) ensure natural drainage lines are not obstructed</p>	<p>The proposal does involve significant earthworks with a balance of cut and fill and split level design. The applicant has proposed an engineering solution to manage stormwater on the subject site but in summary states the overland water flow is not a matter to be addressed by them, has no requirement to be addressed in the development plan as the subject land is not flood mapped and would be a large piece of work involving a catchment area analysis.</p> <p>Council staff and one representor have identified overland water flows to, over and from this site as a hazard and on the basis of the information provided, the proposal does not meet the requirements of points (f) and (g) of this PDC. Further as already discussed, whilst the proposal mostly balances cut and fill (2.5 metres of cut and 3.7metres of fill), the level of cut and fill is not within the generally accepted parameters stipulated in the Council’s Development Plan (i.e. a 1.5 metre limitation in both cases).</p>
<p><b>Heritage Matters</b></p>	
<p>PDCS</p>	
<p>6 Development that materially affects the context within which the heritage place is situated should be compatible with the heritage place. It is not necessary to replicate historic detailing, however design elements that should be compatible include, but</p>	<p>Local Heritage advice is that the proposal will not further visually impact on the LHP.</p>



<p>are not limited to:                  (a) scale and bulk                  (b) width of frontage                  (c) boundary setback patterns                  (d) proportion and composition of design elements such as rooflines, openings, fencing and landscaping                  (e) colour and texture of external materials</p>	
<p><b>Infrastructure</b></p>	
<p>PDCS</p>	
<p>1 Development should only occur where it has access to adequate utilities and services, including:                  (a) electricity supply                  (b) water supply                  (c) drainage and stormwater systems                  (d) effluent disposal systems                  (e) formed all-weather public roads                  (f) telecommunications services                  (g) gas services</p>	<p>The site will be connected to mains sewer, water and electricity and have access to road infrastructure and telecommunications and is therefore considered to be in accordance with this PDC.</p>
<p>5 Development should not occur until adequate and coordinated drainage of the land is provided</p>	<p>The applicant has proposed an engineering solution to manage stormwater on the subject site but in summary states the overland water flow is not a matter to be addressed by them, has no requirement to be addressed in the Development Plan as the subject land is not flood mapped and would be a large piece of work involving catchment area analysis.</p> <p>Council staff and one representor have identified overland water flows to, over and from this site as a hazard and on the basis of the information provided, the proposal may not be adequate and coordinated as required by this PDC.</p>
<p><b>Interface between land uses</b></p>	
<p>Objective 1 Development located and designed to minimise adverse impact and conflict between land uses</p>	<p>As previously discussed the proposal as the subject land is bounded on two sides by land in another zone and would be described as a transitional site. The proposal has been designed to minimise adverse impact on neighbouring allotments. However, recognising the transitional nature of the subject land the proposed design leave a number of conflicts with the surrounding existing residential uses. On balance the proposal is not considered in accordance with this PDC.</p>
<p>PDCS</p>	
<p>1 Development should not detrimentally affect the amenity of the locality or cause unreasonable interference through any of the following:</p>	<p>One representor was concerned about light glare from vehicles entering and leaving the site. The proposed 1.8 metre fence between the driveway and 18 Pomona Road should address this concern. There are also noise concerns from representors. However, being residential development the noise level should not</p>

<p>(a) the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants                  (b) noise                  (c) vibration                  (d) electrical interference                  (e) light spill                  (f) glare                  (g) hours of operation                  (h) traffic impacts                  (i) stormwater or the drainage of runoff from the land</p>	<p>be above that normally expected from any residential property. Stormwater and drainage runoff from the subject land is a legitimate concern as discussed above. The proposal is finely balanced with regards to this PDC mainly due to the overland flows not being addressed in the stormwater information. However, it is considered that the proposal is mostly in accordance with this PDC.</p>
<p>2 Development should be sited and designed to minimise negative impacts on existing and potential future land uses desired in the locality</p>	<p>The subject land has two boundaries which abut land in a different zone. The visual bulk of the development may impact on the ability of those land owners to enjoy their land. The applicant has attempted to minimise this impact with obscure glazing and the use of varied materials. While finely balanced the proposal is in accordance with this PDC as its impact on future land uses is visual. Representors have argued the visual affect may impact on their amenity; however, this can be mitigated with screening and landscaping. 18 Pomona Road is zoned mixed residential and this proposal is not seen to prejudice future development of this site for higher density outcomes.</p>
<p>3 Development adjacent to a Residential Zone or residential area within a Township Zone should be designed to minimise overlooking and overshadowing of adjacent dwellings and open space</p>	<p>The proposal has been designed to minimise overlooking and overshadowing on adjacent dwellings with the use of obscure glazing, fences and screens. There is some overshadowing to 18 Pomona Road; however this is on outbuildings, not the dwelling and associated open space. The proposal is therefore considered to accord with this PDC.</p>
<p><b>Land Division</b></p>	
<p>PDCs</p>	
<p>1 When land is divided: (a) stormwater should be capable of being drained safely and efficiently from each proposed allotment and disposed of from the land in an environmentally sensitive manner which:                  (i) does not increase the flow rate downstream                  (ii) maximises interception, retention and removal of water borne pollutants (including sediment, litter, nutrients, microbial contaminants and other potential toxic materials) prior to their discharge into receiving water</p>	<p>Council engineering staff confirm the proposed solutions and supporting calculations for managing stormwater on site meet engineering requirements. Pre development the site had 480m<sup>2</sup> of impervious area and 2010 m<sup>2</sup> of pervious area. Post development the proposal is for 1973m<sup>2</sup> impervious area and 517m<sup>2</sup> pervious area. No water sensitive urban design is proposed and arguably, given there are no watercourses on the site, it is not required. The water tanks proposed are for stormwater detention and to meet the minimum building code requirements only. No further reuse of stormwater has been proposed. Engineering staff advise the proposed design is suitable for removing the type of water borne pollutants associated with residential development. The most noteworthy feature of the stormwater design is the two twenty five thousand litre underground detention tanks and three six thousand five hundred litre detention/retention tanks above ground alongside each of the dwellings at the front of the site. The site is connected to mains water and will connect to SA Water sewer should this proposal be approved. On balance the proposal is in accordance with this PDC.</p>

<p>(iii) where practicable, retains or detains stormwater flows for re-use close to its source including possible aquifer storage and re-use</p> <p>(b) a sufficient water supply should be made available for each allotment</p> <p>(c) provision should be made for the disposal of wastewater, sewage and other effluent from each allotment without risk to health</p> <p>(d) proposed roads should be graded, or be capable of being graded to connect safely and conveniently with an existing road or thoroughfare</p>	
<p>2 Land should not be divided if any of the following apply:</p> <p>(a) the size, shape, location, slope or nature of the land makes any of the allotments unsuitable for the intended use</p> <p>(b) any allotment will not have a frontage to one of the following: (i) an existing road (ii) a proposed public road (iii) access to a public road via an internal roadway in a plan of community division</p> <p>(c) the intended use of the land is likely to require excessive cut and/or fill</p> <p>(d) it is likely to lead to undue erosion of the subject land or land within the locality</p> <p>(e) the wastewater treatment plant to which subsequent development will be connected does not have sufficient capacity to handle the additional wastewater volumes and pollutant loads generated by such development</p> <p>(f) the area is unsewered and cannot accommodate an appropriate onsite wastewater disposal system within the allotment that complies with (or can comply with) the relevant</p>	<p>The slope of the land combined with the number of trees on it could be argued to render the land unsuitable for its intended residential density. The number of allotments does maximise the site's development potential at the cost of any qualitative measures such as retention of native vegetation and significant and regulated trees. The applicant has demonstrated the proposal is in accordance with elements of this PDC by design and engineering. The site is currently serviced by an on-site wastewater system; however the site will be connected to mains sewer as part of this proposal. There is also a bore on site which is intended to be capped for this proposal.</p> <p>The land is completely within the Mixed Residential Zone and no allotment will straddle more than one zone or policy area. In dispute is the proposed number of allotments at the cost of the native vegetation and the amount of cut and fill required by the sloping nature of the site. Whilst finely balanced the proposal is not considered in accordance with the intent of this PDC because the benefits of mains sewer connection are outweighed by the alteration to both the vegetation and land form on the site.</p>

<p>public and environmental health legislation applying to the intended use(s)                  (g) any allotments will straddle more than one zone, policy area or precinct</p>	
<p>6 The design of a land division should incorporate:                  (b) new road and allotment access points providing appropriate separation distances from existing road junctions or level crossings                  (c) safe and convenient access from each allotment to an existing or proposed road or thoroughfare                  (d) areas to provide appropriate separation distances between potentially conflicting land uses and/or zones                  (g) the preservation of significant natural, cultural or landscape features including State and local heritage places                  (h) protection for existing vegetation and drainage lines                  (j) the preservation of significant trees</p>	<p>Engineering staff advise that the proposal accords with PDC 6 (b) &amp; (c) as the proposed new access point does meet their requirements. However, Council arboriculture and planning staff are concerned that accessing the site in the north western corner poses a risk to roadside vegetation and most definitely compromises vegetation on the site. Engineering staff advise that the existing access point on the north eastern end of the site also meets their requirements.</p> <p>With regards to PDC 6(g), the proposal does not further alter the local heritage place context with regards to built form. However, the Local Heritage advice did contain comments that the removal of the vegetation on the subject land had the potential to change the natural and landscape features of the locality and therefore the ‘setting’ of the local heritage place. On the basis of the proposed vegetation removal, the proposal is not considered to accord with this part of the PDC (g) and as well as PDC 6(h).</p> <p>As discussed elsewhere in this report, this proposal does not preserve native vegetation or significant or regulated trees (h &amp; J). The proposal is therefore at odds with this PDC.</p>
<p>7 Land division should result in allotments of a size suitable for their intended use</p>	<p>The proposal does meet the quantitative requirements for land division in the zone, in fact the proposal has been designed to maximise the land division development potential of the site. However, the lots proposed for the residential flat building do not have open space which will receive a sufficient level of sunlight rendering them unsuitable in accordance with residential design guidelines. On this basis, it is considered that the proposal does not meet the expectations of this PDC.</p>
<p>8 Land division should facilitate optimum solar access for energy efficiency</p>	<p>As argued above and elsewhere in the report, the proposal does not offer solar access for the residential flat buildings and in particular the main outdoor activity areas associated with these proposed dwellings. The proposal does therefore not accord with this PDC.</p>
<p>11 Allotments should have an orientation, size and configuration to encourage development that:                  (a) minimises the need for earthworks and retaining walls                  (b) maintains natural drainage systems                  (c) faces abutting streets and open spaces</p>	<p>As previously discussed this proposal does require cut and fill over 2 metres in height and has large retaining walls, particularly in close proximity to and, on boundaries. Further the proposal replaces natural drainage with an engineered solution, proposes removal of all the native vegetation on the site and for all these reasons is not considered to accord with this PDC.</p>

<p>(d) does not require the removal of native vegetation to facilitate that development                  (e) will not overshadow, dominate, encroach on or otherwise detrimentally affect the setting of the surrounding locality</p>	
<p>19 The design of the land division should provide space sufficient for on-street visitor car parking for the number and size of allotments, taking account of:                  (a) the size of proposed allotments and sites and opportunities for on-site parking                  (b) the availability and frequency of public and community transport                  (c) on-street parking demand likely to be generated by nearby uses</p>	<p>There are a total of 21 spaces designated on site and an additional 4 in front of two residences. The applicant provided a report from Phil Weaver and Associates Pty Ltd, noting there is no on street parking adjacent this site. This report provides commentary on traffic on Pomona Road and available public transport options, which demonstrate the proposal will meet the aims of this PDC.</p>
<p><b>Landscaping, Fences and Walls</b></p>	
<p>PDCs</p>	
<p>1 Development should incorporate open space and landscaping and minimise hard paved surfaces in order to:                  (a) complement built form and reduce the visual impact of larger buildings (e.g. taller and broader plantings against taller and bulkier building components)                  (b) enhance the appearance of road frontages                  (c) screen service yards, loading areas and outdoor storage areas                  (d) minimise maintenance and watering requirements                  (e) enhance and define outdoor spaces, including car parking areas                  (f) maximise shade and shelter                  (g) assist in climate control within and around buildings                  (h) minimise heat absorption and reflection                  (i) maintain privacy                  (j) maximise stormwater re-use                  (k) complement existing vegetation, including native vegetation</p>	<p>Pre-development, the site had 480m<sup>2</sup> of impervious area and 2010m<sup>2</sup> of pervious area. Post development the proposal is for 1973m<sup>2</sup> of impervious area and of 517m<sup>2</sup> pervious area. Whilst this is a reversal of conditions on site, it can be argued this is an expected outcome of the zone which envisages more intense development. As discussed above, each dwelling has the required private open space, noting some of these spaces do not meet qualitative assessment criteria. The proponent has stated the landscaping proposed has been designed to minimise watering and maintenance requirements, to screen service areas and to enhance outdoor spaces. No comment has been made regarding climate control and minimising heat absorption and reflection. Some modification has been made to the proposed landscaping on the western boundary to retain some semi-mature trees to maintain the privacy of 18 Pomona Road. There is no proposed reuse of stormwater on the site beyond that required to meet CFS and Building Code requirements.</p> <p>The landscaping proposed is said to be of a “contemporary native character”, however there will be no native vegetation remaining on the site for this to complement. There is no comment from the proponent on the contribution of the landscaping to the viability of ecosystems and species nor, its contribution to water and biodiversity conservation.</p> <p>On balance given 79% of the site will be impervious surface, the proposal does not minimise hard paved surfaces sufficiently. Although the proposal does provide landscaping and retain some</p>

<p>(l) contribute to the viability of ecosystems and species                  (m) promote water and biodiversity conservation</p>	<p>street trees in accordance with (a) of this PDC, the proposal does not largely accord with this PDC.</p>
<p>2 Landscaping should:                  (a) include the planting of locally indigenous species where appropriate                  (b) be oriented towards the street frontage                  (c) result in the appropriate clearance from power lines and other infrastructure being maintained</p>	<p>Council’s biodiversity officer provided the following comment on the proposed landscaping stating it <i>“contains a number of exotic and non-local native cultivars which are readily available from larger commercial nurseries, but are not particularly well suited to the local climate.”</i> The landscaping is focussed internally on the site and it will not interfere with infrastructure externally. On balance the proposal is therefore not considered to accord with this PDC.</p>
<p>3 Landscaping should not:                  (a) unreasonably restrict solar access to adjoining development                  (b) cause damage to buildings, paths and other landscaping from root invasion, soil disturbance or plant overcrowding                  (c) introduce pest plants                  (d) increase the risk of bushfire                  (e) remove opportunities for passive surveillance                  (f) increase leaf fall in watercourses                  (g) increase the risk of weed invasion                  (h) obscure driver sight lines</p>	<p>The proposed landscaping will not impact neighbouring solar access. Given the proposed landscaping is professionally designed Council accepts the plantings proposed will not cause damage to buildings, introduce pest plants or increase the risk of bushfire. Given the general low aspect of the proposed landscaping, it will not remove passive surveillance opportunities or obscure driver sight lines. Further the landscaper has proposed the native landscaping which will limit leaf litter and being planted among proposed rock retaining will limit the risk of weed invasion. Council’s biodiversity officer did not comment on this aspect of the landscaping but did propose some alternative plantings. On balance, the proposal is considered to accord with this PDC.</p>
<p>4 Fences and walls, including retaining walls, should:                  (a) not result in damage to neighbouring trees                  (b) be compatible with the associated development and with existing predominant, attractive fences and walls in the locality                  (c) enable some visibility of buildings from and to the street to enhance safety and allow casual surveillance                  (d) incorporate articulation or other detailing where there is a large expanse of wall facing the street                  (e) assist in highlighting building entrances</p>	<p>Representors have expressed concern about the impact of the development on their own trees, in particular the residents at 10 Alta Crescent. Whilst these trees are not protected by any legislation the proposal is contrary to this PDC as it will result in damage to neighbouring trees from the extent of excavation proposed on the boundary adjacent the trees. Arguably in enacting any consent, the damage to those trees which by the applicant’s own admission will be damaged, will render the proposal invalid in accordance with civil law pending negotiations with the neighbours. At this time the proposal cannot be considered to accord with PDC 4(a).</p> <p>The proposed fencing and retaining is generally compatible with most of the other provisions of this PDC through choice of materials, articulation and siting. However, as discussed elsewhere in this report the combined height of the combined walls and fences, particularly in the south-western portion of the site contribute to an overall bulk and scale which is not considered to be in accordance with other provisions. Whilst finely balanced the proposal is not</p>

<p>(f) be sited and limited in height, to ensure adequate sight lines for motorists and pedestrians especially on corner sites</p> <p>(g) in the case of side and rear boundaries, be of sufficient height to maintain privacy and/or security without adversely affecting the visual amenity or access to sunlight of adjoining land</p> <p>(h) be constructed of non-flammable materials</p> <p>(i) be constructed of non-reflective materials</p>	<p>considered to accord with this PDC on the basis of the bulk and scale of the proposed combined fence and retaining walls.</p>
<p><b>Natural Resources</b></p>	
<p>Objective 1 Retention, protection and restoration of the natural resources and environment</p> <p>Objective 4 Natural hydrological systems and environmental flows reinstated, and maintained and enhanced</p> <p>Objective 8 Native flora, fauna and ecosystems protected, retained, conserved and restored</p> <p>Objective 10 Minimal disturbance and modification of the natural landform</p>	<p>As discussed earlier in the report, all native vegetation on the site is proposed to be removed and the proposal does not accord with Objectives 1 and 8.</p> <p>The proposal had not demonstrated that natural drainage systems will be maintained, there is no water reuse proposed as part of the design nor is there any proposal to protect the quality of water runoff from the site. The proposal is not considered to accord with Objective 4 on this basis.</p> <p>There is substantial modification to the natural landform proposed and the proposal is not considered to accord with Objective 10.</p>
<p>PDCs</p>	
<p>10 Development should be sited and designed to:</p> <p>(a) capture and re-use stormwater, where practical</p> <p>(b) minimise surface water runoff</p> <p>(c) prevent soil erosion and water pollution</p> <p>(d) protect and enhance natural water flows</p> <p>(e) protect water quality by providing adequate separation distances from watercourses and other water bodies</p> <p>(f) not contribute to an increase in salinity levels</p>	<p>There is no capture and reuse proposal for stormwater, only detention and slow release. The common area is largely paved and there are concerns for increased surface run off for which an engineering solution has been provided. As previously argued, should the proposal be approved, there should be a condition requiring the applicant to address pre and post development overland water flows. With further analysis and design solutions, it is expected the proposal will meet the requirements of this PDC.</p>

<p>(g) avoid the water logging of soil or the release of toxic elements                  (h) maintain natural hydrological systems and not adversely affect:                  (i) the quantity and quality of groundwater                  (ii) the depth and directional flow of groundwater                  (iii) the quality and function of natural springs</p>	
<p>11 Water discharged from a development site should: (a) be of a physical, chemical and biological condition equivalent to or better than its predeveloped state (b) not exceed the rate of discharge from the site as it existed in pre-development conditions</p>	<p>The proposed stormwater design and detention has met Council engineering requirements for managing water flows. Engineering also advise that the proposed detention will be suitable for removal of most “contaminants” expected in runoff from a residential site. On balance, the proposal is considered to accord with this PDC and PDC 15 below.</p>
<p>12 Development should include stormwater management systems to protect it from damage during a minimum of a 1-in-100 year average return interval flood</p>	<p>The proponent provided calculations for the 1 in 100 year average interval event which have been accepted by Council engineering. The proposal is considered to accord with this PDC.</p>
<p>15 Development should include stormwater management systems to minimise the discharge of sediment, suspended solids, organic matter, nutrients, bacteria, litter and other contaminants to the stormwater system</p>	<p>See PDC 11 above.</p>
<p>17 Stormwater management systems should:                  (a) maximise the potential for stormwater harvesting and re-use, either on-site or as close as practicable to the source                  (b) utilise, but not be limited to, one or more of the following harvesting methods:                  (i) the collection of roof water in tanks                  (ii) the discharge to open space, landscaping or garden areas, including strips adjacent to car parks                  (iii) the incorporation of detention and retention facilities                  (iv) aquifer recharge</p>	<p>There is no harvesting or reuse of stormwater proposed on a site in a very high rainfall area with known stormwater overland flow drainage. Detention is proposed and only the bare minimum of 1000L of retention per dwelling is intended. However none of the other measures envisaged in this PDC are offered. The proposal therefore does not accord with this PDC.</p>



<p>23 A Soil Erosion and Drainage Management Plan should be prepared where:                  (a) there is a high risk of sediment pollution to adjoining lands or receiving waters                  (b) the total area to be disturbed, or left disturbed, at any one time exceeds 0.5 hectares</p>	<p>Should the proposal be approved this will be a challenging site to manage erosion and sediment. A condition would need to be imposed that a SEDMP be supplied and approved by Council prior to the issuing of the Building Rules Consent.</p>
<p>35 Development should comply with the current Environment Protection (Water Quality) Policy</p>	<p>Should the proposal be approved, a condition requiring compliance with this PDC could be imposed.</p>
<p>37 Development should retain existing areas of native vegetation and where possible contribute to revegetation using locally indigenous plant species</p>	<p>As already discussed the proposal seeks the removal of all existing native vegetation. Council is in receipt of advice from the Native Vegetation Council (NVC), which does not support the proposal. The applicant lodged an application to clear all the native vegetation with the NVC in December 2019. The applicant asked Council not to make a decision on the application until they have a result for their NVC application. Council has written advice from NVC that they do not support the proposal and there is no legislative reason to delay the decision on this application. The NVC advice reaffirms the staff's opinion that, the proposal is considered to be at odds with this PDC.</p>
<p>38 Development should be designed and sited to minimise the loss and disturbance of native flora and fauna</p>	<p>Council staff have suggested alternative designs which may have allowed some of the native trees on site to be retained, including the one significant tree. Further, there has been no attempt to design around the existing flora on the site. These suggestions have not been pursued by the applicant and the proposal is therefore at variance with this PDC.</p>
<p>39 Native vegetation should be conserved and its conservation value and function not compromised by development if the native vegetation does any of the following:                  (a) provides an important habitat for wildlife or shade and shelter for livestock                  (b) has a high plant species diversity or includes rare, vulnerable or endangered plant species or plant associations and communities                  (c) provides an important seed bank for locally indigenous vegetation                  (d) has high amenity value and/or significantly contributes to the landscape quality of an area, including the screening of</p>	<p>As mentioned, the applicant has made a formal application for native vegetation clearance to the NVC which requires specialist advice on these matters. Council has now seen that advice, which suggests that the vegetation is of a low conservation value. Council biodiversity staff offered the following comment having reviewed that report:  <i>"The trees earmarked for removal were not considered to provide critical habitat for any species of national conservation significance. Some were assessed as being in Poor condition and there were no hollows recorded. However, the patch of trees does represent a native pocket of habitat to the State Rare Brushtail Possum and numerous birds, some of which are known to be in decline across the region. Even though this is not critical habitat, the removal of habitat within areas such as Stirling where much of the vegetation has been replaced by exotic vegetation, is known to have an incremental impact on the local species."</i></p> <p>On balance Council staff have formed the opinion the existing vegetation on the site significantly contributes to the landscape quality of the area and the proposal is at variance with this PDC.</p>

<p>buildings and unsightly views                  (e) has high value as a remnant of vegetation associations characteristic of a district or region prior to extensive clearance for agriculture                  (f) is growing in, or is characteristically associated with a wetland environment</p>	
<p>41 Native vegetation should not be cleared if such clearing is likely to lead to, cause or exacerbate any of the following:                  (a) erosion or sediment within water catchments                  (b) decreased soil stability                  (c) soil or land slip                   (d) deterioration in the quality of water in a watercourse or surface water runoff (e) a local or regional salinity problem (f) the occurrence or intensity of local or regional flooding</p>	<p>There have been a number of trees removed from the site over the last 10 years and anecdotally this is attributed to the increased surface water runoff from the site. If the proposal is approved and engineering certainty is obtained regarding the management of stormwater and overland water flows, as previously discussed, the SEDMP and civil drainage plan for the development will ensure the proposal accords with this PDC.</p>
<p>42 Development that proposes the clearance of native vegetation should address or consider the implications that removing the native vegetation will have on the following: (a) provision for linkages and wildlife corridors between significant areas of native vegetation (b) erosion along watercourses and the filtering of suspended solids and nutrients from run-off (c) the amenity of the locality (d) bushfire safety (e) the net loss of native vegetation and other biodiversity</p>	<p>As previously discussed, the proposal is considered to be at odds with this PDC.</p>
<p>44 Where native vegetation is to be removed, it should be replaced in a suitable location on the site with locally indigenous vegetation to ensure that there is not a net loss of native vegetation and biodiversity</p>	<p>The selection of species in the Clover Landscape Plan appear to contain a number of exotic and non-local native cultivars which are readily available from larger commercial nurseries, but are not particularly well suited to the local climate. The Council Biodiversity Team supports with the Consultant’s Vegetation assessment report for the development to consider the use of appropriate local indigenous shrubs and perennial herbaceous species. The proposal is not considered to accord with this PDC.</p>

<p>46 Development should promote the long-term conservation of vegetation by: (a) avoiding substantial structures, excavations, and filling of land in close proximity to the trunk of trees and beneath their canopies (b) minimising impervious surfaces beneath the canopies of trees (c) taking other effective and reasonable precautions to protect both vegetation and the integrity of structures and essential services</p>	<p>Representors to the east and west of the site have raised concerns for the health of trees on their land as a result of proposed earthworks on both boundaries. Whilst none of these trees are significant or regulated and one has no legislative protection being a pinus radiata, the applicant will still have civil responsibilities with regard to trees on neighbouring land. The remainder of the trees are native vegetation. The applicant has recently proposed a plan for retention of 7 of 14 street trees affected by this proposal. The amended proposal does not accurately reflect the extent of proposed disturbance in the structural root zone of a least one of those trees (tree 35) and Eucalyptus obliqua are notoriously sensitive to root disturbance. Council Arboriculture and natural resource staff have indicated they do not support the removal of the street trees, many of which are Eucalyptus obliqua, for this proposal. Any final decision in regard to the trees will rest jointly with the NVC who have indicated they will not support the removal unless Council approves the proposal. It is the opinion of Council staff the applicant does not intend to preserve or work with the trees on the site at all and consequently the proposal is at variance with this PDC.</p>
<p>49 Development should take place in a manner that will minimise alteration to the existing landform</p>	<p>As previously discussed, with over 2 metres of cut and fill, the removal of native vegetation and the creation of large paved areas, the proposal will alter the existing landform substantively and is considered to be at variance with this PDC.</p>
<p><b>Orderly and Economic Development</b></p>	
<p>PDCs</p>	
<p>1 Development should not prejudice the development of a zone for its intended purpose</p>	<p>The proposal is for the type of development envisaged in this zone and therefore accords with this PDC.</p>
<p>4 Urban development should form a compact extension to an existing built-up area</p>	<p>The proposal is for urban development and is an extension to an existing built up area, however it abuts a less built up zone and the adjacent properties in the zone. The applicant has repeatedly stated that the proposal is what Council envisaged for the site regardless of all qualitative measures in place. Although the proposal accords with this PDC, it is at the expense of natural resources on the site.</p>
<p>6 Where development is expected to impact upon the existing infrastructure network (including the transport network), development should demonstrate how the undue effect will be addressed</p>	<p>It is noted that the footpath adjacent this property is narrow and could not accommodate the likely number of bins on rubbish day. The applicant did undertake a negotiation with Council waste contractors and has proposed a solution on site to address this issue. The applicant also provided a traffic management report. On balance, the proposal is considered to accord with this PDC.</p>
<p>7 Vacant or underutilised land should be developed in an efficient and co-ordinated manner to not prejudice the orderly development of adjacent land</p>	<p>The land is zoned mixed residential and should be developed in a more intense manner than currently. However, being adjacent land in another zone with different aspirations more consideration is placed by Council on the qualitative measures in place for the zone as a transition to Country Living. The removal of all vegetation, the extensive change to land form and the large fence and retaining wall structures on or near boundaries all place this proposal at odds with this PDC.</p>

<p>9 Development should take place on land which is suitable for the intended use of that land having regard to the location and condition of that land</p>	<p>The land is zoned as suitable for increased residential development. However, it is not clear if the vegetation and slope of the land were duly considered when the land was rezoned. Given the land is bounded on two sides by land in another zone and the subject zone envisages transitional development in this location abutting another zone, and perhaps the site constraints were considered. In addition to the site limitations posed by slope, vegetation and its transitional location, the site is exposed to freeway noise. The exposure of the site to noise from the freeway and the proposed removal of all vegetation render the land potentially unsuitable for its intended use at the proposed density. The applicant has provided an External Traffic Noise report from Sonus which suggests the external noise from the freeway for dwellings 1 to 3 is approximately 65 dB(A) with peak hour levels approaching 68 dB(A). This exceeds the World Health Organisation recommended level of 55 dB(A). Sonus did some measurements on site which demonstrated the existing dwelling on the site offered a reduction of 15 dB(A) through physical blocking of sound with bricks and mortar and recommended the structures (fences) around the private open spaces of dwelling 2 and 3 to thereby reduced external noise levels experienced to 50 dB(A). Council accepts the professional acoustic engineer's assumption that proposed dwellings 1 and 4 to 9 will also be subject to a level of noise that is not unreasonable for this locality. However, staff are of the view that the land is not suitable for the intended use at this density having regard to the slope, existing native vegetation, overland stormwater flow paths and orientation, and therefore consider that the proposal does not accord with this PDC.</p>
<p>14 New housing and other urban development should create a safe, convenient and pleasant environment in which to live</p>	<p>The applicant has provided an External Traffic Noise report from Sonus which suggests the external noise from the freeway for dwellings 1 to 3 is approximately 65 dB(A) with peak hour levels approaching 68 dB(A). This exceeds the World Health Organisation recommended level of 55 dB(A). Sonus did some measurements on site which demonstrated the existing dwelling on the site offered a reduction of 15 dB(A) and proposed the structures (fences) around the private open spaces of dwelling 2 and 3 will thereby be reduced to 50 dB(A). Council accepts the acoustic suppositions for proposed dwellings 1 and 4-9. Given the private open space for dwellings 2 and 3 is potentially compromised by noise, and for dwellings 4 to 9 by lack of sunlight, on balance the proposal is not considered to accord with this PDC.</p>
<p><b>Regulated Trees</b></p>	
<p>PDCs</p>	
<p>1 Development should have minimal adverse effects on regulated trees</p>	<p>The proposal involves the removal of five (5) regulated trees and is at variance with this PDC.</p>
<p>2 A regulated tree should not be removed or damaged other than where it can be demonstrated that one or more of the following</p>	<p>The applicant has contended the 5 trees all have a short life expectancy of between 5 and 20 years and that they are inhibiting reasonable development. Council does not accept this argument. It is considered that the removal of one dwelling/allotment would</p>

<p>apply:                  (a) the tree is diseased and its life expectancy is short                  (b) the tree represents a material risk to public or private safety                  (c) the tree is causing damage to a building                  (d) development that is reasonable and expected would not otherwise be possible                  (e) the work is required for the removal of dead wood, treatment of disease, or is in the general interests of the health of the tree</p>	<p>ensure measures could be put in place to preserve all of the 5 regulated trees. The proposal is therefore at variance with (a) and (d) of this PDC.</p>
<p>3 Tree damaging activity other than removal should seek to maintain the aesthetic appearance and structural integrity of the tree</p>	<p>Council arboriculture staff are concerned that the proposed fill and retaining in the vicinity of tree 30 on the Council verge will affect the appearance and integrity of this tree. The proposal does therefore not accord with this PDC.</p>
<p><b>Residential Development</b></p>	
<p>Objective 1 Safe, convenient, sustainable and healthy living environments that meet the full range of needs and preferences of a diverse community.</p>	<p>There is no assessment of the noise levels within the proposed dwellings that are subject to noise from the South Eastern Freeway contained within the acoustic report provided. On this basis it has not been adequately demonstrated that the proposal will provide a sustainable and healthy living environment for the occupants of the proposed dwellings, as sought by Objective 1.</p>
<p>PDCs</p>	
<p>1 Residential allotments and sites should maximise solar orientation and have the area and dimensions to accommodate:                  (a) the siting and construction of a dwelling and associated ancillary outbuildings                  (b) the provision of landscaping and private open space                  (c) convenient and safe vehicle, pedestrian and cycling access and parking                  (d) water sensitive design systems that enable the storage, treatment and reuse of stormwater</p>	<p>The private open space for six dwellings in the residential flat building does not have good solar orientation and the private open space has virtually no solar access in winter, as demonstrated by the shadow diagrams. Whilst exceeding the provision for the amount of private open space for dwellings 1 and 2 much of it is between the dwelling and the street. There is no water sensitive design included in this proposal. The proposal is considered to be at variance with (b) and (d) of PDC 1.</p>
<p>2 Residential allotments should be of varying sizes to encourage housing diversity</p>	<p>As previously mentioned, the proposed allotments and the buildings associated with them show no variation other than maximising the development potential for the site. There is no affordable housing and being multi-level dwellings they all present access challenges. The proposal is therefore at variance with this PDC.</p>

<p>4 Landscaping of development in residential and township zones or areas should:</p> <p>(a) enhance residential amenity                  (b) screen storage, service and parking areas                  (c) provide protection from sun and wind (d) not unreasonably affect adjacent land by shadow</p>	<p>The landscaping proposed will soften the hard surface areas and would in many cases be considered a well landscaped proposal. However, noting site context and natural features, the landscaping does not achieve the same level of amenity and site enhancement as would a landscape design and development proposal that balances the retention of mature native vegetation with the introduction of additional plantings to complement existing and offset the removal of some native vegetation. The proposal does not sufficiently accord with this PDC as it does not integrate existing natural landscaping into the design.</p>
<p>5 Dwellings should be supplied with adequate energy, water, waste disposal and drainage facilities to serve the needs of prospective users</p>	<p>All services are available at the site and the proposal is in accordance with this PDC.</p>
<p>7 Residential development in townships and urban areas should be connected to either sewer or a Community Wastewater Management System (CWMS)</p>	<p>The proposal includes connection of the site to mains sewer and is in accordance with this PDC.</p>
<p>8 Dwellings and accommodation at ground floor level should contribute to the character of the locality and create active, safe streets by incorporating one or more of the following: (a) front landscaping or terraces that contribute to the spatial and visual structure of the street while maintaining adequate privacy for occupants (b) individual entries for ground floor accommodation (c) opportunities to overlook adjacent public space</p>	<p>The proposal does include terracing which elevates the dwellings above street level. This may afford the dwellings some privacy from the road but will expose them to greater freeway noise. The entries to all the dwellings are from the new common driveway. On balance, the proposal is considered to accord with this PDC.</p>
<p>9 Residential development should be designed to ensure living rooms have an external outlook</p>	<p>All living areas have external outlook and the proposal therefore accords with this PDC.</p>
<p>10 Entries to dwellings or foyer areas should be clearly visible from the street, or access ways that they face to enable visitors to easily identify individual dwellings</p>	<p>All dwellings will have their own entrance from the community driveway which accords with this PDC.</p>
<p>17 Site coverage should ensure sufficient space is provided for:</p> <p>(a) pedestrian and vehicle access and vehicle parking                  (b) domestic storage                  (c) outdoor clothes drying                  (d) rainwater tanks</p>	

<p>(e) private open space and landscaping                  (f) convenient storage of household waste and recycling receptacles</p>	
<p>18 Private open space (available for exclusive use by residents of each dwelling) should be provided for each dwelling and should be sited and designed:</p> <p>(a) to be accessed directly from the internal living areas of the dwelling                  (b) to be generally at ground level (other than for residential flat buildings) and to the side or rear of a dwelling and screened for privacy                  (c) to take advantage of, but not adversely affect, natural features of the site                  (d) to minimise overlooking from adjacent buildings                  (e) to achieve separation from bedroom windows on adjoining sites                  (f) to have a northerly aspect to provide for comfortable year-round use                  (g) not to be significantly shaded during winter by the associated dwelling or adjacent development                  (h) to be partly shaded in summer                  (i) to minimise noise or air quality impacts that may arise from traffic, industry or other business activities within the locality                  (j) to have sufficient area and shape to be functional, taking into consideration the location of the dwelling, and the dimension and gradient of the site</p>	<p>Private open space is available to each dwelling and accessed directly from internal living areas and these areas are generally at ground level. The residential flat building has some private open space in excess of the minimum required which is at the upper level (balconies). Dwellings 2 and 3 have the bulk of their open space forward of the dwelling. Dwelling 2 has slightly less than the minimum required to the side of the dwelling. As all trees are removed from the site the private open space does not have the ability to take advantage of any natural features. All private open space achieves separation from bedroom windows on adjoining sites which in the case of the residential flat building includes obscure glazing to the upper level windows. The private open space in the residential flat building is significantly shaded all year round and the greater private open space associated with the dwellings 2 and 3 has the potential to suffer from significant noise impacts. The applicant has provided an acoustic report indicating the minimum portion of private open space to be fenced from the Pomona Road frontage will be sufficiently noise reduced. On balance the proposal is considered to accord with parts of this PDC. However the private open spaces associated with the residential flat building do not have adequate solar access during winter with these spaces being shaded all day. It is considered significant on this basis the minimum two hours of sunlight is not achieved for these six dwellings.</p>
<p>19 Dwellings at ground-level should provide private open space in accordance with the following table: Site area per dwelling (square metres) Minimum area excluding any area at ground level at the front of the dwelling (square</p>	<p>Dwelling 2 does not meet these requirements of this PDC, however this is not considered fatal to the proposal.</p>

<p>metres) Minimum dimension (metres) Minimum area provided at the rear or side of the dwelling, directly accessible from a habitable room (square metres) &gt; 500 80, of which 10 may comprise balconies, roof patios and the like, provided they have a minimum dimension of 2 metres. 4 24 300 - 500 60, of which 10 may comprise balconies, roof patios and the like provided they have a minimum dimension of 2 metres 4 16 &lt; 300 24, of which 8 may comprise balconies, roof patios and the like, provided they have a minimum dimension of 2 metres 3 16</p>	
<p>20 Private open space should not include driveways, effluent drainage areas, rubbish bin storage areas, sites for rainwater tanks and other utility areas, and common areas such as parking areas and communal open space</p>	<p>Private open space has been designed in accordance with this PDC. Whilst it does include rainwater tanks, it does not include driveways, effluent drainage areas, rubbish bin storage areas and other common areas and is in excess of the minimum required for the dwellings in the residential flat building . The proposal is therefore considered to accord with this PDC.</p>
<p>22 Dwellings located above ground level should provide private open space in accordance with the following table: Dwelling type Minimum area of private open space Studio (where there is no separate bedroom) No minimum requirement One bedroom dwelling 8 square metres Two bedroom dwelling 11 square metres Three + bedroom dwelling 15 square metres</p>	<p>Seven of the proposed dwellings contain three bedrooms and two are proposed with four bedrooms and all have the minimum of 15m<sup>2</sup> private open space provided in accordance with this PDC.</p>
<p>23 Private open space located above ground level should have a minimum dimension of 2 metres and be directly accessible from a habitable room</p>	<p>The private open space in the residential flat buildings in the form of the decks meets these requirements in accordance with this PDC.</p>
<p>27 Except for buildings of 4 or more storeys, upper level windows, balconies, terraces and decks that overlook habitable room windows or private open space of dwellings should maximise visual privacy through the use of measures such as sill</p>	<p>The balconies in the residential flat building do have screens in accordance with this PDC.</p>



<p>heights of not less than 1.5 metres or permanent screens having a height of 1.5 metres above finished floor level</p>	
<p><b>Significant Trees</b></p>	
<p>PDCs</p>	
<p>1 Development should preserve the following attributes where a significant tree demonstrates at least one of the following attributes:              (a) makes an important contribution to the character or amenity of the local area; or              (b) is indigenous to the local area and its species is listed under the National Parks and Wildlife Act 1972 as a rare or endangered native species              (c) represents an important habitat for native fauna              (d) is part of a wildlife corridor of a remnant area of native vegetation                (e) is important to the maintenance of biodiversity in the local environment              (f) forms a notable visual element to the landscape of the local area</p>	<p>The significant tree proposed to be removed is in poor health and, has a life expectancy of between 5 and 10 years. It has a high biodiversity value and moderate to high landscape value according to the report from the applicant’s arborist. The Native Vegetation Council has indicated that they do not support the removal of the native vegetation on site. The proposal is considered to be contrary parts (a), (b), (c), (d) and (e) of this PDC.</p>
<p>2 Development should be undertaken so that it has a minimum adverse effect on the health of a significant tree</p>	<p>The proposal is contrary to this PDC as it proposes the removal of the significant tree.</p>
<p>3 Significant trees should be preserved, and tree-damaging activity should not be undertaken, unless:              (a) in the case of tree removal, where at least one of the following apply:              (i) the tree is diseased and its life expectancy is short              (ii) the tree represents an unacceptable risk to public or private safety              (iii) the tree is within 20 metres of a residential, tourist accommodation or habitable building and is a bushfire hazard</p>	<p>The tree is not within 20 metres of any structures at present and does represent some biodiversity and landscape value. The tree is not known to be causing structural or other safety issues and no design alternatives have been presented by the applicant. The removal of the tree does not accord with this PDC.</p>

<p>within a Bushfire Prone Area                  (b) the tree is shown to be causing or threatening to cause substantial damage to a substantial building or structure of value                  (c) all other reasonable remedial treatments and measures have been determined to be ineffective                  (d) it is demonstrated that all reasonable alternative development options and design solutions have been considered to prevent substantial tree-damaging activity occurring                  (e) in any other case, any of the following circumstances apply:                  (i) the work is required for the removal of dead wood, treatment of disease, or is in the general interests of the health of the tree                  (ii) the work is required due to unacceptable risk to public or private safety                  (iii) the tree is within 20 metres of a residential, tourist accommodation or habitable building and is a bushfire hazard within a Bushfire Prone Area                  (iv) the tree is shown to be causing or threatening to cause damage to a substantial building or structure of value                  (v) the aesthetic appearance and structural integrity of the tree is maintained                  (vi) it is demonstrated that all reasonable alternative development options and design solutions have been considered to prevent substantial tree-damaging activity occurring</p>	
<p>5 Land should not be divided or developed where the division or development would be likely to result in a substantial tree-damaging activity occurring to a significant tree</p>	<p>There is one significant tree on the site which is proposed to be removed. There are alternative designs which could be employed to save this tree. The applicant does not want to investigate these options due to the short life expectancy of the tree and balancing the need to maximise the development potential of the site Note the life expectancy of the significant tree is between 5 and 10 years and the regulated trees are between 10 and 20 years. The proposal is therefore at variance with this PDC.</p>

<b>Siting and Visibility</b>	
PDCs	
<p>1 Development should be sited and designed to minimise its visual impact on:</p> <ul style="list-style-type: none"> <li>(a) the natural, rural or heritage character of the area</li> <li>(b) areas of high visual or scenic value, particularly rural areas</li> <li>(c) views from public reserves, scenic or tourist routes and walking trails</li> </ul>	<p>As mentioned, the development is designed to maximise the potential of the subject land and consequently despite a high level of design has not been sited or designed to minimise impact on the natural character of the area. The proposal will be elevated above Pomona Road, will alter the natural character of the site, and consequently the character of the area through visual. The proposal is considered to be at odds with the aspirations of this PDC.</p>
<p>2 Buildings should be sited in unobtrusive locations and should:</p> <ul style="list-style-type: none"> <li>(a) be grouped together</li> <li>(b) where possible, be located in such a way as to be screened by existing vegetation when viewed from public roads and especially from Scenic Routes shown on Figure AdHi(EC)/1</li> <li>(c) be designed to blend with surrounding developments and landscapes</li> </ul>	<p>The proposal includes the removal of existing vegetation and will not be unobtrusive as the site is elevated. Whilst replacement landscaping is proposed the contemporary design and removal of existing vegetation result in the proposal being considered at variance with this PDC.</p>
<p>4 The excavation and/or filling of land should:</p> <ul style="list-style-type: none"> <li>(a) be kept to a minimum and be limited to no greater than 1.5 metres in height to preserve the natural form of the land and the native vegetation unless the built form obscures views of the earthworks from adjoining land</li> <li>(b) only be undertaken to reduce the visual impact of buildings, including structures, or to construct water storage facilities for use on the allotment</li> <li>(c) only be undertaken if the resultant slope can be stabilised to prevent erosion</li> <li>(d) result in stable scree slopes which are covered with top soil and landscaped to preserve and enhance the natural character of the area or assist in the re-establishment of the natural character of the area</li> </ul>	<p>As mentioned, the proposal does include earthworks greater than 1.5metres in height and will substantially alter the form of the land along with removing all the native vegetation on the land. Whilst it is acknowledged the built form will largely obscure the earthworks from adjoining land, it will not on boundaries where stepped retaining and associated landscaping is proposed. The nature of the slope on the subject land requires excavation and has resulted in a stepped residential flat building which is excavated at its eastern end by nearly 2 metres but still elevated up to 3.8 metres at its western extreme. The amount of fill proposed for dwellings 1, 2, 3 and 4 is not considered to be in accordance with this PDC.</p>

<p>6 Buildings and structures should be designed to minimise their visual impact in the landscape, in particular:</p> <p>(a) the profile of buildings should be low and the rooflines should complement the natural form of the land</p> <p>(b) the mass of buildings should be minimised by variations in wall and roof lines and by floor plans which complement the contours of the land</p> <p>(c) large eaves, verandahs and pergolas should be incorporated into designs so as to create shadowed areas that reduce the bulky appearance of buildings</p>	<p>The proposed buildings are all two storey and incorporate a low roof profile. One portion of the proposed roof is sloped to match the slope of the land however this is contrary to any opportunity for solar installation on the rooves of the proposed buildings. The applicant has expressed that the use of varied materials and windows has resulted in a design that is not bulky. Staff consider the linear contemporary design to be bulky in appearance, particularly on the eastern and western elevations.</p>
<p>7 The nature of external surface materials of buildings should be non-reflective and not detract from the visual character and amenity of the landscape</p>	<p>The upper element of the proposal is Colourbond ©‘Surf mist’ which whilst not technically a reflective material is a very light colour with the potential to be reflective. The applicant has offered to amend this to half strength “shale grey” which may be the same as “surf mist”. Should the proposal be supported “shale grey” full strength is considered the lightest colour to be supported for the site. Currently the proposal is not considered to accord with this PDC.</p>
<p>9 Driveways and access tracks should be designed and surfaced to:</p> <p>(a) blend sympathetically with the landscape and to minimise interference with natural vegetation and landforms</p> <p>(b) minimise nuisance impacts on adjoining residents</p>	<p>The driveway commences at the crossover with Pomona Road with tree damaging activity to Council street trees, followed by a 1.4m high retaining wall perpendicular to the boundary to create the driveway entrance. A retaining wall proposed at the frontage will rise to 2.8m in height further into the property will result in the removal of a significant tree and a number of other native trees . The neighbour at 18 Pomona Road has raised concerns about lights at night on the driveway. The applicant has stated the proposal includes landscaping and boundary fencing to address this issue. The plans do not detail any landscaping or fencing for the length of the common driveway adjoins the boundary of 18 Pomona Road. Whilst a common driveway is a suitable solution for this site, the chosen location has resulted in the proposal being at variance with this PDC.</p>
<p>10 Development should be screened through the establishment of landscaping using locally indigenous plant species:</p> <p>(a) around buildings and earthworks to provide a visual screen as well as shade in summer, and protection from prevailing winds</p>	<p>A landscaping scheme has been submitted. The selection of species in the Clover Landscape Plan appear to contain a number of exotic and non-local native cultivars which are readily available form larger commercial nurseries, but are not particularly well suited to the local climate. The Biodiversity Team supports with the Consultant’s Vegetation assessment report for the development to consider the use of appropriate local indigenous shrubs and perennial herbaceous species. The landscape render does demonstrate from some angles that the landscaping will assist in the development concurring with this PDC.</p>

<p>(b) along allotment boundaries to provide permanent screening of buildings and structures when viewed from adjoining properties and public roads</p> <p>(c) along the verges of new roads and access tracks to provide screening and minimise erosion</p>	
<p><b>Sloping Land</b></p>	
<p>PDCs</p>	
<p>1 Development and associated driveways and access tracks should be sited and designed to integrate with the natural topography of the land and minimise the need for earthworks</p>	<p>As stated elsewhere in this report there are considerable earthworks proposed by this development which is necessitated by the sloping site and the desire to maximise the development potential of the land. Most notably the residential flat building has over 2 metres of cut adjacent dwelling 9 and 3.7 metres of fill for dwelling 4. The access point which is 6.8 metres wide proposes no earthworks where it adjoins 18 Pomona Road and has a 1.4m retaining wall along its internal edge rising to 2.8m high were it centres on the site. Given Council looks to keep cut and fill to less than 1.5 metres, retaining up to 2.8m in height and stepped retaining with a height of 3 metres is not considered minimal when combined with compact development. For these reasons the proposal is not considered to integrate sympathetically with the natural topography of the land with the need for substantial earthworks at levels at odds with this PDC.</p>
<p>3 Development and associated driveways and access tracks, including related earthworks, should be sited, designed and undertaken in a manner that:</p> <p>(a) minimises their visual impact</p> <p>(b) reduces the bulk of the buildings and structures</p> <p>(c) minimises the extent of cut and/or fill</p> <p>(d) minimises the need for, and the height of, retaining walls</p> <p>(e) does not cause or contribute to instability of any embankment or cutting</p> <p>(f) avoids the silting of watercourses</p> <p>(g) protects development and its surrounds from erosion caused by water run-off</p>	
<p>4 Driveways and access tracks across sloping land should be accessible and have a safe, all weather trafficable surface</p>	<p>The applicant has indicated a willingness to construct the access in accordance with Council specifications ensuring compliance with this PDC.</p>

<b>Transportation and Access</b>	
<p>Objective 2 Development that:</p> <p>(a) provides safe and efficient movement for all transport modes</p> <p>(b) ensures access for vehicles including emergency services, public infrastructure maintenance and commercial vehicles</p> <p>(c) provides off street parking</p> <p>(d) is appropriately located so that it supports and makes best use of existing transport facilities and networks</p> <p>(e) provides convenient and safe access to public transport stops</p>	<p>The proposal does offer safe and convenient access for resident and visitor vehicles. Further, the access has been designed to ensure emergency vehicle access and negotiations with the Council waste contractor have proposed for them to access the site also. The location of the land near the Stirling District Centre and the freeway interchange ensures best use of existing transport facilities and network. The existing Council footpath provides safe and convenient access to public transport. The proposal therefore accords with this PDC.</p>
<b>Transportation and Access</b>	
PDCS	
<p>1 Land uses arranged to support the efficient provision of sustainable transport networks and encourage their use</p>	<p>Arguably more residential development in this location will ensure more use of public transport available locally resulting in this proposal supporting the aspirations of this PDC.</p>
<p>9 Development at intersections, pedestrian and cycle crossings, and crossovers to allotments should maintain or enhance sightlines for motorists, cyclists and pedestrians to ensure safety for all road users and pedestrians</p>	<p>Council engineering have advised the site chosen for the crossover meets site line requirements, however they did express concerns regarding the impact on roadside vegetation and advised that there are other locations on the site suitable for access, including the current access point. The proposal does though accord with this PDC.</p>
<p>25 Development should have direct access from an all-weather public road</p>	<p>The proposed access point is to be an all-weather road as envisaged by this PDC.</p>
<p>34 Development should provide off-street vehicle parking and specifically marked accessible car parking places to meet anticipated demand in accordance with Table AdHi/4 – Off Street Vehicle Parking Requirements unless all the following conditions are met:</p> <p>(a) an agreement is reached between the Council and the applicant for a reduced number of parking spaces</p> <p>(b) a financial contribution is paid into the Council Car Parking Fund specified by the Council, in accordance with the gazetted rate per car park</p>	<p>There are a total of 21 spaces designated on site and an additional 4 in front of two dwellings. The proposal therefore accords with this PDC.</p>

<p>39 Vehicle parking areas should be sealed or paved to minimise dust and mud nuisance</p>	<p>The new common access, driveway and visitor parking bays are proposed to be sealed with vehicular paving in accordance with this PDC.</p>
<p>47 The provision of ground level vehicle parking areas, including garages and carports (other than where located along a rear lane access way), should:                  (a) not face the primary street frontage                  (b) be located to the rear of buildings with access from a shared internal laneway                  (c) ensure vehicle park entries are recessed at least 0.5 metres behind the main face of the building</p>	<p>All proposed parking is at the rear of the three dwellings facing Pomona Road and is accessed from the shared internal driveway. The proposal therefore accords with this PDC.</p>

## 7. SUMMARY & CONCLUSION

Considerable thought and energy has gone into the design and supporting documentation submitted with this application for the redevelopment of a parcel of land which was rezoned in October 2017 from Country Living to the Mixed Residential Zone. The land is zoned Mixed Residential and should be developed in a more intense manner than it is currently. However, being adjacent to land in another zone with different aspirations, more consideration is placed by staff on the qualitative measures in place for the zone as a transition to the Country Living Zone than to the quantitative measures described in the Development Plan for the Mixed Residential Zone. This approach by staff to assessing the proposal is supported by the desired character statement for the Mixed Residential Zone. In broad terms the removal of all the vegetation, the proposed extensive changes to the land form and the large fence and retaining wall structures on or near boundaries result in a development of a bulk and scale that is at odds with many of the Zone and Council Wide provisions of development control. The proposed development has not been designed in a sensitive manner taking into consideration the natural features of the site. Rather, it will result in the extensive modification of the site in order to accommodate a development which is considered to be at variance with many of the relevant PDCs as outlined in this report.

With regards to bulk and scale, and considering the slope of the site and the residential flat building working its way up the slope with the three level split design, has a consequence of the proposed structures presenting as a four storey development when viewed from Pomona Road (see elevation drawing 18-015.PL06.D) at the eastern portion of the site. All of the above is set atop a tiered retaining wall which is a minimum of 1.2m above the footpath level. With all this in mind, it is considered that the proposal is of significant bulk and scale, and the proposed landscaping will not be able to minimise this impact sufficiently.

There are a number of other matters addressed in detail in the report worth reiterating here, namely the total removal of all vegetation on the subject land and the consequent risk to the remaining roadside trees and a number of height variances for the built form. Further if the site were flat this proposal may be a better fit. Acknowledgment is made of the stepped nature of the design, however the residential flat building has two dwellings on a cut site and four dwellings on fill. The removal of one significant tree and five regulated trees with little room for significant replacement plantings is unjustified in the opinion of many different professional staff who have considered the proposal and is not supported by the Native Vegetation Council.

The proposal does meet most of the quantitative requirements of the zone but does not meet many of the qualitative requirements for the zone and hence is described as being at variance, rather than significantly at variance. The argument proposed by the planning consultant is that this type of development is envisaged by the numbers and the rezoning and should therefore be supported. The proposal is considered to maximise the development potential of the site. Again the planning consultant would argue they could support more dwellings on the site by the numbers and that is not in dispute. However, assessment of the proposal by staff considers that some weight has to be placed on the qualitative measures in the zone provisions, particularly as the subject land is bounded on two sides by land in another zone and would be described as a transitional site. The transitional nature of the subject land is also an important aspect that sets the subject land apart from other land in the zone making many of the qualitative measures assume more importance.

On the whole, and with all the above comments in mind, staff consider that the proposal is at variance with the relevant provisions and a significant number of principles of development control of the Adelaide Hills Council Development Plan, and it is recommended the Council Assessment Panel REFUSE Development Plan Consent for the reasons detailed below.

## **8. RECOMMENDATION**

**That the Council Assessment Panel considers that the proposal is at variance with a significant number of the relevant provisions of the Adelaide Hills Council Development Plan and the Council Assessment Panel REFUSES Development Plan Consent to Development Application 19/322/473 by John Ellery for Staged application for demolition of existing dwelling and community title land division (1 into 9) and three (3) two storey dwellings & a two storey residential flat building comprising six (6) dwellings, removal of five (5) regulated trees (*Eucalyptus obliqua*) & one (1) significant tree (*Eucalyptus obliqua*), retaining walls (maximum height 2.8m), combined fence & retaining walls (maximum height 4.7m), landscaping including replacement plantings & associated earthworks. Stage 1 Demolition and tree removal, Stage 2 Driveway construction and Civil works, Stage 3 construction of dwellings on lots 1, 2 & 3, Stage 4 construction of residential flat building (dwellings on lots 4 to 9) at 20 Pomona Road Stirling for the following reasons:**

### **1) Proposal at Variance with the Development Plan**

**The proposal is at variance with the following provisions of the Adelaide Hills Council Development Plan:**

#### **Mixed Residential Zone**

**Objective 1 as the proposal does not offer a range of dwelling densities**

**Objective 2 as the chosen driveway location has an impact on the character of the area proposing removal of all the vegetation on the site.**



**Objective 5 as the proposal does not contribute to the character of the zone due to the bulk and scale of the proposal, maximum building height variances, the substantial alteration to the landform and significant removal of native vegetation, on a site where the desired character envisages transitional design that achieves a blended dwelling density form and also reflects the spacious landscaped appearance of adjoining residential areas.**

**Principles of Development Control 5 & 6 as the proposal does not address the qualitative requirements for the Zone**

**Principle of Development Control 9 as the proposal does not contribute to the desired streetscape with the proposed dwellings being a minimum of 3 metres above street level.**

**Principles of Development Control 11, 16 & 21 as the proposed buildings will dominate the landscape with their bulk and scale in an elevated position above street level noting the land is adjacent land in a different zone on two boundaries and the desire to have transitional design on a site which abuts land zoned for lower density.**

**Principle of Development Control 22 as the proposal does not offer any affordable housing.**

**Council Wide**

**Design and Appearance**

**Objective 1 as the proposal does not respond to and reinforce the positive aspects of the local environment and built form.**

**Principles of Development Control 1, 2, 7, 9, 13, 21 & 23 as the proposed buildings are of a bulk and scale that do not reflect the desired character of the locality. The scale of the proposed structures on or near the boundaries impact on the visual amenity of the area and adversely alters the character of neighbouring properties and the area. The amount of earthworks proposed does not minimize the alteration to existing land form and the development will be visible from the South Eastern Freeway. Lastly there is no pedestrian entry point to the proposal.**

**Energy Efficiency**

**Principles of Development Control 1 & 2 as the residential flat building living areas will have limited solar access and their outdoor areas will have almost no sunlight.**

**Principle of Development Control 3 as there is no capacity for photovoltaic cells or solar hot water on the proposed roof structures.**

**Hazards**

**Principle of Development Control 27 (g) as the proposal has not demonstrated management of overland water flows and if natural drainage lines will be impacted.**

**Land Division**

**Principles of Development Control 6 (d), (h) & (j) as the proposal does not protect existing vegetation or preserve significant trees.**

**Principles of Development Control 7 & 8 as the residential flat building has limited solar access and does not have open space with any access to natural sunlight making those lots unsuitable for their intended residential density .**

**Principle of Development Control 11 as the proposal does not minimise the need for earthworks, maintain natural drainage, removes all the native vegetation on the site and proposes large retaining structures in close proximity to boundaries.**

#### **Natural Resources**

**Objectives 1, 4, and 8 and Principles of Development Control 17, 37, 38, 39, 46 as the proposal does not preserve any of the native vegetation existing on the site, has not demonstrated that natural drainage systems will be maintained, there is no water reuse proposed as part of the design nor is there any proposal to protect the quality of water runoff from the site.**

**Objective 10 and Principle of Development Control 49 as there is extensive land modification proposed.**

#### **Orderly and Economic Development**

**Principles of Development Control 9 as the proposal does not sufficiently address the site location as a transition between two zones, nor the potential for suitable private open space due to noise and sunlight issues rendering the site unsuitable for the proposed residential density.**

#### **Regulated Trees**

**Objectives 1 & 2 as the proposal does not conserve regulated trees on the land and the trees contribute to the character and visual amenity of the local area.**

**Principles of Development Control 1, 2 & 3 as the proposal does not minimise adverse impacts on the regulated trees on the land.**

#### **Residential Development**

**Objective 1 and Principles of Development Control 1 & 18 (g) as the proposal does not maximise solar orientation through the density of the proposed dwellings which results in full shade to the associated private open spaces of the six dwellings within the residential flat building in winter.**

**Principle of Development Control 4 as in context of the site and natural features the proposed landscaping does not achieve the same level of amenity and site enhancement as would a landscape design and development proposal that balances the retention of mature native vegetation with the introduction of additional plantings to complement existing and offset the removal of some native vegetation.**

#### **Siting and Visibility**

**Principle of Development Control 1 as the proposal does not minimise visual impact on the natural character of the area.**

**Principle of Development Control 2 as the proposal is not unobtrusive and proposes removal of all native vegetation on the site.**

**Principles of Development Control 4 & 6 as the proposal does not minimise earthworks or visual impact of the development in the locality.**

**Principle of Development Control 9 as the proposed driveway does not blend sympathetically with the landscape to minimise interference with natural vegetation.**

**Sloping Land**

**Objective 1 and Principle of Development Control 1 as the proposal is not considered to integrate sympathetically with the natural topography of the land with the need for substantial earthworks and retaining walls and the proposed driveway does not integrate sufficiently with the natural topography of the land to avoid impact on street trees  
Principle of Development Control 3 as the proposal is not designed to sufficiently minimise the visual impact, the bulk of the buildings and structures, minimise cut and fill, minimise the need for retaining walls and it has not been demonstrated that the proposal will protect the development from the impact of overland drainage flows.**

**9. ATTACHMENTS**

Locality Plan

Proposal Plans

Application Original Supporting Documentation including Traffic Report and CFS Advice

Additional Information including Native Vegetation Clearance Report & Acoustic Report

Applicant's Additional Planning Report & Architectural Statement

Additional Planning Consultant Review

Stormwater Calculations

Referral Responses

Representations

Applicant's response to representations

Publically Notified Plans

Respectfully submitted

Concurrence

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

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

**COUNCIL ASSESSMENT PANEL MEETING  
8 July 2020**

**AGENDA – 9.2**

<b>Applicant:</b> David Freschi	<b>Landowner:</b> D E & T L Freschi
<b>Agent:</b> N/A	<b>Originating Officer:</b> Sam Clements
<b>Development Application:</b>	20/321/473
<b>Application Description:</b> Variation to Development Authorisation 17/262/473- to vary conditions 5 & 8 pertaining to capacity, number of functions & hours of operation, to include toilet block & store room additions onto the cellar door, to amend the deck to freestanding and increase the area of deck & to make alterations to the car park	
<b>Subject Land:</b> Lot:2 Sec: P978 FP:130666 CT:5756/921	<b>General Location:</b> 159 Ridge Road Ashton  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 8 August 2019 <b>Map AdHi/3</b>	<b>Zone/Policy Area:</b> Hills Face Zone
<b>Form of Development:</b> Merit	<b>Site Area:</b> 15.98Ha
<b>Public Notice Category:</b> Merit Category 3	<b>Representations Received:</b> 1
Notice published in The Advertiser on 8 May 2020	<b>Representations to be Heard:</b> 1

**1. EXECUTIVE SUMMARY**

The purpose of this application is to vary development authorisation 17/262/473. The proposal seeks to vary conditions 5 and 8 pertaining to the cellar door and functions capacities, the number of functions and the hours of operation. The variation also includes some additional building alterations and a small addition to the authorised cellar door to provide toilets and a store room, to detach and increase the area of a deck and to make alterations to the approved car parking area.

The original application 17/262/473 which this application seeks to vary was described as:

*Change of use from horticulture building to cellar door sales outlet (shop), including ancillary functions (maximum of 3 per calendar year), associated building alterations, attached deck, car parking area & freestanding advertising sign (maximum height of 1m) (non-complying)*

The subject land is located within the Hills Face Zone. The original application (17/262/473) was treated as non-complying as a shop is listed as such in the Hills Face Zone. This variation proposal does not change this or re-trigger any other non-complying criteria and is therefore treated as on merit. However, it was necessary to once again undertake Category 3 notification as some of the variations proposed relate to aspects raised in previous representations. One representation in opposition to the variation proposal was received during the Category 3 public notification period.

The proposal variation seeks to slightly intensify an authorised cellar door use, vary some the proposed building alterations and include some small scale additions. The additions are considered to be complementary to the existing shed which is being converted into a cellar door with stormwater and wastewater considered to be appropriately managed. This cellar door with an increased capacity of 25 persons and limited hours of operation is considered to be a small scale tourism development that will not over commercialise or overwhelm this rural natural locality. The increase to numbers and the addition of a storage room and toilets will help contribute to the longevity of the primary production value adding use.

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

The main issues relating to the proposal are visual impact, wastewater management and car parking.

As this is variation application, please note that the Council Assessment Panel can only consider the varied elements of the proposal and cannot impose a new condition or vary an existing condition with respect to matter that does not fall with the ambit of the application for variation.

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 variation to development authorisation 17/262/473 includes the following:

- To vary conditions 5 and 8, namely:

### Condition 5

- To increase the capacity of the cellar door from a maximum of 20 persons to a maximum of 25 persons
  - To increase the number of ancillary functions/events from a maximum of three (3) per calendar year to six (6)
  - To increase the capacity of the of the 6 proposed functions/events from 50 to 75 persons
- ### Condition 8
- To change the hours or times when the functions/events can be held from:  
Saturday, Sunday & Monday only 10.00am to 5:00pm to Thursday to Monday 11.00am to 5.00pm

- Changes to the building alterations, namely a sliding door on the north elevation increased in width (double glass doors to triple bi-fold doors) and on the southern elevation inclusion of an additional glass sliding window and relocation of the double insulated barn doors
- A small addition to the authorised cellar door to provide dedicated toilets and a store room. The authorised cellar door did not include nor was it a requirement under the Building Code of Australia (BCA) to provide toilets or wash basin (just a portaloos) as it was limited to 20 persons

- Include a sink with the tasting bench space and install a waste control system as per the wastewater authorisation 20/W101/473 to service the this building
- The store room addition is 10m<sup>2</sup> and the toilet block addition is 19m<sup>2</sup>, totalling 29m<sup>2</sup>
- The addition has a wall height of 2.7m and skillion roof form with a minimal pitch
- The small authorised deck attached to the cellar door is proposed to be amended to detached (freestanding) and increased in area from 4.6m<sup>2</sup> to 40m<sup>2</sup>
- Alterations to the approved car parking area to decrease the number of car parks from 20 to 15 and include one disabled car park

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
13 January 1989	88/296/030	Water Tank
10 March 2004	03/535/473	Change of use- apple orchard to vineyard
17 January 2006	05/223/473	Alterations and additions to detached dwelling
06 June 2018 (DPC only- extended to June 2021)	17/262/473	Change of use from horticulture building to cellar door sales outlet (shop), including ancillary functions (maximum of 3 per calendar year), associated building alterations, attached deck, car parking area & freestanding advertising sign (maximum height of 1m) (non-complying)

### 4. REFERRAL RESPONSES

- **AHC EHU**  
 Council’s Environmental Health Officer has granted approval to install a waste water treatment system (refer 20/W101/473).  
 This waste water approval is included as **Attachment – Referral Responses**.

## 5. CONSULTATION

The application was categorised as a Category 3 form of development in accordance with Section 38(2)(c) of the Development Act 1993 requiring formal public notification and a public notice. Also, in accordance with Section 39 (7)(c), the variations proposed has been determined to relate to aspects of representations submitted on the original application. Of note, these previous representations withdrew their representation and their request to be heard.

One representation was received from an adjacent property owner opposing the variation proposal.

The following representor wishes to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Kym and Sophie Nitschke	141 Ridge Road Ashton	Peter Meline

The applicant or their representative may be in attendance.

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

Issue	Validity
Noise nuisance from the cellar door and functions	Can only be considered to the extent that the variation increases the number of functions, the hours of cellar door and capacities, and therefore also the minor increase in traffic generation. The proposal does not include any entertainment/music, including for functions
The addition to shed (cellar door) will detract from the high visual amenity and natural land character in the locality and Hills Face Zone.	Valid- However, only the variations to the building alterations, the toilet and store room additions and deck can be considered
Car park in the middle of the CFS track and the obtrusive placement of driveways and car parking	Not considered to be valid. The car park location on the southern side of the internal driveway has not been amended. Driveway location are not proposed to be amended and irrespective existing driveway areas are utilised
Loss of visual amenity to representors due to the proposal addition	Valid- as above
Devalue the representors property	Not a valid planning consideration
Loss of privacy	Can only consider the variations to the building openings, additions, deck and whether the small increase in numbers results in a loss of privacy

Increased traffic and lack of a traffic and car parking report	Can only consider to the extent that the patron numbers are proposed to increase by 5 persons and the increased number of functions by 25 persons
Advertising	Not valid - not varied as part of this proposal
Effluent management- patronage	Valid - however, a sink and toilet facilities are proposed and wastewater is to be directed to an approved wastewater system with capacity restrictions
Disabled Access	Not valid - BCA issue. The proposal includes a universal access toilet
Watershed protection	Valid- however the subject site is outside the watershed area
Light spill	Only in respect to outdoor lighting for the proposed addition. Noting the proposed hours of operation, it is unclear why this has been raised
Stormwater management	Only valid in respect to the proposed additions and relocated larger deck

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

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

## 6. PLANNING & TECHNICAL CONSIDERATIONS

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

### i. The Site’s Physical Characteristics

The subject land is 15.98 hectares in area and is developed with a dwelling, vineyard, water storage tank and horticultural building, which has planning authorisation to be converted into a cellar door. Approximately 10 hectares of the land is covered in native vegetation and 3.4 hectares in vineyard.

The land is quite steep with the existing horticultural building is located on a higher portion of the land lying between two ridgetops. This building is approximately 7 metres below the ridgetop at the front of the site and 10 metres below the ridgetop where the forest of native vegetation starts and, where the water storage tank is located. The horticultural building is located approximately in the middle of the vineyard area.



ii. The Surrounding Area

The surrounding area consists of allotments used for rural residential and primary production purposes (grazing and horticulture). Allotments on the northern side of Ridge Road are located within the Hills Face Zone, whilst allotments on the southern side of Ridge Road are located within the Watershed (Primary Production) Zone.

iii. Development Plan Policy considerations

a) *Zone Provisions*

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

- *The natural character preserved and enhanced*
- *To accommodate low intensity agricultural activities*
- *Buildings designed to preserve and enhance the natural character, minimise visual intrusion & not create a demand for the provision of services at a cost to the community*

The following are considered to be the relevant Zone provisions:

*Objectives: 1 & 2*

*PDCs: 1, 2, 3, 4, 8, 9, 10 & 11*

Accordance with Zone

Due to the higher positioned land to the west, the existing horticultural building to be converted into a cellar door is not visible from the Adelaide Plains. The proposed variations, namely the additions to the building will not be visible from the Adelaide Plains. There will be no impact to the native vegetation which forms a natural backdrop on the site, which is approximately 100m from the existing horticultural building. The proposed additions are very modest and small scale will not result in a negative visual intrusion when viewing the site from roads or, generally within the zone. The proposed additions will improve the visitor/customer experience when attending the cellar door and may impact positively on the longevity of the cellar door as a value adding use associated with the agricultural activity (viticulture) on the land. The proposed variation is considered to be consistent with the Objectives 1 and 2, and PDCs 1 and 10 of the Zone.

As mentioned, the toilet block and store room additions are modest in area and scale and only minor levelling of the land would be required to accommodate such. The proposal accords with PDC 2.

The proposed variations result in the need for wastewater to be managed on-site. This wastewater system has been approved by Council Environmental Health team and therefore it has been verified that it has been appropriately setback from water resources, namely bores, dams and watercourses. The proposal will not result in pollution of or exploitation of underground or surface water resources. The rainwater tank plumbed to the roof drainage should provide sufficient water supply for toilet flushing and washing of glasses/dishes. The minor amount of levelling to accommodate the additions will not cause erosion issues or unacceptable risk of land slip. The location of the car parking area is not proposed to change, just the spacing of car parks and the inclusion of the car park space for persons with a disability, which

results in the reduction of 5 spaces. This greater spacing of car parks will not detract from the landscape character and visual amenity of the zone. The proposal is considered to be consistent with PDCs 3, 4 and 9.

As mentioned, the proposed small additions are single storey with a 2.7 metre wall height and are therefore considered low profile. The proposal accords with PDCs 8 and 11.

*b) Council Wide provisions*

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

- *Orderly and Economic Development*
- *Development of a high design standard and appearance*
- *Protection of scenically attractive areas and natural and rural landscapes*
- *Tourism development that is environmentally sustainable that sustains or enhances local character, visual amenity and appeal of the area*
- *Development that provides sufficient off street parking*

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

*Design and Appearance*

*Objectives: 1*

*PDCs: 1, 3 & 8*

As mentioned, the proposed variations to include some single storey additions and a larger freestanding deck are considered to be small in scale. The appearance of the additions is simple but complements the conversion of an old corrugated iron shed/horticultural building into a cellar door. The proposed variations will widen and include more openings and coupled with the small additions will provide greater articulation and variation to the existing wall and roof lines. The proposal is considered to be consistent with Objective 1 and PDC 1. Given the external wall cladding is to match the existing it will be galvanised iron with a corrugated profile. Whilst this material initially can be reflective, it will fade over time. The proposed additions are low profile with a 2.7m wall height and low pitch skillion roof. Given this material section complements the existing, and that the additions are quite small, the material selection is considered appropriate. It is noted that the representors dwelling and outbuilding roofs are zincalume. The proposal's variance with PDC 3 is not considered fatal, but despite this the applicant is willing to amend the external material to a dark Colorbond® if deemed necessary by the CAP. The proposal is consistent with Objective 1 and PDCs 1 and 8.

*Natural Resources*

*Objectives: 13 & 14*

*PDCs: 1, 2, 5, 10 & 17*

As mentioned, the proposed variations to the authorised conversion of the horticultural building to a cellar door do not adversely impact on the scenic quality of this natural landscape. The proposal is considered to be consistent with Objectives 13 and 14, and PDCs 1 and 5. As detailed above, wastewater will be appropriately

managed on the site as it will be directed to an approved wastewater system. The proposal is consistent with PDC 2.

Stormwater from the existing shed roof area is directed to a water storage tank. Noting there is no mains water the additions are also likely to be plumbed to the water storage tank. Noting the small increase to roof area this can be addressed via a condition of consent (refer recommended condition X). The proposal should achieve consistency with PDCs 10 and 17.

Orderly and Sustainable Development

*Objectives: 1 & 3*

*PDCs: 1 & 3*

The proposed variations and overall development is considered to be orderly and economic development, as it involves the repurposing of an existing building. The increased capacity of the cellar door and functions will allow for more customers and the inclusion of toilets and sink within the tasting area are practical inclusions that will enhance the visitor's experience. These variations could therefore be considered to improve the sustainability of the primary production value adding use. The proposal is considered to accord with Objective 1 and PDC 3.

As discussed in the zone assessment, the proposal does not impact on the primary Objectives of the Hills Face Zone to preserve natural character and the backdrop of Metropolitan Adelaide. The proposal is considered with PDC 1.

The proposed variations do not alter the original assessment in that the proposal does not jeopardise the continuance of the adjoining authorised land uses. Despite the increase to hours of operation, capacity, the number of functions and their capacity, the proposed cellar door and ancillary functions are considered to be very small scale. The proposal is consistent with Objective 3.

Siting & Visibility

*Objectives: 1*

*PDCs: 1, 4, 6, 7 & 10*

The assessment against these provisions is largely a repeat of assessment in the 'Design and Appearance' section above. The proposal is considered to accord with Objective 1, and PDCs 1 and 6. As detailed above, the use of galvanised iron cladding is not considered to be a fatal variance. In addition, it is not considered necessary for the building to be screened by establishment of landscaping. The proposal does not accord with PDCs 7 and 10 due to the material selected.

As only minor levelling is required for the additions, the proposal is considered to accord with PDC 4.

Tourism Development

*Objectives: 1, 2, 4 & 6*

*PDCs: 2, 3, 7, 9 & 11*

The provisions are only relevant to the extent that the variation proposes to slightly intensify the authorised cellar door use with ancillary functions and the visual impact of the proposed additions. The proposed variations result in the cellar door being more environmentally sustainable with dedicated toilets and an approved on-site wastewater system. The proposal accords with Objective 1. The additions to the cellar door will complement and improve the appearance the building and will not detract from the visual amenity and appeal of the area. The proposed tourist development does not involve any native vegetation impact and visitors will be able to appreciate the picturesque vineyard and natural landscape. The proposed variations to slightly increase the number of functions and capacity of these functions and the cellar door, increases vitality into this locality and region whilst still being of scale that will not overwhelm or over commercialise it. As detailed above, the additions to the existing horticultural building to be converted to a cellar door are small scale and will not detract from the character of the locality. The proposal is sufficiently consistent with all the 'Tourism Development' Objectives and PDCs.

Transportation & Access

*Objectives: 2*

*PDCs: 33, 34, 35 & 41*

As detailed above, the proposal seeks to reduce the number of car parks to create a more spacious car park area and also to accommodate a car park space for people with a disability. Applying the shop car parking rate of 5.5 spaces per 100m<sup>2</sup> or even a restaurant rate of 1 per 3 seats/patrons the proposal still provides sufficient car parking for the cellar door with the proposed additions and larger deck area (total of 192m<sup>2</sup>). As detailed above, 15 car parks have been provided and based upon the shop car parking rate (the greater rate) the proposal development should provide 11 on-site car parks. The overflow parking for the infrequent events can be accommodated within grassed areas either side of the driveway or in headland areas. A condition that requires all car parking to be within the site for events/functions and the grass to be kept to 10cm in the bushfire season is recommended (see **recommended condition 5**). The proposal is considered to accord with Objective 1 and PDCs 33, 34, 35 and 41.

## **7. SUMMARY & CONCLUSION**

The proposed variation seeks to slightly intensify an authorised cellar door use, vary some of the proposed building alterations and include some small scale additions. The additions are considered to be complementary to the existing shed approved to be converted into a cellar door and will not detract from the natural rural character of the locality nor compromise views of the site from Ridge Road. The subject building and proposed addition will not be visible from Metropolitan Adelaide. The proposal is consistent with the Objectives of the Hills Face Zone.

Stormwater and wastewater generated from the development are to be appropriately managed and the number of car parks provided on site is considered to be sufficient. This cellar door with an increased capacity of 25 persons, limited hours of operation and limited function numbers is considered to be a small scale tourism development that will not over commercialise or

overwhelm this rural natural locality. The increase to numbers and the addition of a storage room and toilets will improve viability and the visitor experience, and will therefore help contribute to the longevity of this primary production value adding use.

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 20/321/473 by David Freschi for Variation to Development Authorisation 17/262/473- to vary conditions 5 & 8 pertaining to capacity, number of functions & hours of operation, to include toilet block & store room additions onto the cellar door, to amend the deck to freestanding and increase the area of deck & to make alterations to the car park at 159 Ridge Road Ashton subject to the following conditions:

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

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

- Correspondence prepared by David Freschi of Casa Freschi received by Council 28 April 2020
- Correspondence prepared by David Freschi of Casa Freschi received by Council 31 March 2020
- Site plan (sheet 5 of 5), part site plan (sheet 4), floor plan (sheet 1 of 5) & elevations (sheets 2 & 3 or 5) prepared by Crafers Building Design received by Council 31 March 2020

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

### (2) Previous Plans & Details Still Apply

Except where varied by this authorisation, all other conditions, plans and details relating to Development Authorisation 473/262/17 continue to apply to this amended authorisation.

**REASON:** To ensure all valid conditions are complied with.

### (3) Overall Capacity

At any one time, the overall capacity of the cellar door shall be limited to a maximum of twenty five (25) persons only, with the exception of the six (6) events per calendar year where the capacity shall be limited to a maximum of seventy five (75) persons. This capacity restriction includes any associated outdoor areas.

**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.

**(4) Opening Hours - Cellar Door with Pre-Booked Events**

The cellar door opening hours and the six (6) events per calendar year shall be restricted to the following:

Thursday to Monday only – 11.00am to 5.00pm

**REASON:** To ensure that neighbouring properties are not impacted negatively by this development.

**(5) Overflow Car Parking**

Overflow car parking associated with pre-booked events shall be kept to within the confines of the subject land. Any grassed areas designated for overflow car parking shall be kept to a maximum of 10cm in bushfire danger season.

**REASON:** To ensure car parking is accommodated for on-site and no traffic safety issues occur when pre-booked events are held.

**(6) 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 management satisfaction of Council using design techniques such as:

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

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

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

**(7) External Finishes to Match Existing**

External finishes shall be of materials and colours to match or complement those of the existing building (to be converted into a cellar door) to the reasonable satisfaction of Council.

**REASON:** To maintain and enhance the visual amenity of the locality.

## NOTES

### (1) Expiry Date of Variation

This development authorisation to vary the original authorisation is valid for a period not exceeding that of the original authorisation (6 June 2021). This time period may be further extended for a short 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 and will be required to be paid for both the original authorisation and the variation authorisation.

Please refer to page two (2) of this form (Notes for Applicant blue box) for information on changes to the planning system and potential changes to extensions of time requests.

### (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.

## 9. ATTACHMENTS

Locality Plan  
Proposal Plans  
Application Information  
Referral Responses  
Representation  
Applicant's response to representations  
Decision Notice 473/262/17  
Approved Plans 473/262/17

Respectfully submitted

Concurrence

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**Sam Clements**  
Team Leader Statutory Planning

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**Deryn Atkinson**  
Manager Development Services

**COUNCIL ASSESSMENT PANEL MEETING**  
**8 July 2020**  
**AGENDA – 9.3**

<b>Applicant:</b> Goodhouse Pty Ltd	<b>Landowner:</b> R D Routley
<b>Agent:</b> N/A	<b>Originating Officer:</b> Doug Samardzija
<b>Development Application:</b>	19/1054/473
<b>Application Description:</b> Two storey dwelling alterations & additions, deck (maximum height 3m)	
<b>Subject Land:</b> Lot:1 Sec: P88 DP:79759 CT:6031/117	<b>General Location:</b> 7 Beadnell Crescent Bridgewater  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 8 August 2020 <b>Map AdHi/1 , 30 &amp; 74</b>	<b>Zone/Policy Area:</b> Country Living Zone & Country Living (Bridgewater) Policy Area
<b>Form of Development:</b> Merit	<b>Site Area:</b> 3200m <sup>2</sup>
<b>Public Notice Category:</b> Category 2 Merit -	<b>Representations Received:</b> 1  <b>Representations to be Heard:</b> Representor heard at previous CAP meeting- 10 June 2020

**1. EXECUTIVE SUMMARY**

The purpose of this application is to construct a two storey addition to an existing single storey dwelling. The proposal includes a two storey addition above the northern end of the dwelling. The addition will include alterations to the ground floor plan by changing one of the bedrooms into an entry point and a stairwell. The upper level will include a master bedroom, additional living area and a small balcony.

At the 10 June 2020 meeting, the Council Assessment Panel deferred consideration of this development application to enable the applicant to explore options for inclusion in the development proposal to ameliorate overlooking and impact on the privacy of the neighbouring property at 9 Beadnell Crescent, Bridgewater.

The minutes of the 10 June 2020 meeting are included in the attachments.

Following the above resolution, the applicant has responded with amended plans and a letter outlining the introduction of adjustable louver slats on the eastern facing window which would be 200mm wide and extend 2.4m in height above the finished floor level and would be limited to an opening angle of 200mm in width at a 65 degree angle.

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. DISCUSSION/ASSESSMENT OF THE APPLICANT'S RESPONSE

At the 10 June 2020 meeting, the Council Assessment Panel considered and deliberated on the two storey addition proposal at 7 Beadnell Crescent, Bridgewater. Concerns were raised about the potential overlooking into neighbouring property at 9 Beadnell Crescent and these concerns were also outlined by the representor in her presentation. The determination of the proposal was deferred to allow the Applicant to explore options to ameliorate overlooking and impact on the privacy of the neighbouring property. The minutes from the meeting are included in Attachment – Minutes from 10 June 2020 CAP Meeting.

The Applicant has now submitted amended plans as well as a letter outlining the proposed changes to the two storey addition to include operable slates to the eastern facing upper level window to alleviate overlooking concerns towards the neighbouring property at 9 Beadnell Crescent, Bridgewater.

The operable slates are proposed to be installed the entire width of the window and to a height of 2.4m from the finished floor level of the upper level addition. The Applicant has outlined that by limiting the opening angle of the 200mm wide slats to 65 degrees this would allow for effective control of unwanted eastern summer solar access but also prevent overlooking into the adjoining property. In view of the additional measures that have been incorporated into the design, it is considered that the proposal satisfies PDC 18 within the Design & Appearance section of Development Plan which seeks that development minimises direct overlooking of the main internal living areas and areas of private open space of neighbouring properties by offsetting the location of balconies and windows so that the views are oblique rather than direct, by setting the building away from boundaries and incorporating screening where appropriate. An additional condition has also been included requiring that the screening to be installed prior to occupation of the upper storey addition. (Refer to recommended condition 6).

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

## 3. SUMMARY & CONCLUSION

The Applicant has provided revised drawings with adjustable louvre slats included to the upper level eastern facing window which demonstrates that it will provide effective screening and prevent overlooking into adjoining neighbouring property at 9 Beadnell Crescent, Bridgewater. The slats have also been designed in a way that will blend in and complement the rest of the building work.

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.

#### 4. 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 19/1054/473 by Goodhouse Pty Ltd for Two storey dwelling alterations & additions, deck (maximum height 3m) & associated earthworks at 7 Beadnell Crescent Bridgewater 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 prepared by Goodhouse, drawing number A1.0, dated 12/06/2020
- Amended existing house floor plan prepared by Goodhouse, drawing number A1.1, dated 10/12/2019 and date stamped by Council 12/06/2020
- Amended proposed ground floor plan prepared by Goodhouse, drawing number A1.2, dated 10/12/2019 and date stamped by Council 12/06/2020
- Amended upper level floor plan prepared by Goodhouse, drawing number A1.2.1, dated 10/12/2019 and date stamped by Council 12/06/2020
- Amended roof plan prepared by Goodhouse, drawing number A1.3 dated 10/12/2019 and date stamped by Council 12/06/2020
- Amended north and east elevation drawings prepared by Goodhouse, drawing number A2.0, dated 10/12/2019 and date stamped by Council 12/06/2020
- Amended south and west elevation drawings prepared by Goodhouse, drawing number A2.1, dated 10/12/2019 and date stamped by Council 12/06/2020

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

(2) Residential Lighting

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

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

(3) External Finishes

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

WALLS: Mixture of timber cladding and Hiland Tray cladding in Colorbond Monument or similar

ROOF: Hiland Tray cladding in 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.

(4) **Firefighting Water Supply - Mains Water Supply Available**

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

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

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

(5) **Stormwater Overflow Directed To Water Course**

All roof runoff generated by the development hereby approved shall be directed to a rainwater tank with overflow directed via a sealed system to the watercourse at the rear of the property to the satisfaction of Council within one month of the roof cladding being installed. Erosion protection shall be provided at the stormwater discharge point. All roof and hard paved water runoff shall be managed to prevent trespass onto adjoining properties.

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

(6) **Upper Level Window Screening**

The eastern facing upper level window of the dwelling shall be fitted with adjustable louvre screening slates to a height of 2.4m from the finished floor level of the upper level addition and shall be limiting to an opening angle of 65 degrees. The screening shall be installed prior to occupation of the upper storey addition and maintained in good condition at all times.

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

## NOTES

(1) **Development Plan Consent Expiry**

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

Please refer to page two (2) of this form (Notes for Applicant blue box) for information on changes to the planning system and potential changes to extensions of time requests.

(2) **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.

(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.

## 9. ATTACHMENTS

Locality Plan  
Minutes – 10 June 2020 CAP Meeting  
Applicant's Response and Amended Plans

Respectfully submitted

Concurrence

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**Doug Samardzija**  
Statutory Planner

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**Deryn Atkinson**  
Manager Development Services