

COUNCIL ASSESSMENT PANEL MEETING

14 April 2021

AGENDA – 8.1

Applicant: Bridgewater Inn	Landowner: Tweeddale Nominees Pty Ltd
Agent: Future Urban	Originating Officer: Melanie Scott
Development Application:	20/1302/473
Application Description: Alterations & additions to commercial premises (hotel) including a deck (maximum height 3.5m), associated earthworks & change to licensed area plan	
Subject Land: Lot:19 Sec: P1141 FP:103906 CT:6124/77	General Location: 387 Mount Barker Road Bridgewater Attachment – Locality Plan
Development Plan Consolidated: 8 August 2019. Maps AdHi/30 &74	Zone/Policy Area: Neighbourhood Centre Zone - Neighbourhood Centre (Bridgewater) Policy Area, Watershed (Primary Production) Zone - Rural Landscape Policy Area
Form of Development: Merit	Site Area: 13,100m ²
Public Notice Category: Category 2	Representations Received: 5 Representations to be Heard: 4

1. EXECUTIVE SUMMARY

This application proposes alterations & additions to the Bridgewater Inn (hotel) involving a new dining/function room, expanded kitchen and bar facilities, two terraced (decked) areas, two verandahs, a storage area and associated earthworks. The existing built form is 1,444m² and the proposed built form is 1,622m². As a Local Heritage Place the demolition of a shed, terrace areas and pergola are also being considered as part of the subject application. In addition, an amended liquor licence will result in an expanded licensed area, however in response to the representations and Council commentary regarding parking, the applicant has proposed an overall reduction in maximum patron numbers (700 persons to 646 persons).

The subject land is located within the Neighbourhood Centre Zone - Neighbourhood Centre (Bridgewater) Policy Area and the Watershed (Primary Production) Zone - Rural Landscape Policy Area and the proposal is a merit form of development. Pursuant to Schedule 9 part 2 of the Development Regulations 2008, as the land is adjacent land in another zone the development was subject to Category 2 public notification. The proposed development area is on that portion of the land in the Neighbourhood Centre Zone. Five 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 applications where representors wish to be heard.

The main issues relating to the proposal are impacts on the character and setting of the local heritage place, the overall design and appearance of the proposal, the impact on Cox Creek particularly flood impacts, amenity concerns for neighbouring residential properties including the impacts of car parking, noise, anti-social behaviour and light spill, in addition to earthworks and stormwater management.

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

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- Demolition of an existing storage shed, lower terrace, stage and upper terrace including pergola on-site to support the proposed development.
- Internal Alterations comprising the following:
 - Lower Level – refurbished toilets and amenities, kitchen facilities, cool rooms and the installation of a new lift.
 - Upper Level – the new lift and additional seating to create a bar/dining area facilitated by the reduction in the size of the gaming room.
- Additions including new dining/function room and 3 terrace areas detailed as follows:
 - 200 square metre dining/function room with small deck space;
 - 200 square metre 'upper terrace' partially covered outdoor dining area;
 - 50 square metre 'sunken terrace' covered outdoor dining area; and
 - 220 square metre 'lower terrace' outdoor dining area.
 - 72 square metre Covered Storage Area
- External Materials – The applicant has selected contemporary and robust materials which complement the historic part of the hotel. The palette of materials for the new additions includes sandstone blockwork, render finished masonry, timber batten screening, and steel and aluminium elements in grey tones.
- Earthworks – The proposed development responds to the slope of the land, reducing the need for earthworks associated with the building. The extent of proposed earthworks are not clear from the architectural drawings hence the recommended condition requiring a civil plan and associated soil drainage and erosion management plan. It is noted that finished levels have been set in accordance with the hydrological study submitted with this proposal.
- Hotel Liquor Licence – an amendment has been sought to expand the licensed area to include the proposed additions, whilst at the same time reducing maximum patron numbers down from 700 to 646 at any one time. However, the hours of operation will not be altered which are as follows:

Areas 1 to 6

Monday to Saturday
Sunday
Christmas Day

Midnight to 2am the following day
8am to 11am and 8pm to midnight
midnight to 2am

Area 7

Monday to Thursday
Friday and Saturday
Sunday
Christmas Day

9am to midnight
9am to 2am the following day
9am to midnight
Midnight to 2am

Area 9

Sunday

8am to 11am & 8pm to 10pm

For consumption OFF the licensed premises:

Area 8 (bottleshop)

Sunday (excluding Christmas Day) 8am to 11am and 8pm to 9pm

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
29 August 2014	14/625/473	Double glaze windows to local heritage place
11 December 2009	09/994/473	Extension to floor area of existing hotel
22 April 2009	09/139/473	Internal alterations to gaming area of existing hotel
7 July 2006	06/382/473	Variation to 05/942/473 condition 6 to use deck as outdoor dining (60 persons)
21 December 2005	05/942/473	Alterations to existing hotel – outdoor dining deck and verandah area
18 June 2001	01/646/473	Erection of sign
5 April 2001	01/366/473	Demolish a wall
30 March 2001	01/213/473	Significant tree removal 8 willows
19 June 1998	98/320/473	Internal Alterations to Hotel
23 March 1995	95/114/330	Internal Alterations to Hotel
23 April 1997	96/469/330	Advertising Display
28 August 1981	14053/1722	Extension to Bottle Shop
27 November 1981	4211/1884	Pergola for Beer Garden
29 March 1976	76/10346	Additions to Bridgewater Hotel (Stage 2)
3 February 1975	75/9536	Alterations and additions to Hotel

4. REFERRAL RESPONSES

- LOCAL HERITAGE ADVICE**

Heritage value assessment

The hotel is a substantial two storey building constructed of random rubble stonework, now painted. The front facade is dominated by two wings which frame a balcony with timber balustrading. The hipped roof is clad with corrugated iron and finished with rendered chimneys. At ground level several alterations appear to have been made to the building to accommodate such elements as a bottle shop.

Statement of heritage value

This hotel was built in response to the re-routing of the road from Mount Barker to Adelaide and was constructed prior to the establishment of the township of Bridgewater by John Dunn. The township took its name from the Inn. The Bridgewater Inn was deemed to meet criteria (a), (c) and (e). It is a landmark in the locality (Stirling District Heritage Survey).

Heritage advice

The proposed additions will not impact on heritage values of the existing hotel building, as they are located to the rear and are of a lower scale due to the site topography, and therefore will not visually dominate significant views of heritage value from the street. There are minor alterations to the existing building, but none that impact on elements of heritage value. The works will also maintain the ongoing use of the place which is appropriate.

Based on the above advice it is considered that there are no heritage issues with the proposed works.

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

5. CONSULTATION

The application was categorised as a Category 2 form of development as the site of the development is adjacent land to land in a zone which is different to the zone that applies to the site of the development (Schedule 9, Part 2, Clause 19 of the regulations). Five (5) representations were received, all of whom oppose the proposal. The representations were all from adjacent properties.

The following representors wish to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Louise L'Oste-Brown	9 Lake Street Bridgewater	Self
Reverend Alexander and Gillian Stevenson	7 St Matthew's Place Bridgewater	Self
Anthony Smith and Emma Martin	384 Mount Barker Road Bridgewater	Self
Father Alfred Farrugia – Adelaide Hills Catholic Parish	1 Wembley Avenue Bridgewater	Self

The applicants and their representative – Future Urban may be in attendance.

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

- Car parking and traffic – capacity and increased traffic volumes on surrounding streets.
- Amenity impacts – noise, anti-social behaviour and light pollution.
- Stormwater – management techniques.

Whilst not suggesting the following would overcome the concerns, the persons making representations have expressed a desire for the following to be addressed:

- Demonstrate how car parking demand will be met.
- Demonstrate how noise impacts will be mitigated through sound attenuation measures to ensure they meet the relevant EPA Noise Policy Guidelines.
- Demonstrate how anti-social behaviour will be mitigated and managed.
- Demonstrate how stormwater will be managed to ensure that the development has a net neutral/positive impact with regards to site hydrology.

These issues are discussed in detail in the following sections of the report. A supplementary parking assessment, an acoustic report and a reduction in patron numbers was offered as a response to representations.

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

6. PLANNING & TECHNICAL CONSIDERATIONS

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

i. The Site’s Physical Characteristics

The site at 387 Mount Barker Road, Bridgewater is situated on the northern side of Mount Barker Road. Three easements are registered on the Certificate of Title, which include:

- right to use, stop and divert the water running in Cox’s Creek; and
- two easements along the rear of the site for water and sewer purposes, owned by the Minister of Infrastructure.

The site is irregular in shape with a primary frontage of 143.6 metres and has a total area of 13,100m². A total of three crossovers service the land via Mount Barker Road, each facilitating two-way vehicle movements.

The subject site is well vegetated and slopes up to the rear (north). A section of Cox Creek running west to east is contained entirely within the subject site. The High Bushfire Protection Area overlay applies to the site.

The site contains the two storey Bridgewater Inn and associated car parks. The Bridgewater Inn is a Local Heritage listed place. The floor area of the existing building is approximately 1,444m², comprising 672m² at the upper level and 772m² at lower level.

The subject site is serviced by 119 formal parking spaces, located to the west of the Hotel. Overspill car parking does occur to the east of the Hotel, however no legal right of way exists from the eastern crossover into this car parking area. As such, the 19 space capacity of this car park area has been removed from the formal car parking provision for the purposes of assessment.

ii. The Surrounding Area

The site of the proposal is at the interface of the Neighbourhood Centre Zone, the Watershed (Primary Production) Zone and the Country Living Zone. As such the locality has a varying character.

To the east of the subject land the State Heritage listed Bridgewater Mill and the Bridgewater Institute are key features, which contribute directly to the historic built form character within the immediate locality. The densely vegetated surrounds of the Mill and the Hotel, combined with the adjacent Lions Park creates a spacious and ambient setting for both the Mill and the Hotel, punctuated by dense native and exotic mature trees adjacent to Cox Creek.

To the south of the subject land non-residential development comprises the St Matthew’s Catholic Church located across Mount Barker Road. Surrounding the

Church, residential development takes on a standard Bridgewater character with smaller allotments in a rectangular shape. The dual frontage available to the residential allotments west of Wembley Avenue, has resulted in most dwellings fronting Driffield Road and not Mount Barker Road. The topography and mature vegetation along and adjacent this portion of Mount Barker Road generally screens residential development when viewed from the subject site and creates a natural setting common to this residential area.

A linear park along Cox Creek and the Adelaide to Melbourne rail line splits the northern and western locality. To the west a more rural residential character exists with larger allotments and residential proprieties concealed amongst mature vegetation. The extension of the subject land along Cox Creek creates a natural corridor and open space character before intersecting with the rail line. Across the rail line to the north of the subject site a similar rural residential allotment pattern is established within the Watershed Primary Production Zone. These allotments interface with the Country Living Zone where the character transitions to a more compact residential form bisected by the Heysen Walking Trail.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The proposed development lies wholly within the Neighbourhood Centre Zone - Neighbourhood Centre (Bridgewater) Policy Area and these provisions seek:

- Preservation of the small-scale atmosphere and attractive character and amenity of the Bridgewater area.
- A safe and convenient environment for the movement of both pedestrian and vehicular traffic within, and to and from the Policy Area.
- A centre providing a range of shopping, community, business, and recreational facilities for the surrounding neighbourhood.
- A centre that provides the main focus of business and community life and provides for the more frequent and regularly recurring needs of a community.
- Development that contributes to the desired character of the Policy Area and Zone.

It is noted that the western portion of the subject land is located within the Watershed (Primary Production) Zone - Rural Landscape Policy Area. No portion of the proposed development nor any critical site components, including the western car park are located within the Watershed (Primary Production) Zone. For this reason no further consideration has been given to specific policies within this Zone, other than potential interface impacts.

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

Objectives: 1, 2 & 3

PDCs: 1, 2, 3, 4 & 5

The proposal is consistent with the Desired Character of the Policy Area in that it is sited and designed in a way that respects the historic built form in the locality, as confirmed by Council's Local Heritage Advisor. In addition the proposal formalises the existing connection and outlook over Cox Creek behind the Bridgewater Inn, contributing to improved access for the public to this natural asset. This will ensure that this western portion of the Zone strengthens its appeal as a tourism destination at an appropriate scale and intensity. Based on the key criteria within the Desired Character Statement the proposal is considered to address PDC 1.

The proposal will not result in any amendments to the formal car parking and vehicular movement arrangements on the site. Pedestrian access behind the Bridgewater Inn will be improved for patrons seeking to enjoy the amenity afforded by the open space area. It is noted that accessibility throughout the site will be markedly improved through the installation of a lift and ramps in accordance with the relevant all access standards. The proposal is therefore considered to positively contribute to the achievement of PDC 2.

Council's Local Heritage Advisor considers that the proposal will not impact on heritage values of the existing hotel building (Bridgewater Inn), as it is located to the rear and of a lower scale due to the site topography. Based on this assessment it was concluded that the proposal will not visually dominate significant views of heritage value from the street. Based on the local heritage advice and the low visual impact of the proposal from the public realm and noting the adjacent State Heritage listed Bridgewater Mill, Council staff determined the proposal will not materially affect the context of the State Heritage place. In addition, the applicant has selected contemporary and robust materials which complement the historic part of the hotel. The palette of materials for the new additions includes sandstone blockwork, render finished masonry, timber batten screening, and steel and aluminium elements in grey tones. This palette of materials will enhance the setting of the historic building, yet due to the siting and scale, will do so in a manner that maintains its historic prominence in accordance with PDC 3 & 4.

The proposal is seeking to formalise and upgrade an area already used for outdoor dining/seating directly behind the Bridgewater Inn. This will improve accessibility for patrons and enhance the open character of the area. The proposal includes provision for landscaping and it forms a key feature of the design, ensuring that its visibility is tempered and complementary within this sensitive and natural creek side setting, in accordance with PDC 5.

The following are considered to be the relevant Zone provisions:

Objectives: 1, 2 & 4

PDCs: 1, 4, 6, 7, 8 & 9

Appropriateness of Proposal

A hotel is not listed as an envisaged land use within the Neighbourhood Zone and no explicit reference is made to hotels in PDC 1. However, it is considered that as a long standing use with links dating back to the establishment of the Bridgewater Township, that this proposal is entirely appropriate and reasonably anticipated based on Policy Area criteria. In addition, the Liquor Licence will see a reduction in capacity despite the formalised floor area increasing. As such the intensity of the land use is also considered appropriate and consistent with the current expectations of the site.

Desired Character Considerations

The proposal consists of minor alterations and a substantial addition to the existing Bridgewater Inn. The standard of the proposal as demonstrated by the detailed drawings and rendered imagery suggests that this will achieve a very high standard of architectural design, one that is likely to be regarded as iconic and serve to attract visitors to the area. The proposal responds to the topography of the site and integrates key landscape features including Cox Creek in a sensitive and thoughtful manner, capitalising on this unique creek side setting. Expert advice has been provided by the applicant that demonstrates that impacts including car parking, vehicle movements and noise can be reasonably mitigated (as discussed in more detail below). It is therefore considered that the proposal reasonably addresses the relevant criteria of the Zone Desired Character Statement and subsequently meets PDC 4.

Built Form

The proposal will result in an underutilised area being improved and formalised, as contemplated by PDC 6. The overall building height of the additions will not exceed a vertical height above 8 metres in accordance with PDC 7. As mentioned the proposal will result in the site having improved accessibility, contributing positively to the achievement of PDC 8. The proposal is located to the rear of the heritage building and is not considered to be visually dominant when viewed from the adjoining public realm along Mount Barker Road. When viewed from the adjacent park and car parking areas to the east of the subject site, due to the design responding to the topography, in combination with material selection and landscaping, the proposal is considered to complement and enhance the built form character of this western portion of the Zone, achieving the desires of PDC 9.

b) Council Wide provisions

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

- Development of a high design standard and appearance that responds to and reinforces the positive aspects of the local environment and built form.
- Orderly and economic development that creates a safe, convenient and pleasant environment in which to live in.

The following Council Wide provisions are considered relevant for this proposal:

Centres and Retail Development

Objectives: 1, 2, 3 & 4

PDCs: 2

The Bridgewater Inn provides a unique dining and entertainment facility that is considered of an appropriate scale within the Neighbourhood Centre. The increased floor area of the building will occur in tandem with an overall reduction of total patrons, in accordance with an amended liquor licence. This will ensure that the use retains an appropriate level of intensity while at the same time delivering an upgraded and improved facility, in accordance with PDC 2. The attraction of visitors to an upgraded facility may also have a positive flow-on impact for adjoining businesses and other centre zones in the wider region.

Crime Prevention

Objectives: 1

PDCs: 1 & 2

The formalisation of the outdoor seating areas and the addition of the elevated dining area, and upper-level windows, will assist in improving passive surveillance outcomes on the site, in accordance with PDC 1 & 2. This will be achieved through increased sight lines into adjoining public areas in an easterly, northerly, and westerly direction from within the Bridgewater Inn.

Design and Appearance

Objectives: 1

PDCs: 1, 4, 6, 7, 8, 9, 10, 16

The proposal is considered to achieve a high design standard with striking features such as a glass gallery that integrates the new additions with the historic building in a complementary manner. The design drawings and rendered imagery demonstrate how the building incorporates contemporary features and materials effectively to respond to heritage characteristics in the area. The topography of the site has been responded to in an appropriate manner, and this is considered to ensure that the height, mass and proportions of the proposal are appropriate and will not visually dominate the more prominent historic buildings in the locality. It is considered that the proposal achieves the desires of PDCs 1, 8 and 16.

Plant and equipment associated with the Bridgewater Inn is proposed to be consolidated to the western service yard and screened from public view under a new roofed area, in accordance with the broader objectives of PDC 4.

The existing transportable bar will be integrated into the outdoor seating area design and will appear to have a more permanent appearance, in accordance with PDC 6.

The design's response to the topography and utilisation of existing levels ensures that earthworks are minimised, and this also reduces impacts of overshadowing on account of the northern aspect of the site. The lower terrace seated area incorporates landscaping and provides integration with Cox Creek and the Heysen Trail and is

anticipated to enhance views from the trail. The above ensures consistency with PDCs 7, 9 & 10.

Energy Efficiency

Objectives: 1

PDCs: 1, 2 & 3

The proposal makes good use of the site's northern aspect, by orientating the dining/function room addition to receive direct sunlight. The large proportion of glazing across the Gallery area will also encourage natural light further into the historic part of the building. These features are likely to improve how the building performs from an energy efficiency perspective and generally improve amenity, in accordance with the desires of PDCs 1 and 2.

Hazards

Objectives: 1, 2, 3 & 4

PDCs: 1, 3 & 7

The site is located in a High Bushfire Protection Area and the proposed structures and additions to the existing building will be required to meet the requirements of the Building Code of Australia. Notwithstanding, the applicant has confirmed that they will accept a condition be placed on any subsequent Planning Consent that ensures the proposal complies with the Ministers Code. Council has chosen not to add such a condition.

In addition, in the event of a bushfire the applicant has confirmed the following:

- The CFS will be able to access the surrounds of the building with no large trees or vegetation to cause further impact.
- An emergency evacuation plan for the existing building will be updated.

With the above in mind, it is considered that the proposal can address the requirements of PDC 1.

With regard to flooding, the applicant engaged Tonkin Engineering to prepare a Flood Assessment. The assessment concluded that the proposal can satisfy PDC 3 by not increasing the risk of flooding to upstream properties, subject to compliance with the following recommendations:

- The proposed Dining and Function area is constructed with a minimum finished floor level of 382.35m AHD, such a level providing 300 mm freeboard to the calculated 100 year flood level.
- The Lower Terrace area is raised no higher than 381.2m AHD, with the area between the edge of the Terrace and current top of bank either remaining unfilled or battered down from the edge of Terrace to the top of bank. This will ensure that the development does not increase the risk of flooding to upstream properties, as required by the Development Plan.

The proposed plans reflect the abovementioned AHD levels for the proposed Dining and Function area and the Lower Terrace Area, with the former having a floor level of 383.01 AHD which is higher than the recommended floor level.

The lower terrace is proposed to contain non-fixed tables and chairs, which can be packed away in the event of a predicted flood. A condition will be included that addresses the need to remove all loose equipment following a forecasted flood event announcement (refer to Recommended Condition 6).

Heritage Places

Objectives: 1, 2, 3 & 4

PDCs: 1, 2, 3, 5 & 6

The proposal is considered to enhance the functionality and setting of the local heritage place, whilst maintaining its prominence on the site and its heritage values. This has been confirmed by the Local Heritage Advisor's referral response and demonstrates consistency with PDCs 1, 2, 3, 5 & 6.

With regard to the Bridgewater Mill it is considered that the proposal's response to the topography and subsequent scale, bulk and massing relative to the Mill, will have a negligible impact on the setting of this State Heritage Place.

Interface Between Land Uses

Objectives: 1 & 2

PDCs: 1, 2, 5, 6, 7, 9 & 10

A majority of the representors cited noise as a concern. In response to this the applicant engaged Sonus Acoustic Engineers to undertake an Environmental Noise Assessment (ENA) to determine the likely amenity impacts on surrounding residential properties. Current Hotel provisions and liquor licensing allows music to be performed at any level (including the existing outdoor area) within the constraint of EPA Noise Policy. Consequently this application presents an opportunity to address noise and the proposed new built form.

The ENA report considers the noise associated with the proposed alterations and therefore has assessed:

- Music in the dining/function room
- Noise from patrons in the modified outdoor areas

The analysis identified that a number of construction features are necessary in order to achieve the music noise criteria for the indoor areas envisaged by the Development Plan. These construction features are documented in the ENA and generally relate to:

- The minimum thickness of external glazing and airtight sealing when doors and windows are closed.

- Roof and ceiling materials and density.
- The closure of windows and doors when amplified music is played.

These recommendations have been adopted by the applicant and now form part of the development application and subsequent conditions of approval (refer Recommended Conditions 3 to 5).

With respect to the outdoor terraced areas it is noted that that there is limited noise attenuation options available due to the open nature of this area. It is noted however that the noise from this area is unlikely to differ from the existing situation, with outdoor areas currently available to patrons. In addition, the liquor licence has been amended with a reduction in maximum number of patrons from 700 to 646.

With regard to representors that cite general nuisance from patrons leaving the premises late and its impact on the surrounding locality. It is noted that the applicant is aware of the need to manage hotel patron behaviour to minimise impacts on its neighbours. To this end signage is located adjacent to exits encouraging respect for neighbours as patrons leave, in addition to the posting of two security guards on Friday and Saturday nights. The guards operate within a set of procedures to manage noise, lighting, closure of the premises and the exiting of guests.

Based on the findings of the Sonus report and the above considerations, on balance it is considered that the proposal adequately responds to the criteria associated with interface impacts under PDCs 1, 2, 5, 6, 7, 9 & 10.

Landscaping, Fences and Walls

Objectives: 1

PDCs: 1 & 2

The proposal demonstrates that landscaping will play an important part in softening the built form and ensuring that the development integrates sensitively with the open space and natural character of the locality, particularly adjacent to Cox Creek. It is considered that to ensure landscaping is undertaken in accordance with the plans that the applicant provides a detailed landscaping schedule as a condition, in order for this aspect of the proposal to be appropriately addressed.

Natural Resources

Objectives: 1, 2, 3, 5, 6 & 13

PDCs: 3, 8, 11 & 12

The proposal does not encroach within the creek line, and proposes to better formalise the interface of the site with it in order to protect the creek environment from unnecessary disturbance, in accordance with PDC 3.

The applicant has not demonstrated any particularly positive water sensitive design measures on the site, particularly with respect to onsite water reuse, and this fails to address PDC 8. However, advice from Council engineering is there is no real change to

the impervious surfaces on the site. Notwithstanding, the applicant has confirmed that the drainage system for the proposed development will incorporate an on-site detention system to ensure that pre-development flows from the site are maintained. Discharge of overflow, is proposed to be directed to a legal discharge point in consultation with Council engineering staff. The applicant has requested that an appropriate condition be included as part of any subsequent Planning Consent (refer Recommended Condition 9). This will ensure consistency with the outcomes sought by PDC 11.

Orderly and Sustainable Development

Objectives: 1 & 11

PDCs: 1, 3, 7, 9, 16 & 17

The upgrade to a long standing use and a heritage building is considered to achieve PDCs 1, 7 and 9, and it also serves to achieve PDC 3, by expanding the economic base of the region through enhancing of an existing iconic heritage building cluster of both the Bridgewater Inn and Mill.

The design of the proposal is considered to achieve a high architectural standard, and amenity impacts are considered to be reasonably mitigated so as to achieve consistency with PDCs 16 and 17.

Regulated Trees

Objective: 1

PDC: 1

There is a cluster of trees adjacent the existing lower terrace which are exotic species. One of these trees is regulated, an elm tree with an infestation of elm beetles. All except the regulated are proposed to be removed. The regulated tree has been represented with a canopy of some 185m² and the proposal will encroach on this by approximately 46m², less than 30 percent. It is considered the preservation of the regulated tree is in accordance with this PDC.

Siting and Visibility

Objective: 1

PDC: 1

The proposal is sited and designed to ensure that it complements and enhances the setting of the heritage building and the adjacent Heysen Trail, in accordance with PDC 1.

Sloping Land

Objectives: 1

PDCs: 1

The proposal is sited and designed to integrate with the natural topography of the subject land and is envisaged to minimise the need for earthworks, in accordance with PDC 1. However, there is a condition requesting a full civil plan to be approved by Council prior to issue of Building Rules Consent.

Transportation and Access

Objectives: 2

PDCs: 34, 35 & 36

The proposal will utilise the existing western car park to provide adequate car parking provision, noting that the capacity of the premises are actually being reduced. The access arrangements to/from the site will remain unchanged.

Three of the representors raised issues with respect to traffic and car parking. In response to this the applicant engaged Cirqa Consultants to assess the traffic and car parking considerations relative to the proposal. The review identified that there is no legal right of way to enable access to the adjacent eastern car park.

It is important to note, that even with the reduced car parking provision, the car parking ratio remains relatively high for a hotel use. Cirqa consider that the site's parking provision would accommodate the likely car parking demands at most times.

Whilst Cirqa has formed this opinion, the applicant has acknowledged that the formal car parking area has been reduced by 18 spaces as the eastern car parking area cannot be considered. In response they have proposed to reduce the patron capacity by a commensurate rate (equal to 54 patrons). This reduction would result in a maximum of 646 patrons at any one time. This has the effect of reducing the peak demand capacity that currently exists.

This is considered an appropriate outcome and future proofs the site in the unlikely event that the eastern car parking area ceased to provide informal parking.

Based on the above assessment the proposal is considered to sufficiently meet the requirement of PDCs 34, 35 and 36.

Other Matters

No amendment to the approved operating hours are proposed and the site is connected to SA Water Sewer and Water Main.

7. SUMMARY & CONCLUSION

The application has been amended, based on further traffic and acoustic advice provided following public consultation. It is considered that the proposed reduction in patron numbers assists in responding to the matters raised in the representations along with the recommended conditions should consent be granted.

As demonstrated by a general consistency with the provisions of the relevant criteria in the Development Plan it is considered that the proposed development will enhance the function and amenity of the long-standing and historic hotel use. Importantly it will achieve this through a complementary design including acoustic attenuation and, a reduction in overall patron numbers and management of patrons leaving the premises. The combination of these measures will assist with noise impact from the existing use of the land. The proposed additions will not impact on heritage values of existing hotel building, as they are located to the rear and are of a lower scale due to the site topography, and therefore will not visually dominate significant views of heritage value from the street. There are minor alterations to the existing building, but none that impact on

elements of heritage value. The works will also maintain the ongoing use of the place which is appropriate.

Subject to addressing the reserved matters, the proposal is considered 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 20/1302/473 by Bridgewater Inn for Alterations & additions to commercial premises (hotel) including a deck (maximum height 3.5m), associated earthworks & change to licensed area plan at 387 Mount Barker Road Bridgewater subject to the following conditions:

Reserved Matter

(1) Pursuant to Section 102 (3) of the Planning, Development and Infrastructure Act 2016, the following matter shall be reserved for further assessment, to the satisfaction of the relevant authority, prior to the granting of Development Approval:

- **A detailed landscaping plan prepared by a suitably qualified professional, shall be prepared to Council's satisfaction and approved by CAP. Landscaping detailed in the plan shall be of suitable endemic species to the locality and shall be planted prior to occupation and maintained in good health and condition at all times. Any such vegetation shall be replaced if and when it dies or becomes seriously diseased in the next planting season.**

NOTE: Further conditions may be imposed on the Development Plan Consent in respect of the above matters.

(2) Development In Accordance With the Plans

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

- **Plans from Dickson Emmett**
 - **SK00 Site plan dated 2 October 2020**
 - **SK01 Proposed Floor Plan Lower Level P6 dated 26 March 2021**
 - **SK02 Proposed Floor Plan Upper Level P8 dated 26 March 2021**
 - **SK03 Demolition Plan Lower Level P7 dated 26 March 2021**
 - **SK04 Demolition Plan Upper Level P2 dated 26 March 2021**
 - **SK10 Elevations Sheet 1 P2 dated 3 November 2020**
 - **SK11 Elevations Sheet 2 P4 dated 3 November 2020**
 - **SK15 External Finishes P1 dated 14 October 2020**
 - **SK20 Sections P4 dated 3 November 2020**

(3) Overall Capacity

At any one time, the overall capacity of the licensed areas of the hotel shall be limited to a maximum of 646 persons. This includes any associated outdoor areas.

(4) Noise Attenuation Measures

In accordance with the Sonus Report, the following measures shall be included in the construction of the approved alterations and additions for noise attenuation:

- i. all external glazing on windows and doors of the approved alterations and additions must be constructed from framed 10.38mm thick laminated glass and the windows and doors shall be installed in such a manner that they are sealed airtight when closed; and
- ii. Roof and ceiling construction of the approved alterations and additions shall comprise:
 - minimum 0.42mm BMT sheet steel roofing with *Anticon HD80* (or equivalent) under; and
 - 13mm thick fire rated plasterboard ceiling with 100mm thick insulation of minimum density 60kg/m³ (Rockwool or similar) above the ceiling.

(5) Entertainment – Amplified Music

- i. Amplified music shall be limited to within the building during the operating hours of the hotel and only played through the Hotel sound system;
- ii. All external glazing (windows and doors) shall remain closed when amplified music is played; and
- iii. It is noted that at times when the music is played at a background level (where voices do not need to be raised for conversations), all external glazing (windows and doors) may remain open and the music criteria.

(6) Entertainment Noise Levels

The noise from the entertainment shall not exceed 57dB (A) between 10:00am and 10:00pm and 50dB (A) from 10:00pm and 2:00am (midnight) within nearby dwellings.

(7) Flood Controls

The furniture on the lower terrace shall comprise non-fixed tables and chairs, which can be packed away following a forecasted flood event.

(8) Prior to Building Consent Being Granted - Requirement For Stormwater Calculations

Prior to Building Consent being granted all hydrological and hydraulic stormwater calculations shall be provided together with the final drainage plan for Council approval and should consider the following:

- 1. Post development discharge from the 1% AEP event to be limited to pre-development discharge from the 20% AEP event,
- 2. Stormwater discharged to Cox Creek will meet EPA quality guidelines, and
- 3. Detailed designs and associated calculations demonstrating the above will be provide for council approval prior to construction commencing onsite.

(9) Prior to Building Consent Being Granted - Requirement for a full Civil Plan and a Soil Erosion and Drainage Management Plan (SEDMP)

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

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

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

(10) Removal Of Solid Waste

All solid waste including food, leaves, papers, cartons, boxes and scrap material of any kind shall be stored in a closed container having a close fitting lid. The container shall be stored in a screened area so that it is not visible from Mount Barker Road or neighbouring properties and shall not encroach on car parking areas.

(11) Regular Removal of Solid Waste from the Site

All waste shall be removed from the subject land at least once weekly. Collection of waste shall be carried out only between the hours of 8.00am and 5.00pm on any day.

NOTES

(1) Development Plan Consent Expiry

This Development Plan Consent is valid for a period of twenty four (24) months commencing from the date of the decision. Building Consent must be applied for prior to the expiry of the DPC and lodged through the PLANSa portal unless a private certifier was engaged prior to 19 March 2021.

(2) Erosion Control During Construction

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

(3) EPA Environmental Duty

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

(4) Department of Environment and Water (DEW) - Native Vegetation Council

The applicant is advised that any proposal to clear, remove limbs or trim native vegetation on the land, unless the proposed clearance is subject to an exemption under the Regulations of the Native Vegetation Act 1991, requires the approval of the Native Vegetation Council. The clearance of native vegetation includes the felling of land, or any other act or activity that causes the killing or destruction of native

vegetation, the severing of branches or any other substantial damage to native vegetation. For further information visit:

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

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

(5) Works on Boundary

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

(6) Existing Encroachment Identified

The hotel encroaches over the front boundary by approximately 2 metres onto the road reserve adjacent Mount Barker Road. This development authorisation in no way implies approval from Council for this encroachment. Council's Property & Building Management Team will approach the applicant to rectify the encroachment outside of this development authorisation and either require a road closure, road rent permit or removal of the structure in question to rectify this situation.

9. ATTACHMENTS

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

Respectfully submitted

Concurrence

Melanie Scott
Senior Statutory Planner

Deryn Atkinson
Assessment Manager

COUNCIL ASSESSMENT PANEL MEETING

14 April 2021

AGENDA – 8.2

Applicant: LJJ Enterprises Pty Ltd	Landowner: LJJ Enterprises Pty Ltd
Agent: Jeff Smith- Planning Chambers Pty Ltd	Originating Officer: Doug Samardzija
Development Application:	20/1297/473
Application Description: Horticultural building, verandah, signage & associated earthworks	
Subject Land: Lot:2 Sec: P5039 FP:11068 CT:5115/328	General Location: 141 Onkaparinga Valley Road Woodside Attachment – Locality Plan
Development Plan Consolidated : 8 August 2019 Map AdHi/1, 18 & 57	Zone/Policy Area: Watershed (Primary Production) Zone - Woodside (Rural Surrounds) Policy Area
Form of Development: Merit	Site Area: 22.24 hectares
Public Notice Category: Category 2 Merit	Representations Received: 5 Representations to be Heard: 3

1. EXECUTIVE SUMMARY

The purpose of this application is to construct a horticultural building, with an integrated verandah and signage. The single building is proposed to be used in association with the Barristers Block vineyard and will predominately be used to store implements to support the horticultural activities currently undertaken on the site.

The subject land is located within the Watershed (Primary Production) Zone - Woodside (Rural Surrounds) Policy Area and the proposal is a merit form of development and pursuant to the procedural matters for the Zone was subject to Category 2 public notification. The application received five (5) representations during the public notification period and three (3) parties wish to be heard in support of their representations.

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

The main issues relating to the proposal are character and amenity impacts within the locality, access arrangements and the proposed use.

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

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- Horticultural Building – 483sqm shed with dimensions of 30.64 metres by 15.78 metres. The building is proposed with a maximum height of 9.83m and a wall height of 6 metres resulting in a 25 degree pitch roof in a gable design. The building will be uniformly clad in corrugated iron with a monument (black matt) finish.
- Integrated Verandah – 309 sqm verandah attached to the eastern side of the horticultural building with dimensions of 30.64 metres by 10.11 metres. The verandah has a maximum height of 6 metres and slopes from west (point of attachment to the shed) to the east in a skillion design.
- Signage – two (2) Barristers Block corporate logos to be affixed or painted onto the external southern and northern elevations of the horticultural building and each to be approximately 16m² in area.
- Earthworks associated with the construction of the building and the sealing of the floor area and surrounding surfaces.

It is noted that no industry associated with the horticultural use is proposed to occur within the horticultural building. The applicant has indicated that at times the building may be used as a temporary overflow area for the storage of bottled wine sold in the cellar door. This is anticipated to be a minor and ancillary component of the use of the horticultural building.

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Attachment – Publicly Notified Plans**.

3. BACKGROUND AND HISTORY

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
2 March 2021	18/656/473	Outbuilding (deck)
10 November 2020	20/1092/473	Verandah addition to cellar door
16 December 2016	15/902/473	Change of use to include function centre (125 person capacity) within existing hayshed, including outdoor licensed area and car park area (non-complying) – access was to/from Onkaparinga Valley Road using the existing access point
2 June 2016	15/901/473	Cellar door- shop for the tasting of wine including outdoor licensed area in association with approved shop use 07/1091
9 June 2016	14/136/473	Freestanding advertising sign (maximum height 3.5m)
30 May 2012	12/246/473	Change of use of a portion of an existing outbuilding to a shop for the sale & tasting of wine in association with existing vineyard for a temporary period of two years

19 December 2011	11/301/473	Conversion of an existing dwelling to non-hosted tourist accommodation (maximum 6 persons)
12 February 2010	09/771/473	Change of use of a portion of existing outbuilding to shop for the sale & tasting of wine in association with an existing vineyard & associated alterations to the building for a temporary period of 12 months
30 September 2009	09/355/473	Deck attached to cellar door (maximum height 400mm)
25 September 2009	07/1091/473	Change of use of existing outbuilding to shop for the sale and tasting wine in association with existing vineyard and associated alterations and additions to the building, carparking, landscaping and earthworks
25 August 1999	99/625/473	Change of land use- vineyard

4. REFERRAL RESPONSES

- AHC ENGINEERING**

Verco Road is a low volume, unsealed no through road and does not meet the eligibility criteria to be sealed in accordance with Council's Unsealed Roads Policy.

Council's Manager Civil Services accepts that the proposal is unlikely to increase traffic volumes on Verco Road. This is based on an understanding that the proposal will facilitate storage of farm machinery onsite, which would otherwise have to be taken in and out daily to and from the site via Verco Road.

5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with the procedural matters for the Watershed (Primary Production) Zone, pursuant to Principle of Development Control 72, in that the proposal exceeds the threshold for horticultural buildings in Principle of Development Control 71 to be considered Category 1. Five representations were received during the notification period. Three parties in opposition to the proposal have indicated that they wish to be heard. The CAP is the relevant authority for Category 2 applications where representors wish to be heard.

The following representors wish to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Sue and Brenton Marshall	7 Verco Road, Woodside	Self
Peter Rodda	9 Verco Road, Woodside	Self
Jill Wybrow	4/135 Onkaparinga Valley Road, Woodside	Self

The applicants and their representative – Jeff Smith of Planning Chambers may be in attendance.

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

- Increase in traffic volumes using Verco Road with workers, truck and machinery gaining access.
- Cars, mini buses leaving Barristers Block on weekends causing dust nuisance. The dust nuisance in particular affects residents of the Aged units.
- The junction of Verco Road with Onkaparinga Valley Road, is dangerous.
- Cars and mini buses exiting the rear paddock of Barristers Block cross the Amy Gillett Bikeway in a dangerous position.

Whilst not suggesting the following would overcome their concerns, the persons making representation have suggested:

- Verco Road be sealed;
- Traffic exiting Verco Road be required to turn left at the junction with Onkaparinga Road; and
- No cars from Barristers Block Cellar Door to exit via Verco Road.

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

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

6. PLANNING & TECHNICAL CONSIDERATIONS

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

- The Site’s Physical Characteristics
The subject land is 22.24 hectares in area and is divided by the Onkaparinga River which runs on a north-south alignment through the block, creating two distinct portions of land on its east and west flanks. The eastern side contains the Barristers Block cellar door, function centre, car parking areas and tourist accommodation complex, as well as grazing land, water storage and a small wood plantation. To the west of the river, the land supports the vineyard. The horticulture building is proposed in the south eastern portion of the allotment currently utilised predominantly for grazing. The subject site does not have a direct frontage to Onkaparinga Valley Road but rather abuts the Amy Gillet Bikeway, with main access to the site gained over the bikeway reserve and secondary access gained from Verco Road to the south (an unsealed Council Road). The land slopes gently down from the eastern boundary to the centreline of the creek, with the slope from the western boundary down to the river being noticeably steeper.
- The Surrounding Area
The site of the proposal is at the interface of the Watershed (Primary Production) Zone and the Township Zone and as such the locality has a unique character. Allotments to the east and south-east along Onkaparinga Valley Road are primarily used for residential purposes, apart from the church and the properties further north/east

which include a machinery workshop, storage and landscape supplier. It is noted however that the Township boundary is quite restricted in an east-west direction in this location and as such the rural character of the adjoining primary production zone has a notable influence on the setting of these residential allotments. To the north, west and south-west, primary production dominates with vineyards and grazing along the valley.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Watershed (Primary Production) Zone and Woodside (Rural Surrounds) Policy Area. These provisions seek:

- *Retention of agricultural activities which have low pollution potential*
- *Clustering of activities and facilities associated with horticulture*
- *Restricted residential and urban development*
- *The exclusion of buildings which may intrude on the skyline of the valley face to the west of the Onkaparinga River*

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

Objectives: 1 & 3

PDCs: 1

The proposed horticultural building will be used to store plant and equipment that supports the ongoing and lawful use of the land as a vineyard, therefore meeting the requirements of Objective 1. The building is set on the low part of the subject land on the eastern side of the Onkaparinga River, as such it is considered unlikely that the built form will intrude above the western valley skyline when viewed from the east of the site, in accordance with Objective 3. The proposed building will not be used for any retail, office or industrial uses whilst only a small portion of the building a total of 7.5m² will be used for storage of wine which is associated with existing commercial use of the site and as such the proposal is considered to be in accordance with PDC 1.

Watershed (Primary Production) Zone:

Objectives: 1, 2, 3 & 5

PDCs: 1, 2, 4, 8, 9, 11, 14, 16, 17, 38, 39 & 70

The proposal is considered to meet all the suggested elements of PDC 1 as the shed is proposed well below any ridge lines and is within a valley, and thus will not be visible against a skyline from a public road. The proposed building is on the low side of the road and will be partially screened by native vegetation located along the Amy Gillet Bikeway. The building although considered large in the context of the site, has been designed to minimise its presence with a modest pitched gable roof and a skillion verandah that will cast shadowing onto the eastern façade to minimise the bulk of the building, in accordance with PDC 2. The building is set back well in excess of 25m from the Onkaparinga River as required by PDC 4.

With respect to PDCs 8 and 38, it is noted that the land surrounding the main buildings on the site is reaching capacity and as such the applicant has had to select a site outside what would be considered the main building cluster. In addition, the evolution of the

Cellar Door and Function centre developments on site has led to additional land being allocated to create a unique visitor experience surrounding the main buildings. The addition of a large horticultural building within this setting would potentially diminish the amenity of the facility. On balance, the fact that the building is not located in a cluster with other buildings is not considered detrimental to the locality given its location, setback from nearby neighbouring properties and the fact that it will not be readily visible from public realm.

Large horticultural buildings are anticipated development in association with an existing vineyard, and the building has been designed to respond to its setting and will complement the site and rural surrounds. As such, the proposal on balance is considered to be consistent with PDCs 11, 14 and 39 and will reinforce the surrounding rural character. Further, the proposal is considered to accord with PDCs 16 and 17 as it will assist, and not prejudice, primary production on the subject land.

PDC 9 seeks that driveway and access tracks should follow the contours of the land to reduce the visual impact, erosion from water run-off and be of dark surface with excavation and filling being kept to a minimum. The proposal is considered to accord with PDC 9 considering that it is utilising existing access from Verco road and existing internal gravel track to get to the proposed horticulture building. This existing track is also utilised as a main access to the vineyard which is located on the western side of the water course. The nature of vehicles utilising this access track will not alter as a result of the proposed development whilst the vehicles used to deliver wine to the building will predominantly be small utility vehicles considering the small storage of wine that is proposed.

b) Council Wide provisions

Advertisements

Objectives: 1 & 2

PDCs: 2, 3 & 5

The proposed advertising is considered in harmony with the building. Although the size of the logo is large, it will ensure that it is a feature on the building and one that is clearly legible and easily identifiable. With only two logos proposed on either side wall of the shed the advertising is not considered to contribute to any signage clutter or disorder. It also relates directly to the use of the land being the Barristers Block corporate logo. As such the proposed advertising is considered to accord with PDCs 2, 3 and 5.

Design and Appearance

Objectives: 1

PDCs: 1, 3, 9 & 17

The roof form of the proposed building is modest and will reflect the natural slope of the adjoining land. The verandah will provide a contrasting feature and the chosen colour *Monument* will assist in the proposal meeting the expectations of PDC 1. The proposal is located well inside the subject allotment and is set back substantially from neighbouring allotments. These setbacks combined with the above-mentioned design features will ensure that the building's presence and visual impact is somewhat

diminished when viewed from neighbouring properties, particularly those along Onkaparinga Valley Road.

The proposal is considered to accord with PDC 9 in that the location of the building is on land with a gentle gradient. This ensures that earthworks for the proposed building are kept to a minimum avoiding the need for modifications of the site and retaining walls. The proposal accords with PDC 17 with large setbacks to neighbouring properties.

Interface Between Land Uses

Objectives: 1, 2 & 3

PDCs: 1 & 2

The proposal is for a large building that will be used predominantly to store machinery and equipment used in association with the vineyard on the land. The horticultural use is not proposed to be expanded or intensified. The proposed uses for the building are not expected to generate airborne nuisance or noise and should not generate traffic above that expected with normal horticultural activities, or indeed exceed the traffic volumes above that already generated by the existing operations. The use of Verco Road for the vineyard was the major concern of the representors. It is considered that the proposed development will not alter the nature of movement through an existing access from Verco Road and will it change the types of vehicles that enter and exit the site. Internal access track is existing and is currently used as a means of access to this area of the allotment as well as the vineyard on the western end of the water course. Additional vehicle movements for delivery and storage of wine are going to be small utility vehicles which will not create any traffic hazards and considering the small scale of wine that is proposed their movements are going to be minimal with 2 additional movements anticipated each week. In this regard it is noted that no other suitable access is available for machinery to access the vineyard.

Stormwater management has been addressed with the roof catchment directed to the nearby dam. For these reasons the proposal is considered to be consistent with PDC 1.

The proposal takes advantage of a relatively level area of the site in a valley and will not negatively impact on the visual amenity of the locality. On balance, the proposal is considered to minimise any possible land use conflicts between existing residential uses and primary production activities, as envisaged by PDC 2.

Natural Resources

Objectives: 1, 2, 4 & 10

PDCs: 2, 11, 13

The proposal is sited more than 50 metres from any watercourse. There is no native vegetation within the proposed development site and good management of stormwater from the proposed new building is considered to ensure the natural assets of the site are protected and enhanced, in accordance with PDC 2.

The water from the roof of the new building will be managed and directed to a nearby dam. The provisions described in PDCs 11 and 13 requiring that the quality and discharge of stormwater is managed efficiently on-site can be met by recommended condition 5.

Orderly and Sustainable Development

Objectives: 3, 8 & 10

PDCs: 1, 2, 3 & 16

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

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

The proposal is considered to assist in the sustainable expansion of the economic base of the region as grape growing and associated value adding enterprises are recognised as a major income source for the Adelaide Hills in accordance with PDC 3.

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

Rural Development

Objectives: 1 & 2

PDCs: 1 & 4

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

Consideration has been given to the requirements of PDC 4 by directing stormwater disposal to a dam.

Siting and Visibility

Objectives: 1

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

The proposal is setback over 100m from the eastern boundary of the subject land. Adjacent to the boundary a large row of mature vegetation provides partial screening from residential properties and Onkaparinga Valley Road located east of the subject land. Therefore the building is anticipated to be partially screened and not highly visible from adjacent roads in particular Onkaparinga Valley Road. The proposal is considered to be in accordance with PDCs 2 and 3.

The earthworks proposed are considered minimal and the proposal is therefore considered to be consistent with PDCs 4, 5, 6 and 7.

7. SUMMARY & CONCLUSION

The proposal is for a large horticultural building in association with an existing vineyard and cellar door and is an anticipated development within the Policy Area and Zone. The proposal has been well considered and its location and design will minimise the visual impact of the building within the locality, despite not being clustered with other buildings on the site. Concerns were raised about traffic impacts. During construction of the shed there will be a slight increase in traffic flow along Verco Road, however upon completion, the use of the shed will not be the cause of increased traffic flow along Verco Road. Other concerns raised by the representors are outside the influence of this application.

Overall, 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 20/1297/473 by LJJ Enterprises Pty Ltd for a Horticultural building, verandah, signage & associated earthworks at 141 Onkaparinga Valley Road Woodside 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 MPH dated 05/02/2021 and date stamped by Council 05/05/2021
- Elevation drawings prepared by MPH dated 05/11/2020 and date stamped by Council 30/11/2020
- Amended floor plan prepared by MPH dated 24/03/2021 and date stamped by Council 25/03/2021
- Letter prepared by Lachlan Allan dated 13 January 2021 and date stamped by Council 14/01/2021

(2) External Finishes

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

WALLS: Colorbond Monument or similar
ROOF: Colorbond Monument or similar

(3) 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.

(4) Soil Erosion Control

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

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

All roof runoff generated by the development hereby approved shall be managed on-site and discharged to an on-site dam within one month of the roof being clad.

Stormwater should be managed on site with no stormwater to trespass onto adjoining properties.

(6) Horticultural Building Use

The approved horticultural building shall only be used for horticulture related storage with the maximum allowable storage of wine not exceeding 8m² of floor area. No retail or industrial activities/uses have been approved in the subject building, such as the packing, washing or grading of food produce (fruit/vegetables) or the crushing, juicing, fermenting or bottling of produce. Any such use will require a separate Development Authorisation.

NOTES

(1) Development Plan Consent Expiry

This Development Plan consent (DPC) is valid for a period of twenty four (24) 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 twenty four (24) month time period may be further extended by Council agreement following written request and payment of the relevant fee.

(2) Erosion Control During Construction

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

(3) EPA Environmental Duty

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

9. ATTACHMENTS

Locality Plan
Proposal Plans
Representations
Applicant's response to representations
Publically Notified Plans

Respectfully submitted

Concurrence

Doug Samardzija
Statutory Planner

Deryn Atkinson
Assessment Manager

COUNCIL ASSESSMENT PANEL MEETING

14 April 2021

AGENDA – 8.3

Applicant: John Nitschke	Landowner: John Nitschke Nominees Pty Ltd & J V Nitschke & L A Nitschke
Agent: Adelaide Hills Development Service and Botten Levinson Lawyers	Originating Officer: Melanie Scott
Development Application:	19/210/473
Application Description: Change of use from store to include light industry (manufacturing) and building alterations & additions to create 7 separate tenancies, associated car parking, landscaping & earthworks and 3 x 144,000 litre water tanks in addition to the existing farming use (non-complying)	
Subject Land: Lot:16 Sec: P5240 FP:156551 CT:5439/561	General Location: 359 Nairne Road Woodside <i>Attachment – Locality Plan</i>
Development Plan Consolidated : 24 October 2017 Map AdHi/3	Zone/Policy Area: Watershed (Primary Production) Zone - Onkaparinga Valley Policy Area
Form of Development: Non-complying	Site Area: 8.08 hectares
Public Notice Category: Category 3 Non Complying Notice published in The Advertiser on 29 May 2020	Representations Received: 3 Representations to be Heard: 2 (previously heard)

1. EXECUTIVE SUMMARY

The purpose of this application is to change the use of the large building on the land to include light industry and create tenancies in the existing storage and office space associated in addition to the existing farming use. There is also an addition to the building and some new external openings proposed to the existing building, an associated new hardstand area, 3 x 144,000 litre water tanks, car parking, landscaping and earthworks.

The application was deferred by CAP on 10 March 2021 to seek the following further information:

- (1) The nature and extent of alteration of existing use rights;
- (2) Details of all vehicle movement manoeuvring, and number of anticipated vehicle movements in association with the storage and light industry uses;
- (3) Details of unloading areas, location and dimensions of external storage of shipping containers and waste storage; and
- (4) The provision of accurate floor and elevation plans detailing all new and existing openings to the building, including access to and within Store 3 and the south-eastern corner in general.

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

2. DISCUSSION OF RESPONSE TO REQUEST FOR FURTHER INFORMATION

1. The nature and extent of alteration of existing use rights

In the attachments for this report is a copy of a statutory declaration submitted by the owner in March 2020 regarding existing use rights, which largely concurs with the Council's known history of the site as reported in the original CAP report. Further, in the new CAP attachments is an email from Council staff agreeing that up to four trucks can be parked on the land as a result of the submission made in the statutory declaration.

The addition of tenancies, the associated building openings on the northern elevation and adjacent hardstand are the subject of this application and in the opinion of Council staff do not form part of existing use rights. The number of vehicles accessing the site prior to the current application, historically and into the future are likely to be in dispute. Vehicle access to the northern portion of the site was a dry weather activity only until the hardstand was installed sometime in 2017. Access to the northern portion of the existing buildings through openings on the northern elevation was not possible until the new openings were installed. This application seeks an intensification of the use of the building for store activities with a hardstand area and new openings.

This application seeks to add some limitations to the storage activities on the land where there are currently none. By adding hours of operation there will be some mitigation of the potential nuisance elements introduced to the site by the creation of the new tenancies.

2. Details of all vehicle movement manoeuvring, and number of anticipated vehicle movements in association with the storage and light industry uses

The applicant has provided a traffic report from Phil Weaver and Associates with a limited survey of vehicle access to the site. In summary the major storage tenant generally has 5 semi-trailer deliveries per week and the balance of the site is serviced by small to medium size rigid body trucks, but mostly cars and vans. Phil Weaver has generated the following theoretical forecast traffic:

Applying the above rates to the subject development would result in the following theoretical forecast traffic generations, namely:-

- Total weekday traffic generation of the order of 104 vehicle movements (5122 m² at 4.0 trips per 100 m²) associated with this land use, including
- A morning peak hour vehicle trip generation of 26 vehicle movements (5122 m² @ 0.5 per 100 m²), and

However given the nature and locality of the subject site actual trip generation is anticipated to be lower than the above forecasts.

For example, a survey of traffic entering and exiting the subject site between 8.00am and 9.00am on Thursday 18th March 2021 identified lower levels of traffic movements associated with the current use of the subject site, namely 12 trips in an hour, in the form of:

- 8 site entry movements (including one truck movement), and
- 4 site exit movements (including one truck movement).

Such volumes are effectively all existing, relatively minor, and not anticipated to have adverse capacity impacts on the adjoining road network.

Council sought some additional clarification from the applicant regarding vehicle movements as the forecast numbers above could be interpreted as an intensification of use. In response the applicant provided some logic around the traffic forecast and the actual volume on site and an addendum to the previously provided acoustic report. The actual volume on site was based on a small one off survey period which if representative of the average would indicate

the forecast volumes of traffic were indeed above this site's expectations. Given there is a limited purpose in counting vehicle movements and types for development, the provision of an additional acoustic comment was sought. This indicated even if forecast traffic levels for the site were achieved, predicted noise levels at adjacent sensitive noise receptors would be within the relevant daytime noise limit defined in the Adelaide Hills Council Development Plan.

The report outlines the dimensioned manoeuvring areas. There has also been the reinstatement of 14 carparks back into the site plan, adjacent the light industry tenancy which brings the on-site parking very close to the Development Plan expectations, noting both the applicant and Council do not expect the activities on site will require an excessive number of staff and associated parking.

3. Details of unloading areas, location and dimensions of external storage of shipping containers and waste storage

The amended plans provided address these items. Of note there is one waste skip bin located adjacent the storage area and one in the light industry tenancy, and as they are adjacent manoeuvring areas they are accepted as suitable for waste vehicle movements. A condition is recommended in relation to marking the location for the skip bins and shipping containers on the hardstand (refer Recommended Condition 12)

4. The provision of accurate floor and elevation plans detailing all new and existing openings to the building, including access to and within Store 3 and the south-eastern corner in general

Amended plans have been provided with access correctly labelled. Internally it is not clear how the separate tenancies are managed. The applicant provided the following response to questions regarding the internal access in relation to Store 3:

"The nature of the tenancies and how they are managed and operated are the subject of the agreements my client has with each tenant. I'm instructed that the tenancies are managed in an informal manner and that each tenant is satisfied with how the space operates. It is correct in that a tenancy is accessed by passing through another tenancy. This has not been an issue to date. If a tenant is unsatisfied with any matter relating to the management or nature of the space that would be a matter the tenant could raise with my client (being the land owner).

There is no intention to install physical barriers in this space. However, it is worth noting that any future internal building work would not require planning consent in any event. If my client were to alter the internal nature of store 3, he would be permitted to do so without requiring the Council's consent. Schedule 4 of the Planning, Development and Infrastructure (General) Regulations 2017 sets out various exclusions from the definition of development. Clause 4(4) states:

4 (4) Other than in respect of a local heritage place, the repair, maintenance or internal alteration of a building—

- 1. that does not involve demolition of any part of the building (other than the removal of fixtures, fittings or non load-bearing partitions); and*
- 2. that will not adversely affect the structural soundness of the building or the health or safety of any person occupying or using it; and*
- 3. that is not inconsistent with any other provision of this Schedule.*

Pursuant to this clause my client is permitted to alter the internal parts of the building so long as such alteration does not involve any demolition and will not adversely affect the structural soundness of the building or the health and safety of any person occupying or using it. Of course, any structural changes to the internal layout may require building consent and would, of course, be required to meet all necessary building fire safety requirements. As stated above, there is no immediate intention to alter the internal layout of this portion of the building."

Should the tenancy layout be approved and a change to this be required, then a variation would need to be sought and assessed as an alteration to a previous development authorisation. Recommended Condition 6 reinforces this.

A copy of the submission is included as **Attachment – Applicant’s Response to CAP request for further information**

As previously discussed an acoustic assessment was provided with the application. It is noted this report indicates no sensitive receptors to the north of the subject building. Hours of operation are recorded as 8am – 6pm seven days a week with up to 13 small vehicle and 4 larger vehicle movements per day with the exception of the harvest periods between February and April each year. The acoustic assessment noted “the dominant noise source controlling the predicted environmental noise levels at all receiver locations are the vehicle movements”. Finally the acoustic assessment concluded the predicted noise levels meet the relevant noise limit at the nearest existing noise-affected premises without the need for additional acoustic treatment.

3. SUMMARY & CONCLUSION

This application is retrospective. There is an active section 84 enforcement matter in the ERD Court concerning the site. In particular it is unclear how long the unauthorised uses have been on the site but the hardstand was installed sometime between June 2016 and January 2017. Additionally, between 2012 and the current day a number of sliding doors were installed on the northern elevation of the existing building. These two actions have changed the way the site operates by enabling all weather vehicle access to the northern and eastern elevations of the building. Council considers that the proposed activities are an intensification of the use of the land and additional to the use of the land for storage and agriculture. Also during this time Council has agreed the parking of four trucks on site has existing use rights as part of the farming operations on the site.

All the aforementioned has the potential to impact on the rural amenity of the northern neighbours in particular, noting these neighbours do not have a dwelling on site. The addition of the proposed landscaping along the northern boundary will act as a screen of the development and the hardstand for the northern neighbours. Further car parking proposed on the eastern boundary has been consolidated into the hardstand area. There is an argument general storage in a rural area is inappropriate, hence the non-complying nature of the proposal. Had the proposal been for a new building it would have been unlikely to garner support through Council policy. However, the proposal is for a sensible re-use of an existing building which was in danger of falling into disrepair. Whilst some consideration was given to limiting the type of goods stored in the building to those associated with agriculture, that avenue of enquiry would lead to potential ongoing site management issues. The proposal for approximately 1/5th of the building to be used for an industry which supports agricultural activity is considered acceptable.

The existing use rights have been further explored in consultation with the applicant in response to CAP's request. The applicant and Council do diverge in their interpretation of the existing use rights and this application has offered the opportunity to implement some controls on the activities in relation to operating hours, tenancies, temporary storage and access.

Amended site plans have been provided for CAP consideration which further locational details and manoeuvring. With regard to traffic movements an expert report was provided confirming the access is suitable, the local road network has capacity and, appropriate turnaround areas can be achieved on-site. Further the expert report provides a limited survey which suggested vehicle movements to and from the site will be less than forecasting predicts, noting this opinion is formed on a limited survey of actual movements.

Waste receptacle locations and vehicle manoeuvring areas have been located on the amended plans and line marking for waste receptacles and temporary storage areas has been recommended as a condition.

Council are therefore recommending that the use of the remainder of the building for storage of a mix of agricultural and general goods is acceptable and the application has afforded an opportunity to add some conditions to the operation of the site to maintain amenity and bring the building up to modern building fire safety requirements.

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 seeks the CONCURRENCE of the State Commission Assessment Panel to GRANT Development Plan Consent to Development Application 19/210/473 by John Nitschke for a change of use from store to include industry (manufacturing) including building alterations & additions & car parking (non-complying) at 359 Nairne Road Woodside 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 drawing A6 prepared by Michael Watson Architect project number NIT004 dated 23 February 2021**
- **Amended floor plan drawing A7 prepared by Michael Watson Architect project number NIT004 dated 19 March 2020(2) and amended 19 March 2021**
- **Amended North and East elevation plan drawing A 8 prepared by Michael Watson Architect project number NIT004 dated 19 March 2020(2) and amended 19 March 2021**
- **Amended West and South elevation plan drawing A9 prepared by Michael Watson Architect project number NIT004 dated 19 March 2020(2) and amended 19 March 2021**
- **Plans marked up by Phil Weaver and Associates, Figure 2 Articulated Vehicle Existing Forward Site Entry and Exit movements, Figure 3 Articulated Vehicle Future on- site Turnaround**

(2) Shipping Containers

The number of shipping containers on the land must comply with the following criteria:

- **Shipping containers shall only be associated with delivery of goods to the land**
- **Shipping containers shall not be used for additional storage space**

- No more than three (3) shipping containers shall be kept on the land at any one time
- All shipping containers shall be unpacked and removed within 48 hours of delivery
- Shipping containers must only be placed on the hardstand area on the northern side of the building between the car parking and the building and should not inhibit safe access and egress

(3) Hours of Operation

The operating hours of the light industry and the storage tenancies shall be 8.00am to 6.00pm seven days a week.

(4) Stormwater Management – Soakage Trench

All roof run-off and surface run-off generated by the development hereby approved shall be managed on-site in accordance with the civil design to prevent trespass onto adjoining properties and to the satisfaction of Council.

The stormwater management system shall be constructed, and connected to the approved overflow (including overflow from rainwater tanks), within one month of Development Approval.

(5) Timeframe for Landscaping To Be Planted

Landscaping detailed in the amended proposed site plan from Michael Watson Architect drawing number A6 project number NIT 004 dated 23 February 2021 shall be planted in the planting season following Development Approval and maintained in good health and condition at all times. Any such vegetation shall be replaced in the next planting season if and when it dies or becomes seriously diseased.

(6) Maximum number of tenancies and further Building Works

In accordance with the plans herein approved the maximum number of tenancies shall not exceed seven (7). A separate approval will need to be sought for any changes to the approved configuration or number of tenancies.

(7) EPA Condition

The wastewater management system must be installed and operational in accordance with the *On-site Wastewater Management Report prepared by Maxwell Consulting Engineers marked Version (A) dated 28 August 2020* and the *Stormwater and Wastewater Plan prepared by Michael Watson Architect marked Project Number NIT 004 (A11) dated 2 November 2020* within three (3) months of Development Approval being granted.

(8) Removal of Solid Waste

All solid waste including food, leaves, papers, cartons, boxes and scrap material of any kind shall be stored in a closed container having a close fitting lid. The container/s shall be stored in an area close to the building and not in the car parking area.

(9) Delivery, Collection and Waste vehicle movement

Delivery, collection and waste vehicle movements to the site shall be with the span of operating hours in condition 4 with the exception of Sundays.

(10) Commercial Lighting

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

(11) Gravel car parking Designed In Accordance With Australian Standard AS 2890.1:2004.

- i. All car parking spaces, driveways and manoeuvring areas shall be designed, constructed, and line-marked in accordance with Australian Standard AS 2890.1:2004. Line marking and directional arrows shall be clearly visible and maintained in good condition at all times. Driveways, vehicle manoeuvring and parking areas shall be constructed of compacted gravel prior to occupation and maintained in good condition at all times to the reasonable satisfaction of the Council.
- ii. Car parking delineation shall occur with 3 months of Development Approval being granted.

(12) Line Marking – skip bins and shipping containers

The areas proposed for skip bins and shipping containers on site should be line marked to ensure access and egress to the building at all times. Delineation shall occur with 3 months of Development Approval being granted.

NOTES

(1) Development Plan Consent

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

(2) Erosion Control During Construction

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

(3) Department of Environment and Water (DEW) - Native Vegetation Council

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

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

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

(4) EPA Notes

The applicant is reminded of its general environmental duty, as required by section 25 of the *Environment Protection Act 1993*, to take all reasonable and practicable 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:

- EPA information sheets, guidelines documents, codes of practice, technical bulletins etc. can be accessed on the following web site:
<http://www.epa.sa.gov.au>

(5) Site Contamination Investigations

Council has relied on the site investigations undertaken as evidence there are no known contaminants present to prevent the site being used for residential use. There can be no complete guarantee that contaminants are not present at significant concentrations in some areas. Should site works or other research uncover additional information in relation to site contamination, persons having benefit of this authorisation may need to undertake further investigations.

(6) Additional Signage Requires Separate Development Application

A separate development application is required for any signs or advertisements (including flags and bunting) associated with the development herein approved.

9. ATTACHMENTS

Previous Report and Attachments
Applicant Information
Traffic Consultant Submission
Amended Plans
Statement from a tenant
Statutory Declaration regarding existing use
Staff Email re existing use

Respectfully submitted

Concurrence

Melanie Scott
Senior Statutory Planner

Deryn Atkinson
Assessment Manager

COUNCIL ASSESSMENT PANEL MEETING

14 April 2021

AGENDA – 8.4

Applicant: Kermel Pty Ltd	Landowner: Kermel Pty Ltd
Agent: Greg Burgess - Access SDM	Originating Officer: Ashleigh Gade
Development Application:	20/1058/473 (20/C047/473)
Application Description: Community title division (1 into 11), removal of 1 regulated tree (<i>Corymbia citriodora</i> – Lemon-scented gum) & 2 significant trees (<i>Corymbia citriodora</i> – Lemon-scented gum & <i>Eucalyptus globulus</i> – Tasmanian blue gum) & construction of internal roadway	
Subject Land: Lot Lot:45 Sec: P5126 DP:125856 CT:6249/801 (formerly Lot:54 Sec: P5126 FP:155869 CT:5491/250)	General Location: 29 Kumnick Street, Lobethal SA 5241 Attachment – Locality Plan
Development Plan Consolidated: 8 August 2019. Map AdHi/12	Zone/Policy Area: Township Zone - Township (Lobethal) Policy Area
Form of Development: Merit	Site Area: 1.066 hectares
Public Notice Category: Category 1 Merit -	Representations Received: N/A Representations to be Heard: N/A

1. EXECUTIVE SUMMARY

The purpose of this application is to create eleven (11) community titled allotments. The proposal includes the removal of one (1) regulated tree (*Corymbia citriodora* – Lemon-scented gum) and two (2) significant trees (*Corymbia citriodora* – Lemon-scented gum & *Eucalyptus globulus* – Tasmanian blue gum), as well as the construction of an internal driveway with Country Fire Service (CFS) and waste truck turnaround and a common utilities area. The proposed allotments are between 800m² and 873m² in size.

The subject land is located within the Township Zone and Township (Lobethal) Policy Area. The proposal is a merit form of development as the allotments meet the criteria contained within Table AdHi/5 and are not less than 500m² in area. The proposal is a Category 1 form of development pursuant to Schedule 9 Part 1 (5) and did not require public notification.

As per the CAP delegations, the CAP is the relevant authority for land divisions which seek the creation of ten (10) or more additional allotments.

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 and Land Division Consent, subject to conditions.

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the creation of 11 community title allotments and construction of associated internal driveway. It also involves the removal of three controlled trees, one regulated tree

(*Corymbia citriodora* – Lemon-scented gum) and two significant trees (*Corymbia citriodora* – Lemon-scented gum & *Eucalyptus globulus* – Tasmanian blue gum).

The existing buildings on the subject site will also be required to be removed prior to Section 138 Clearance (refer Council Land Division Requirement 5). It is noted that this does not form part of the description of development and will not require an associated approval, as under the *Planning, Development and Infrastructure Act 2016*, demolition does not require an application.

The proposal will create allotments between 800m² and 873m² in area, all of which will gain access via the internal driveway.

Existing Allotment

Allotment	Area (ha)	Currently containing
45	1.066 ha	1 Regulated (<i>Corymbia citriodora</i> – Lemon-scented gum) and 2 Significant Trees (<i>Corymbia citriodora</i> – Lemon-scented gum & <i>Eucalyptus globulus</i> – Tasmanian blue gum). Various Outbuildings.

Proposed Allotments

Allotment	Area (m ²)	Containing
46	801m ²	Vacant Land
47	801m ²	Vacant Land
48	800m ²	Vacant Land
49	800m ²	Vacant Land
50	873m ²	Vacant Land
51	873m ²	Vacant Land
52	800m ²	Vacant Land
53	800m ²	Vacant Land
54	800m ²	Vacant Land
55	800m ²	Vacant Land
56	831m ²	Vacant Land

The plan of division includes:

- An aerial image of the subject land, overlayed with the proposed boundaries, existing trees including those to be retained and those to be removed, land contours, letterbox and services area, and easements.

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
5 November 2020	20/D036/473 20/831/473	Land Division (2 into 3)

It is noted that application 20/831/473 for land division (2 into 3) separated the subject land from the existing dwelling at 14 Frick Street. The approval of 20/831/473 also realigned the boundary between 31 Kumnick Street and the subject land, rectifying previous boundary inconsistencies and providing an area for common services such as meters and letterboxes adjacent the entrance to the subject land. The plan for this division was deposited on 21 January 2021.

During the course of assessment, the retention of the significant tree between proposed allotments 50 and 51 was revised. The originally submitted plan of division sought to retain this tree with associated building envelopes on allotments 50 and 51 outside of the Tree Protection Zone (TPZ). Considering the historic branch failure, as noted in the applicant's arborist report, and the size limitations of the building envelopes, it was recommended by staff that the applicant further review either the allotment configuration or the retention of the significant tree. As a result of this, the application now includes the removal of this tree.

The subject land has historically been part of the residential allotment known as 14 Frick Street and since the construction of that dwelling has predominantly been utilised for residential purposes. There has been intermittent grazing of animals across the site, mostly for the purpose of grass management. The land is otherwise undeveloped and not actively utilised for any other purpose.

4. REFERRAL RESPONSES

- **SA WATER**
SA Water have recommended a group of standard conditions (refer SPC Land Division Requirement 1).
- **AHC ENGINEERING DEPARTMENT**
Council's Engineering Department are supportive of the proposal subject to detailed design documentation for access and stormwater management being provided as a condition of this consent (refer Council Land Division Requirements 1 through 4).

In addition, informal advice was sought from the CFS regarding access and manoeuvring in the internal driveway. The access as shown on the amended plan has been accepted by the CFS, provided that the common driveway maintains a vertical clearance height of 4 metres at all times along all parts of the driveway. It is noted that they are satisfied that the turning bay provided allows for appropriate manoeuvring of firefighting vehicles.

The CFS further advised that a fire plug or hydrant should be installed along the common driveway given the length of the driveway and the distance to the next fire plug on Kumnick Street. The ideal position for the fire plug or hydrant will be close to the turning area.

The advice received from the CFS is reflected in the conditions of consent (refer Planning Condition 3 and Council Land Division Requirement 5).

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

5. CONSULTATION

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

6. PLANNING & TECHNICAL CONSIDERATIONS

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

i. The Site's Physical Characteristics

The subject land is 1.066 hectares in area and has an elongated battle-axe shape, with a 'handle' of approximately 43 metres long and 7 metres wide. The land currently contains a number of old outbuildings, some of which are in disrepair and most of which have long been disused. The outbuildings have historically been used for domestic storage and the storage of farming implements. The land also contains a number of trees including three regulated and/or significant trees, with a further four regulated and/or significant trees in close proximity on adjoining land.

The topography of the land is slightly undulating, though it is noted that the overall slope of the site is relatively gentle. The highest point on the land is to the north-west and it thereafter falls away to the south and east. The land further south and closer to Kumnick Street rises towards the street frontage in a south-easterly direction.

ii. The Surrounding Area

The surrounding area is predominantly residential in nature with allotments of varying sizes, ranging from approximately 600m² to over 1 hectare in area along Frick, Kumnick and Kleinschmidt Streets. Allotments fronting Kumnick Street in particular typically contain single storey detached dwellings directly fronting the street, with allotments sized typically between 800m² and 900m².

There are a small number of battle-axe style allotments in the locality, including the land immediately west of the subject site, at 27 Kumnick Street. The immediate surrounds do not include any community title development, however there are examples of community title divisions along Mount Torrens Road to the north and north-east of the immediate locality.

The subject land is located to the north of the Lobethal Abattoir Policy Area. The driveway handle is the nearest point of the allotment to the Policy Area, at a distance of approximately 170 metres.

iii. Development Plan Policy considerations

a) Policy Area/Zone Provisions

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

Policy Area

- *Development for generally low density residential use.*
- *Development that accommodates residential uses and service facilities to serve the needs of the community.*
- *Development that contributes to the desired character of the Policy Area.*

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

Objectives: 1, 2 and 3

PDC: 1

Objectives 1 and 3 seek that development predominantly be for the purposes of accommodating residential land uses, and continuing a low density residential form. Objective 2 and PDC 1 seek that development contribute to the desired character for the Policy Area.

The following is considered to be relevant to the proposal from the Desired Character Statement:

Residential development will generally be at a low density on large allotments. Medium density residential development will be compatible in scale and design with surrounding development, and located on smaller allotments in areas that are not visible from Main Street, Lobethal Road, Woodside Road, Mount Torrens Road or Kenton Valley Road.

The outer northern residential area (Frick, Kumnick, and Kleinschmidt Streets and a portion of Ridge and Mount Torrens Roads) will comprise dwellings on large allotments constructed of brick with tiled roofs. Set-backs will vary, depending on the size of the allotment, and allow for the establishment of substantial landscaped gardens. Front fencing will either be absent or post and wire which will contribute to the openness of the area. The areas to the west of the central portion of Ridge Road, and along Kumnick and Frick Streets, form an interface with the Lobethal Abattoir Policy Area which will be developed for low intensity activities such as low density residential development rather than for commercial or community activities likely to be adversely affected by the impacts of the abattoir, the heavy vehicles that service it or the traffic of employees.

The proposed development facilitates allotments for future low-density residential development that is comparative in scale to that of the existing allotments in the locality. The allotment sizes proposed allow for future residential development that accommodates dwellings on large allotments, with setbacks in keeping with surrounding development and which can accommodate the establishment of landscaped gardens.

The existing allotment shape and the access driveway provides an additional buffer between the proposal and the interface with the Lobethal Abattoir, which is separated from the subject site by Kumnick Street and the existing allotments to the south of Kumnick Street.

Zone

- *A zone primarily accommodating residential development and local ancillary services to serve the needs of the community.*
- *Development that contributes to the desired character of the Zone.*

The following are considered to be the relevant Zone provisions:

Objectives: 1 and 5

PDCs: 1, 3, 5, 6, 8, 9 and 13

Accordance with Zone

The Township Zone envisages development which is primarily residential in nature or which will retain or provide land for residential purposes. The existing allotment is vacant but has the potential to be developed for low density residential purposes. Notwithstanding this, the subject land is surrounded by residential allotments with site areas most commonly between 600m² and 900m² providing an opportunity for low-density residential development.

The proposal would create ten (11) residential allotments between 800m² and 873m² which is consistent with allotments fronting Kumnick Street and typically larger allotments than allotments existing along Frick Street. The development of the site for low-density residential purposes is consistent with Objectives 1 and 5, and PDCs 1 and 3. Though not considered to constitute medium density development, it is considered the proposal achieves the intent of PDC 9 in that it proposes residential allotments on a site not visible from main thoroughfares, with connection to mains sewer and that are compatible and consistent both with the desired character for the Policy Area and with existing adjacent development. The existing SA Water sewer easement is to be retained, satisfying PDC 13.

The proposed allotments will exceed the 500m² minimum allotment size envisaged for group dwellings connected to mains sewer as per PDC 8. As the existing frontage to Kumnick Street is 8.42 metres in width, the proposal does not meet the 12 metres minimum frontage sought by PDC 8 however, access is considered satisfactory and is discussed further in the report below. The resulting allotments will have the capacity to accommodate future detached dwellings that can comply with the quantitative parameters of PDC 5 and will maintain the existing scale of dwellings in the locality in accordance with PDC 6.

b) Council Wide provisions

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

Hazards

Objectives: 1, 2 and 5

PDCs: 1, 13 and 14

The subject land is located within an area identified as having a Medium Bushfire Risk pursuant to AdHi (BPA)/6. The subject land is sited within the township of Lobethal, and will be connected to an SA Water main for water and sewer. The development avoids being sited in an area susceptible to high bushfire risk in accordance with

Objectives 1 and 2 and PDC 1. The subject land is not within or adjacent to a highly vegetated area which would unreasonably increase bushfire risk and the proposal therefore meets PDC 13.

The proposed internal driveway is to be an all-weather, paved surface with a maximum width of 6 metres and a minimum width of 3 metres. To the front of proposed allotments 53 and 54 the proposal incorporates a turning area suitable for large vehicles. The CFS were contacted for informal comment during the assessment of the proposal and have advised that they have no objection to the proposal. The internal driveway is appropriate for access and manoeuvring of firefighting vehicles subject to the maintenance of a minimum 4 metres vertical clearance along the driveway and the installation of a fire plug or hydrant in proximity to the turning area (refer Recommended Land Condition 5) . The proposal is therefore considered to be consistent with Objective 5 and PDC 14.

Interface Between Land Uses

Objective: 1

PDC: 2

Kumnick Street runs parallel to the Lobethal Abattoir which has an access point from the termination of adjacent Frick Street, and which continues on south from its intersection with Kumnick Street south-east of the development site. The subject land is separated from the abattoir land by Kumnick Street itself and by the allotments to the south of Kumnick Street of which many are used for residential purposes.

The land directly south of the subject site, across Kumnick Street, is a builder's yard. This land is visually separated from Kumnick Street and surrounding residential land uses by mature vegetation and Colorbond-style fencing and is not immediately apparent from the road. Notwithstanding this, the area predominantly residential in nature and the subject land is considered appropriate for residential development. The proposed allotments will not directly front this interface due to the configuration of the existing allotment and the length of the access 'handle'. The proposal is therefore considered to be consistent with Objective 1 and PDC 2.

Land Division

Objectives: 1, 2, 3 and 4

PDCs: 1, 2, 5, 7 and 11

The allotments are able to be connected to SA Water mains sewer and water, the street stormwater network and are able to gain appropriate access via the proposed internal driveway from Kumnick Street, all in accordance with Objective 1 and PDC 1. As sought in Objective 2 and PDCs 2 and 7 the proposal will create allotments suitable for residential use, which is the predominant land use within the locality.

The applicant has provided an arborist report which indicates that the majority of trees on the subject land itself are believed to have been planted on the site, rather than being a stand of in-tact native trees. Most of the vegetation on the subject land is native to eastern or western Australia and is not naturally-occurring within the Adelaide Hills. The regulated (*Corymbia citriodora* – Lemon-scented gum) and significant (*Corymbia*

citriodora – Lemon-scented gum & *Eucalyptus globulus* – Tasmanian blue gum) trees to be removed are not endemic to the region and are believed to have been planted by previous owners. It is therefore considered that the proposal does not conflict with PDC 5. Further assessment of the proposed tree removal is contained later in the report.

Due to the configuration of the subject land, the resulting allotments will not face Kumnick Street. They will instead face the abutting internal driveway, still providing a consistent presentation within the context of the subject land. Existing development will largely obscure views to the bulk of the proposed development and therefore it is considered unlikely that it will overshadow or dominate the existing built form. The slope of the land is gentle which will reduce the need for excessive earthworks or retaining on the resulting allotments. It is considered the proposal therefore appropriately addresses PDC 11.

Orderly and Sustainable Development

Objectives: 1, 3, 4 and 13

PDCs: 1, 7 and 9

The proposed land division is considered to constitute orderly and sustainable development. It proposes residential allotments within defined township boundaries and within a predominantly residential locality. It is not considered at risk of prejudicing existing authorised land uses nor the achievement of relevant development policies within the Zone.

Regulated Trees

Objective: 1 & 2

PDC: 1 & 2

The subject land contains one regulated tree and there are a further three regulated trees in proximity to the subject site on adjacent land. In the arborist report provided by the applicant, the regulated tree on the subject land is identified as Tree 24. It is a *Corymbia citrodora* or Lemon-Scented Gum with a circumference of 2.15 metres, measured 1 metre above natural ground level.

It In consideration of Objective 2(a) it is considered that while the tree does provide a minor contribution to the visual amenity of the locality, it is not particularly visible beyond the subject land, perhaps only excluding immediately adjacent private land. Due to its average height in comparison to surrounding vegetation, the tree is largely screened from view from surrounding streets including Kumnick Street. Therefore, the tree is considered to provide a level of visual amenity but not that it provides significant visual amenity.

As per the arborist report provided, the tree is not indigenous to the local area. The tree is indigenous to Eastern Australia, meaning it was likely planted by previous owners of the land. The tree is also not considered to be rare or endangered and the arborist report considers the tree very common throughout South Australia. The removal of this tree is therefore not considered to be in conflict with Objectives 2(b) and 2(c).

There were no native fauna observed in the tree at the time of inspection by the applicant's arboricultural consultant. Furthermore, the report provided stated that no habitats were identified within the tree. It is therefore considered the proposed removal does not offend Objective 2(d).

The arborist report provided considers that the tree demonstrates major structural defects and that any action taken to resolve the structural defects would undermine the structural soundness of the tree into the future. The anticipated life expectancy, as per the report, is unknown given that the major leaders remain attached. It is noted that at worst the tree could have a very short life expectancy, all dependent on potential leader failure. It is therefore not considered the tree is diseased nor that there is overwhelming evidence that life expectancy is short, though the caution in the report is noted in consideration of PDC 2(a).

In consideration of PDC 2(b) the arborist report considers that the major structural defect identified within the tree has the potential to pose material risk to safety especially during particularly windy conditions. The failure of branches in storm conditions could potentially pose risk to public or private safety in accordance with PDC 2(b), given the likelihood of branch failure.

The arborist report also considers that the Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) for the tree would be severely impacted by the proposed internal driveway. Considering the existing risk of branch failure and uncertainty over the life expectancy of the tree, the reasonable development of access to the site would likely exacerbate existing health concerns. It is suggested in the arborist report that retention of the tree would restrict the reasonable development of the site based on these factors. It is therefore considered that the proposal to remove the tree is consistent with the considerations of PDC 2(d).

The removal of a regulated tree prompts the replacement planting of two (2) trees or payment into the Urban Tree Fund. Due to the limited reasonable space for replacements trees to thrive on the subject land, particularly when considering potential removal by future owners of the resulting allotments, the applicant has elected to pay into the Urban Tree Fund. The payment into the Fund will be required prior to Development Approval being issued (refer Recommended Development Plan Consent Condition 4).

Residential Development

Objective: 1

PDC: 1, 2 and 3

The proposed allotments provide adequate space for the construction of dwellings that maximise solar orientation, can provide adequate private open space and achieve safe and convenient access. The allotment sizes are consistent with those within the locality but provide adequate diversity to the immediate area, where there are already a range of allotment sizes. Furthermore, it is considered the development is appropriate and proportionate to the existing capacity of roads, utilities and nearby facilities. The proposal is therefore considered to appropriately address Objective 1 and PDCs 1, 2 and 3.

Significant Trees

Objective: 1 & 2

PDC: 1, 2, 3, 4 & 5

The subject land contains two significant trees and there is one further significant tree in proximity to the subject site on adjacent land. In the arborist report provided by the applicant, the significant trees are identified as Tree 14 and Tree 15. The trees are *Corymbia citrodora* or Lemon-Scented Gum and *Eucalyptus globulus* or Tasmanian Blue Gum respectively, with trunk circumferences of 3.3 metres and 3.87 metres measured at 1 metre above natural ground level.

The arborist report provided identifies Tree 14 as making a minor contribution to the character and amenity of the locality. It is considered that the tree, given its height and location, does contribute to the pleasant amenity of the area. Only the top of the tree is visible beyond the subject land but is readily visible from the surrounding streets. There is some impact to the amenity value of the tree's trunk due to a section of wire wrapped around the trunk, which had impacted on natural trunk growth. The tree does demonstrate a certain degree of visual merit consistent with PDC 1(a), however is not considered to be a notable visual element in the local landscape as per PDC 1(f).

The tree is not indigenous to the local area. It is indigenous to Eastern Australia. The arborist report suggests that it would have been planted on the site, likely by previous owners, meaning it does not form part of a remnant area of native vegetation. Notwithstanding that it is not indigenous to the area, trees of this species are common throughout South Australia and it is not considered to be rare or endangered. It is considered the proposed removal of the tree is consistent with the intent of PDC 1(b) and 1(d).

It is not considered that the tree provides important habitat for native fauna and as per the arborist report provided, there was no indication of native fauna in the tree at the time of inspection. Considering that the tree does not form part of remnant native vegetation and is not indigenous to the locality, it is not considered the tree is integral to the maintenance of biodiversity in the area. The proposal to remove the tree is therefore considered consistent with PDC 1(c) and 1(e).

In consideration of PDC 3(a) the arborist report notes that the tree shows no sign of disease. It is also not currently within proximity to any existing dwelling. The tree does have a demonstrated history of branch failure and is likely to have them into the future, as per the arboricultural review. Though this poses no immediate risk in the current site context, given the setback to site boundaries, this is a potential future risk should the land be divided for residential purposes.

The tree does not currently threaten damage to a substantial building or structure of value, as per PDC 3(b).

There have not yet been any remedial efforts undertaken on the tree and the arborist report notes the tree has historically had little to no maintenance. Notwithstanding this the arborist report notes that remedial measures such as branch pruning would be required regularly on the tree into the future, but that such measures would provide

only short-term solutions. It is therefore considered that the proposal to remove the tree demonstrates reasonable difficulty in achieving reasonable remedial measures in accordance with PDC 3(c).

It is noted that on original receipt of the application, the applicant intended to retain the subject tree and protect the Tree Protection Zone (TPZ) through the use of building envelopes. After consideration of the proposal, Council Staff requested reconsideration of this proposal given the limitations on reasonable building area. Following further advice from their arboricultural consultant, the applicant revised the application to include the removal of the tree. As demonstrated within the arborist report, the likelihood of survival of the tree even utilising defined building envelopes is considered limited. The report suggests that any intrusion from development could exacerbate stress to the tree, causing further branch failure and a decline in health within 5 to 10 years. It is therefore considered that reasonable development of the allotment would be prevented by the retention of the tree and that these considerations satisfy the purpose of PDC 3(d).

The arborist report considers Tree 15 as a tree of a large size which makes a minor contribution to the character and amenity of the locality. Given its size and visibility within the locality it is considered the tree contributes to amenity within its surrounds. The top portion of the tree is visible from all surrounding streets, though its trunk and lower branches are not visible beyond the subject land. The tree does demonstrate a level of visual amenity consistent with PDC 1(a), however is not considered to be a notable visual element in the local landscape as per PDC 1(f).

The tree is indigenous to South Eastern Australia and not to the local area. The arborist report suggests that it would have been planted on the site, likely by previous owners, meaning it does not form part of a remnant area of native vegetation. Notwithstanding that it is not indigenous to the area, trees of this species are common throughout South Australia and it is not considered to be rare or endangered. The proposed removal of the tree is therefore considered consistent with the intent of PDC 1(b) and 1(d).

At the time of inspection by the applicant's arboricultural consultant there were no native fauna identified in the tree. The tree is not considered to provide an important habitat. Considering that the tree does not form part of remnant native vegetation and is not indigenous to the locality, it is not considered the tree is integral to the maintenance of biodiversity in the area. The proposal to remove the tree is therefore considered consistent with PDC 1(c) and 1(e).

The arborist report identifies a major problem with borer activity within the tree. The structural integrity of the tree is considered to be weakened by the borer activity. Furthermore, the report notes that this is not uncommon with the species given that it is indigenous to an area of significantly higher rainfall than South Australia and within the Adelaide Hills the species typically has a shortened lifespan. The report estimates that the tree will die within 5 years. The health of the tree is also considered a safety risk due to its weakened structure. It is therefore considered the proposed removal of the tree satisfies PDC 3(a).

The tree does not currently threaten damage to a substantial building or structure of value, as per PDC 3(b).

In consideration of PDC 3(c) the arborist report suggests that reasonable treatments or remediation methods would ultimately be ineffective. It is anticipated that removal of all borer activity would leave the tree unbalanced, either causing its death or causing potentially dangerous epicormic shoots to develop. It is considered this appropriately demonstrates the inability for the tree to be saved through remedial work.

As previously discussed, the retention of trees on site with the use of building envelopes to accommodate Tree Protection Zones (TPZs) was considered. In this instance, the subject tree is not considered safe or appropriate to retain on the site. Given that remedial measures are likely to be ineffective and that the tree is already considered to pose a material safety risk, it is not considered that pursuant to PDC 3(d) there are any appropriate development design considerations that would justify retention.

The removal of a significant tree prompts the replacement planting of three (3) trees per significant tree removed, in this case six (6) trees, or payment into the Urban Tree Fund. Due to the limited reasonable space for replacements trees to thrive on the subject land, particularly when considering potential removal by future owners of the resulting allotments, the applicant has elected to pay into the Urban Tree Fund. The payment into the Fund will be required prior to Development Approval being issued (refer Recommended Development Plan Consent Condition 4).

Transportation and Access

Objective: 2

PDCs: 33

All allotments will be accessed via the proposed internal driveway which will be the sole point of access to and from Kumnick Street. The internal driveway provides a manoeuvring area for large vehicles and can accommodate a firefighting vehicle and a refuse collection vehicle. The CFS have reviewed the proposal and have no objections, subject to previously noted conditions. East Waste have also reviewed the proposal and the applicant has provided a signed contract demonstrating their capacity to enter and collect from the driveway.

The driveway has the capacity for two-way vehicle movement in certain parts but narrows to single vehicle movement in four areas, designed as such to protect vegetation along the side boundary including the TPZs of trees on neighbouring allotments. The proposal is considered to appropriately address PDC 33 and is in accordance with Objective 2.

Other Matters

As previously above, East Waste have reviewed the proposal and confirmed that their trucks can access each allotment via the internal driveway. This will avoid the need for rubbish bins to be placed on Kumnick Street where the verge cannot handle the additional bins resulting from the number of proposed allotments. An agreement to

this effect between East Waste and the applicant has been signed and is provided as part of the assessment documentation.

7. SUMMARY & CONCLUSION

The proposal is for a community title land division comprising ten (11) residential allotments between 800m² and 873m² in site area, the removal of one (1) regulated tree (*Corymbia citriodora* – Lemon-scented gum) & 2 significant trees (*Corymbia citriodora* – Lemon-scented gum & *Eucalyptus globulus* – Tasmanian blue, and the construction of an associated internal driveway. The land is within the Township Zone and the proposal is a Merit form of development, as it meets the requirements for land divisions within the Procedural Matters section of the Township Zone.

The proposal is consistent with the residential character of the locality and is an envisaged form of development within the Township Zone. It is considered that the resulting development will be largely unobtrusive as viewed from Kumnick Street, given that the eventual built form will be obscured by existing dwellings. The size of the proposed allotments are considered to be appropriate for a low-density residential neighbourhood, as sought within the Township (Lobethal) Policy Area.

The resulting allotments will all have access to mains sewer and water. Each allotment can be reached by emergency services such as CFS firefighting vehicles and will be serviced by East Waste for rubbish collection. The loss of three regulated and significant trees to facilitate the development is unfortunate but considered reasonable given the relative health of the subject trees and that most trees on the subject site are not endemic to the region and were likely planted by previous owners.

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

8. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent and Land Division Consent to Development Application 20/1058/473 (20/C047/473) by Kermel Pty Ltd for Community title division (1 into 11), removal of 1 regulated tree (*Corymbia citriodora* – Lemon-scented gum) & 2 significant trees (*Corymbia citriodora* – Lemon-scented gum & *Eucalyptus globulus* – Tasmanian blue gum) & construction of internal roadway at 29 Kumnick Street, Lobethal SA 5241 subject to the following conditions:

Planning Conditions

(1) Development in Accordance with the Plans

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

- Community Division Plan Sheet 1 of 2, prepared by Access SDM, Revision A dated 21 August 2020.
- Community Division Plan Sheet 2 of 2 Version 3, prepared by Access SDM, Revision 01 dated 21 August 2020.

(2) Maintenance of Sealed Common Driveway

The surface treatment detail within the common driveway shall be maintained in good condition at all times. The common driveway shall be kept clear of obstructions at all times.

(3) Maintenance of Horizontal Driveway Clearance

A vertical clearance height of 4 metres shall be maintained at all times along the length of the common driveway, to allow for the safe access of CFS firefighting vehicles.

(4) Payment into Urban Tree Fund

Prior to Development Approval being issued, the applicant shall pay \$768.00 (8 x \$96.00) into the Urban Tree Fund, in lieu of the planting of 8 replacement trees.

Planning Notes

(1) Land Division Consent

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

Council Land Division Statement of Requirements

(1) Prior to Section 138 Clearance – Design of Common Driveway

Prior to Section 138 Clearance the applicant shall submit to Council and have approved a driveway and crossover design including detailed civil designs to Council standards.

(2) Prior to Section 138 Clearance – Construction of Common Driveway

Prior to Section 138 Clearance the common driveway and crossover to Kumnick Street approved in Land Division Condition 1 shall be constructed. The driveway and crossover shall be constructed and maintained to the satisfaction of Council at all times.

(3) Prior to Section 138 Clearance – Design of Stormwater Management Solution

Prior to Section 138 Clearance the applicant shall submit to Council and have approved a Stormwater Management Plan which includes detailed civil designs to Council standards.

(4) Prior to Section 138 Clearance – Construction of Stormwater Infrastructure

Prior to Section 138 Clearance the stormwater infrastructure approved in Land Division Condition 3 shall be constructed. The installation of stormwater management infrastructure on the development site and within the verge shall be constructed and maintained to the satisfaction of Council at all times.

- (5) **Prior to Section 138 Clearance – Installation of Fire Plug or Hydrant**
Prior to Section 138 Clearance a fire plug or hydrant shall be installed close to the vehicle turning area along the common driveway and connected to SA Water Mains.

NOTE: It is suggested that the applicant liaise with CFS and SA Water regarding the final location and type of fire plug or hydrant installed, to ensure it meets their requirements.

- (6) **Prior to Section 138 Clearance – Removal of Outbuildings**
Prior to Section 138 Clearance the existing buildings on the land shall be removed.

Council Land Division Notes

- (1) **No Tree Removal Until Development Approval Issued**
No tree included in this consent may be removed nor may any site works commence until Development Approval has been received.

- (2) **Property Identifiers**
The property identifiers for this property are now:

Allotment 46 – 1/29 Kumnick Street
Allotment 47 – 2/29 Kumnick Street
Allotment 48 – 3/29 Kumnick Street
Allotment 49 – 4/29 Kumnick Street
Allotment 50 – 5/29 Kumnick Street
Allotment 51 – 6/29 Kumnick Street
Allotment 52 – 7/29 Kumnick Street
Allotment 53 – 8/29 Kumnick Street
Allotment 54 – 9/29 Kumnick Street
Allotment 55 – 10/29 Kumnick Street
Allotment 56 – 11/29 Kumnick Street

SCAP Land Division Statement of Requirements

- (1) **SA Water Requirements**
The financial requirements of the SA Water Corporation shall be met for the provision of water supply and sewerage services. (SA Water H0103986)

SA Water advises on receipt of the developer details and site specifications an investigation will be carried out to determine if the connections to your development will be standard or non-standard fees.

The developer must inform potential purchasers of the community lots in regards to the servicing arrangements and seek written agreement prior to settlement, as future alterations would be at full cost to the owner/applicant.

- (2) **Payment into the Planning and Development Fund**
Payment of \$77,610.00 into the Planning and Development Fund (10 allotment/s @ \$7,761.00/allotment). Payment may be made by credit card via the internet at

www.edala.sa.gov.au or by phone (7109 7018), by cheque payable to the Department of Infrastructure and Transport marked “Not Negotiable” and sent to GPO Box 1815, Adelaide 5001 or in person, by cheque or credit card, at Level 5, 50 Flinders Street, Adelaide.

(3) Final Plan

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

SCAP Land Division Notes

Nil

9. ATTACHMENTS

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

Respectfully submitted

Concurrence

Ashleigh Gade
Statutory Planner

Deryn Atkinson
Assessment Manager

COUNCIL ASSESSMENT PANEL MEETING

14 April 2021

AGENDA – 8.5

Applicant: W Murdoch & J Murdoch	Landowner: W D Murdoch & J T Murdoch
Agent: Kieron Barnes- Planning Studio	Originating Officer: Doug Samardzija
Development Application:	20/714/473 (20/D031/473)
Application Description: Boundary realignment (3 into 3)	
Subject Land: Lot:11 Sec: P22 FP:106541 CT:6161/134 Lot:64 Sec: P5149 FP:156799 CT:5509/458 Lot:65 Sec: P5149 FP:156800 CT:5724/523	General Location: 792, 832 & Lot 65 Swamp Road, Lenswood SA 5240 Attachment – Locality Plan
Development Plan Consolidated : 08 August 2019 Map AdHi/1, 3 & 53	Zone/Policy Area: Watershed (Primary Production) Zone - Lenswood Policy Area
Form of Development: Merit	Site Area: 7.367 hectares (combined size of the 3 allotments)
Public Notice Category: Category 1 Merit	Representations Received: N/A Representations to be Heard: N/A

1. EXECUTIVE SUMMARY

The purpose of this application is realign the boundaries of three allotments.

The subject land is located within the Watershed (Primary Production) Zone - Lenswood Policy Area.

The proposal is a merit, Category 1 form of development.

As per the CAP delegations, the CAP is the relevant authority because the allotments are in the Watershed (Primary Production) Zone, and the realignment involves three allotments with two of the proposed resulting allotments to have an area less than 2 hectares, and the other remaining allotment to have an area of 6.81 hectares.

The proposal is to realign the allotment boundaries to relocate existing allotment 65 containing a historic disused packing shed further north to create a rural living allotment of 2065m². The boundaries between existing allotment 64 and 11 will also be realigned to consolidate the entire orchard within a singular proposed allotment 1 and consolidate allotments 65 and 64 into a smaller rural living allotment of 3505m² for the existing dwelling.

The main issues relating to the proposal are impacts on the primary production land, creation of a rural living allotment, development potential of existing allotments and site contamination for the area nominated for proposed allotment 1.

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

2. DESCRIPTION OF THE PROPOSAL

The proposal is for boundary realignment involving three allotments.

Existing Allotments

Allotment	Area (ha)	Currently containing
11	6.78ha	Dwelling, orchard and associated outbuilding and horticulture buildings
64	5000m ²	Dwelling, associated outbuildings and small portion of an orchard
65	800m ²	Historic packing shed

Proposed Allotments

Allotment	Area (ha)	Containing
1	2065sqm	Orchard
3	3505sqm	Dwelling and associated outbuildings
11	6.81ha	Dwelling, orchard and associated outbuilding and horticulture buildings

The plan of division includes:

- The outline of existing and proposed allotment boundaries, existing structures on the subject properties as well as other natural land features.

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
13/02/2001	01/56/473	Freestanding Shed

4. REFERRAL RESPONSES

- **SCAP**
Standard response was provided by SCAP requiring a final survey plan (refer to SCAP condition 1).
- **CFS**
The CFS have no objection to the proposal and have provided conditions in relation to access, water supply and vegetation management, these condition are normally imposed on the land use applications rather than land division application. No comments were made in relation to existing dwellings.

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

- **SA WATER**

In response to the abovementioned proposal, I advise that this Corporation has no requirements pursuant to Section 33 of the Development Act. Boundary realignment only.
Primary Production

- **AHC EHU**

Council's Environmental Health Unit (EHU) has advised that the generally accepted SA Health guideline of a minimum 1,000sqm site area including reserve area enables sufficient area for a wastewater system associated with a residential property. As this is only a guide, Council's EHU have further advised that as the reserve area is not legislated then 800sqm is acceptable (given it is existing) to enable an on-site wastewater system, provided all planning and building requirements can still be met. Therefore 250sqm is required to site a waste system and 100sqm recreation area, leaving 550sqm as the remaining area to site a dwelling plus access and all other planning/building requirements.

Based on this and the additional site plan provided by RFE Consulting showing an indicative building envelope, effluent soakage area and recreation area for existing lot 65, the site is considered to be developable.

- **AHC RATES**

Proposed Lot 1 - vacant land - RPA number will be allocated upon driveway approval
Proposed Lot 2 - remains 832 Swamp Road
Proposed Lot 3 - remains 792 Swamp Road

- **AHC ENGINEERING DEPARTMENT**

Council's Engineering Department have reviewed the proposed realignment and have advised the following:

Engineering Department have no objections to an additional access if the right of way arrangement currently proposed is not supported by the Planning Department. In general, the preference is for as few interaction points with the road as possible, however this location on Swamp Road is acceptable for an additional access point.

Stormwater will need some consideration as the swale drain on the road has limited capacity to take additional water and the Cock Wash feeds into the Onkaparinga so future dwelling construction will require detention requirements.

5. **CONSULTATION**

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

The applicant or his representative – Kieron Barnes, may be in attendance.

6. PLANNING & TECHNICAL CONSIDERATIONS

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

i. Environmental Food Production Area

The subject land is located within the Environmental Food Production Area (EFPA) as defined by General Registry Office Map G17/2015. The boundary realignment is not proposing any additional allotments to be used for residential purposes but maintaining the status quo of existing allotments which might include future residential use.

ii. The Site's Physical Characteristics

The subject land is comprised of three allotments with a combined area of 7.367 hectares. Existing lot 11 is an irregular shaped primary production allotment of approximately 6.78 hectares with direct access to Swamp Road. This allotment is predominantly a primary production allotment containing an orchard with other site improvements including a single storey dwelling, associated domestic structure, and horticulture buildings. All of the buildings on site are clustered together in approximately a central location on the allotment. Other site features include a dam north east of the dwelling as well as water courses traversing the allotment.

Existing lot 64 is a relatively regular shade allotment with an area of 0.5 hectares and similar to proposed lot 1 which contains a single storey dwelling and associated domestic structures. Other site features include a small area of an orchard to the rear of the property. This allotment has a direct frontage and access to Swamp Road.

Existing lot 65 is a regular shaped allotment and the smallest of the three allotments with an approximate area of 800m². Similar to the other two allotments, this allotment also has direct access to Swamp Road. This allotment only contains a historic packing shed along the front of the property whilst the remainder of the allotment is vacant.

The Surrounding Area

The locality is characterised by a mixture of allotment sizes and uses. Allotments in the immediate locality vary in size from as large as 28 hectares to as small as 800m². Larger allotments are predominantly used for primary production purposes and the smaller allotments are used for rural living purposes.

Properties immediately adjacent to the subject land are used predominantly for primary production purposes or were in the past used for such purposes. Further east of the subject land are even larger primary production allotments with a large majority of these properties containing permanent environmental covers that are associated with the primary production use of the land. Immediately south of the subject allotment along Swamp Road are also examples of small rural living allotments similar in shape and size as proposed lot 1.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

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

Policy Area

- *The retention of orchards and bushland as predominant uses*
- *Retention of the present village character and size of Lenswood and Forrest Range*
- *No further provision of small rural living allotments.*

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

Objectives: 1, 2 and 3

Objective 1 seeks that orchards and bushland are retained as the prominent use. As part of the assessment process, the applicant was asked to provide an agronomist report which considered the impacts of the proposed realignment of boundaries on the primary production use of the land. An Agricultural Viability Assessment Report was prepared by Pinion Advisory which concluded that:

1. *Approximately 0.19 Ha of apple trees is planted on the existing Lot 64, and is not considered to be a viable enterprise if this Lot is sold separately from Lot 11. The creation of Lot 3 will shift these apple trees to the same title as the remainder of the orchard, which provides certainty to the orchard owner and operator.*
2. *The creation of Lot 1 for a potential dwelling development will result in the removal of approximately 0.20 Ha orchard area. The area in question is planted to the variety Sundowner, which is earmarked for removal in 2021 due to changing consumer preferences, irrespective of the outcome of this application. Whilst the creation of Lot 1 will reduce the plantable area of this land by 0.20 Ha, from 2021 there will be 1.63 Ha of land which can be replanted to in-demand varieties; increasing current production by over 25%.*

Please refer to pages 41 and 42 of the attachments.

The assessment concluded that *"the creation of proposed Lot 1 for a potential dwelling reduces the land available for additional planting to 1.63 Ha. The distribution of current fixed costs across the proposed Lot 2 when fully developed reduces the overall cost by 14.1%. This difference of 1.1% will not have a significant impact on the viability of this orchard enterprise."* Please refer to page 42 of the attachments. The proposal is therefore considered to accord with Objective 1 of the Policy Area.

Objective 2 seeks the retention of the village character of Lenswood whilst Objective 3 seeks that no further rural living allotments are created. The proposal will not result in a creation of a new rural living allotment as it is simply moving existing lot 65 of approximately 800m² further north to create a new rural living allotment. The outcome of the realignment is a rural living allotment of 2,065m² which is an increase of 1265m² in land size from the current rural living allotment. This sized allotment is more consistent in size with other existing rural living allotments within the locality. The proposal is therefore considered to be consistent with Objective 3. Considering the above it can therefore also be argued that the realignment of the boundaries as

proposed is going to retain the village character of Lenswood and is therefore consistent with Objective 2.

Watershed (Primary Production) Zone

- *The enhancement of the Mount Lofty Ranges Watershed as a source of high quality waters*
- *The long-term sustainability of rural production in the south Mount Lofty Ranges*
- *The preservation and restoration of remnant native vegetation in the south Mount Lofty Ranges*

The following are considered to be the relevant Zone provisions:

Objectives: 2, 3 & 4

PDCs: 16, 17, 18, 19, 20, 21, 22, 31, 33, 34, 42, 44 & 70

Form of Development

PDCs 16 and 17 as well as Objective 3 seek to ensure that primary production is not prejudiced, and that land that is particularly suitable for primary production remains available for this purpose. It is considered that the proposed realignment of the boundaries is not going to have minimal impacts on the use of available primary production land for such purposes. As mentioned earlier in the report, an Agricultural Viability Assessment was undertaken which concluded that proposed boundary realignment will support economically viable and sustainable apple production on proposed Lot 2. As such it is considered that the proposal is consistent with the PDCs 16 and 17 as well as Objective 3.

Land Division

PDC 70 is procedural relating to the non-complying development triggers in the zone. Land division in Watershed (Primary Production) Zone is considered to be non-complying application unless it is able to meet the following exemptions:

- Land Division where no additional allotments are created, either partly or wholly, within the Watershed (Primary Production) Zone, and where the development of the proposed allotments does not result in a greater risk of pollution of surface or underground waters than would the development of the existing allotments, and provided a suitable site for a detached dwelling is available such that the site and the dwelling would comply with the criteria in Table AdHi/5.

The proposed boundary realignment is considered to be a merit form of development because it does not result in the creation of an additional allotment. In addition the proposed realignment of boundaries will not result in a greater risk of pollution of surface or underground water. It is also considered that proposed lot 1, the only vacant allotment, is a suitable size which would be able to meet Table AdHi/5 requirements for any future dwelling.

Upon establishing the procedural matters of the application, PDCs 18, 19, 20, 21 & 22 relate directly to the circumstances under which land divisions in the zone would be considered.

PDC 18 provides that land division should only occur where a site for a detached dwelling which complies with the criteria detailed in Table AdHi/5 is available. Failure to meet the criteria of Table AdHi/5 is a non-complying development trigger in the Zone. The aim of PDC 18 is therefore to ensure that resulting allotments are able to be developed with detached dwellings that are not non-complying in nature. At the same time PDCs 19 and 21 are similar in that they both seek that land division proposals do not result in an increased pollution risk to water resources or cause the loss of productive primary production land.

The Table AdHi/5 criteria sets out that detached dwellings must be:

- Sited at least 25m away from watercourses; and
- Connected to an approved wastewater system that is at least 50m from the watercourse, on the slope gradient of no more than 1 in 5 and no less than 1.2m depth to bedrock

Currently, proposed lots 2 and 3 contain a residential dwelling with the dwellings connected to the existing on site waste systems with all of the elements contained within the proposed allotment boundaries. Proposed lot 1 is the only vacant allotment and as part of the assessment process, the applicant was asked to demonstrate that proposed lot 1 had potential to establish an onsite waste system to service any future dwelling and also to confirm that existing lot 65 had development potential and was able to accommodate a dwelling and an on-site waste system. The Wastewater Feasibility Assessment by RFE Consulting concluded that existing lot 65 and proposed lot 1 had development potential. The assessment confirmed that the realignment of the boundaries was not increasing development potential in the Watershed (Primary Production) Zone.

The proposal is therefore considered to be consistent with PDCs 18, 19 and 21.

PDC 20 provides guidance as to the circumstances where land division proposals are appropriate in the zone. This PDC states that land division may be undertaken provided no additional allotments are created and the purpose of the plan of division is to provide a re-adjustment of boundaries to correct anomalies in the placement of those boundaries with respect to the location of existing buildings. Alternatively minor readjustment could be undertaken if it is facilitating improved management of the land for primary production purposes and/or conservation of natural features.

The proposal is not considered to be a minor re-adjustment of allotment boundaries nor is its purpose to correct any anomalies in the form of boundary encroachments. The proposal is therefore not considered to be consistent with PDC 20 (a).

Realignment of the boundary between existing lots 64 and 11 consolidates a section of orchard into one large primary production allotment. The creation of proposed Lot 1 for a potential dwelling development will result in the removal of approximately 0.20 hectares of orchard area which will reduce the land available for additional planting to 1.63 hectares. This equates to a 1.1% difference which will not have a significant impact on the viability of the orchard. Therefore it can be argued that the realignment is consistent with the intent of PDC 20 (b). The realignment of allotments will not impact on any native vegetation and is therefore consistent with Objective 4 of the zone which seeks preservation and restoration of remnant native vegetation.

PDC 22 states that re-arrangement of allotment boundaries should produce allotments of a size consistent with that of the locality. As mentioned earlier in the report, allotments in the locality range from as large as 28 hectares to allotments as small as 800m². The proposal is removing one 800m² allotment, creating a 2065m² allotment and reducing the size of a 5000m² to a 3505m² allotment. The outcome is still two rural living allotments both of which are of size more consistent to the other rural living allotments in the locality. With the exception of this 800m² allotment there are only two other allotments in the immediate locality under 1000m². The proposal is therefore considered to be consistent with PDC 22.

Conservation

PDC 31 seeks that land use does not change in or near native vegetation. PDC 33 seeks that realignment of boundaries does not result in an increased number of allotments adjoining an allotment with native vegetation. At the same time PDC 34 seeks that boundary realignment does not occur where it will increase the number of allotments over areas covered by native vegetation. The proposed boundary realignment does not impact or occur in the areas or adjacent to areas covered by native vegetation and as such accords with PDCs 31, 33 and 34.

Rural Development

PDC 42 states that rural areas should be retained for primary production purposes and other uses compatible with maintaining rural productivity. PDC 44 states that development which would remove productive land from primary production or diminish its overall productivity for primary production should not be undertaken unless the land is required for essential public purposes. The proposed realignment of boundaries is considered to maintain primary production and is not considered to diminish the overall productivity of the land for primary production. The Agricultural Viability Assessment has concluded that there will be a total of 1.1% reduction in the primary production area of the orchard which is not considered to be significant and will therefore not impact on the viability of the orchard. The proposal is therefore considered to be consistent with PDCs 42 and 44.

b) Council Wide provisions

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

- *The retention of rural land in primary production especially land suitable for high rates of fruit and vegetable production*
- *Development located to minimise the treat and impact of bushfires on life and property while protecting natural and rural character*
- *Land division restricted in rural areas to ensure that efficient use of rural land for primary production*
- *Retention, protection and restoration of the natural resources and environment*
- *Orderly and economic development that creates a safe, convenient and pleasant environment in which to live in*

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

Animal Keeping & Rural Development

Objectives: 1 & 2

PDCs: 1

Objectives 1 and 2 as well as PDC 1 seek that rural land should be retained for either primary production and/or native vegetation conservation and retention purposes. The proposed realignment is considered to achieve both of these requirements. Proposed lot 1 whilst being proposed in the area currently being used for primary production purposes is not considered to be prejudicing primary production land based on the analysis done by Pinion Advisory which concludes that the proposed realignment of boundaries is going to support viable and sustainable apple production on proposed lot 2. In relation to native vegetation, as discussed earlier in the report, there will be no impacts on any native vegetation. The existing dwelling and associated outbuildings will remain and any future development on this site would be able to occur without any additional loss of vegetation. Proposed lot 1 is clear of any native vegetation and as such any future building work will not impact on any native vegetation. Proposed lot 2 is of sufficient size to be retained for primary production use and the realignment of boundaries will consolidate the entire orchard area within a singular allotment. The proposal is therefore considered to accord with Objectives 1 and 2 and PDC 1.

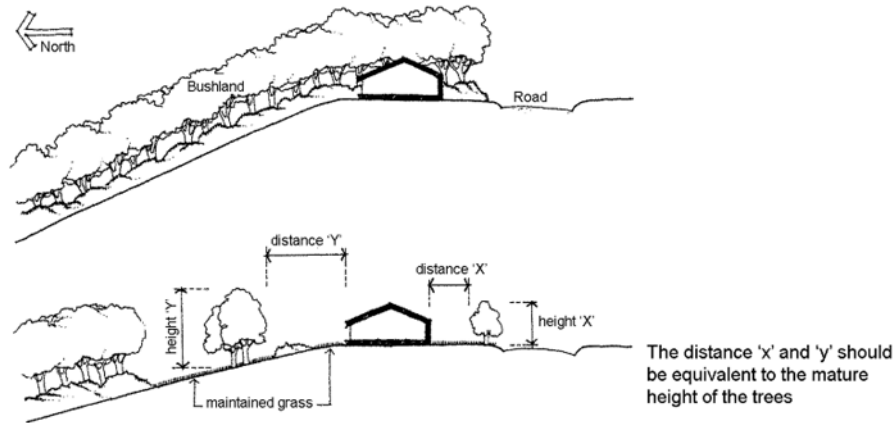
Hazards

Objectives: 5, 8 & 9

PDCs: 1, 6, 7, 13 & 22

Objective 5 seeks that development be located to minimise the threat and impact of bushfire on life and property and this is reinforced by PDC 1. PDCs 6, 7 and 13 on the other hand refer specifically to the Ministers Code: Undertaking Development in Bushfire Protection Areas and seek that the measure in the Code can be met to ensure any future habitable building is adequately protected in the event of the bushfire. Whilst the proposed development does not include construction of habitable buildings, the Development Plan still seeks that proposed land division is able to satisfy the necessary bushfire requirements for any potential future developments. The CFS has undertaken the necessary assessment of the proposed land division as mentioned earlier in the report. The focus of the CFS assessment was solely on proposed lot 2 as it is the only vacant allotment. The CFS has advised that they have no objections to the proposed application and they have not identified any concerns with the allotment being able to satisfy any of the Ministers Code requirements. As such it is considered that the proposed development is consistent with Objective 5 and PDCs 1, 6, 7 and 13. The Applicant was also asked to consider any future conflict relating to the need for a vegetated buffer area for proposed lot 1 and CFS requirements. The Applicant has advised that a:

"future dwelling on proposed lot 1 can be located away from existing vegetation an equivalent distance to the mature height of the trees (see image from the Minister's Code below). Therefore, a future dwelling on proposed lot 1 should be sited at least 6.75 metres away from the vegetated buffer. Given that the vegetated buffer is likely to be approximately 3 metres wide, a distance of 7 metres will be provided between the vegetated buffer and the indicative building envelope shown in our letter dated 18 February 2021. This distance is consistent with the requirements of the Minister's Code".



Further discussion relating to the vegetated buffer requirements is discussed later in the report.

Objective 8 seeks protection of human health and the environment wherever site contamination has been identified or suspected to have occurred whilst, Objective 9 seeks appropriate assessment and remediation of site contamination. This is further enforced by PDC 22 which states that developments including land division should not occur where the site contamination has occurred unless the site has been assessed and remediated to ensure that it is suitable and safe for the proposed use. Considering that existing lot 65 has been used for primary production purposes and the area identified for the allotment 1 is currently being used for primary production purposes, applicant was requested to demonstrate that these areas are suitable for residential use and do not require remediation. A preliminary site investigation (PSI) report was prepared following a detailed investigative process which, amongst other things, involved a site inspection, a review of a raft of historical information and the analysis of a number of soil samples taken from the land. The PSI identified that:

- The existing and historic use of the land for horticultural purposes (orchard), represents a potentially contaminating activity;
- Laboratory testing of soil samples taken from the land indicate that there are no contaminants which exceed the adopted health investigation levels for residential land use;
- There are no offsite potentially contaminating activities relevant to the subject land; and
- The existing and previous use of the land as an orchard is considered to have a negligible risk to the proposed boundary realignment.

Based on the findings contained within the PSI, RFE Consulting conclude that there are no environmental considerations which would preclude the use of the site for residential use. Furthermore, it is considered based on the results of this assessment that no further environmental assessment is necessary at the site to confirm the suitability of the site for future residential use, which is a change to a 'move sensitive use'.

Considering the result of the Preliminary Site Investigation it is considered that the proposed application accords with Objectives 8 and 9 and PDC 22.

Interface Between Land Uses

Objectives: 1 & 3

PDCs: 1, 2, 4, 5, 11, 13, 14 16,

Objective 1 seeks that development is designed and located to minimise the adverse impacts and conflict between land uses whilst, Objective 3 seeks the protection of desired uses from incompatible uses. These objectives are further enforced by relevant PDCs which refers to specific interfaces between residential and primary production uses and impacts from dust and other airborne pollutants, in particular spray drift associated with primary production. The proposed realignment of boundaries is intending creation of lot 1 within the area adjacent to an existing orchard as well as an access track used as primary access to proposed lot 2. The Applicant has provided an indicative building envelope plan which demonstrates that a future dwelling could be established on the proposed lot 1 with a minimum 10m setback from the southern boundary with proposed lot 2 which would provide sufficient space for a fence and planting of a vegetation buffer to minimise the potential impacts of chemical spray drift and other impacts associated with primary production. Based on the Adelaide Hills Council Buffer Policy spray application may be up to 4.5m in height whilst wind-tunnel tests on spray drift have shown that the minimum height of a barrier should be 1.5 times the release height of the spray (see barrier height) for a vegetated buffer with 50% porosity. This means that a buffer for the proposed allotment would need to be at least 6.75m in height. The Applicant has advised that based on this that an appropriate species for a vegetated buffer would be *Acmena smithii* (Lilly Pilly) a species which is able to grow above 5m in height and is also listed as a fire retardant species. The proposal is therefore considered to accord with Objectives 1 and 3 and PDCs 1, 2, 4, 5, 11, 13, 14 and 16 by demonstrating that an effective vegetated buffer can be established on proposed lot 1 which would alleviate dust and spray drift concerns from adjoining primary production use. The only concern with proposed lot 1 and the creation of the vegetation buffer is the time required in order to establish an effective buffer. As such and in accordance with Councils Buffers Policy a condition requiring the establishment of the vegetated buffer prior to Section 138 Clearance has been attached along with a condition requiring maintenance and replacement of vegetation. (Refer Recommended Land Division Condition 2 and Development Plan Consent Condition 2).

Land Division

Objectives: 2 & 5

PDCs: 1, 2, 5, 6, 7, 11, 21 & 22

The proposed land division does not restrict existing rural living properties from continued use as such, nor does it prevent the allotment from being redeveloped for such purposes in the future. Each of the allotments has a direct access to a public road; existing dwellings are connected to an existing on site waste system whilst proposed lot 1 has ample space to accommodate a future waste system should the future land use be for purposes other than primary production. As such it is considered the proposal adequately satisfies Objective 2 and PDCs 1, 2, 6(c), and 7.

PDCs 5 and 11 seek that land division be designed and configured so that it does not impact on native vegetation. As mentioned earlier in the report the proposed realignment will not impact on any native vegetation. As such the proposal is considered to be consistent with PDCs 5 and 11.

Objective 5 seeks retention of the efficient use of rural land for primary production purposes and this is further enforced by PDCs 21 and 22 which seek that allotments be retained for primary production purposes and that the natural resources are protected. The proposed realignment of boundaries is not considered to impact on the primary production use of the land as discussed earlier in the report. The consolidation of the entire orchard into a single allotment and the loss of a small section of existing primary production land for proposed lot 1 is deemed to be minor based on the Agricultural Feasibility Assessment. This will not impact on the viability of proposed lot 2 being used for productive primary production. As such the proposal is considered to satisfy the intent of Objective 5 and PDCs 21 and 22.

Natural Resources

Objectives: 1

PDCs: 1, 37, 38 & 39

Objective 1 and PDC 1 seek retention, protection and restoration of natural resources and environment including water quality, land, soil and biodiversity. The proposed realignment of boundaries achieves the requirements set out in Objective 1 and PDC 1. It will not result in an increase in development potential given that existing lot 65 with the historic packing shed has been identified as having development potential and proposed lot 1 will retain the status quo and as such the proposed realignment of the boundaries does not alter this situation.

Similar to some of the other PDCs discussed earlier in the report, PDCs 37, 38 and 39 place an emphasis on protecting native vegetation and locally indigenous plant species. Existing allotments and the realignment of the boundaries is not proposed in the area or adjacent to an area covered by native vegetation and as such the proposal satisfies PDCs 37, 38 and 39.

7. SUMMARY & CONCLUSION

The proposal seeks consent to realign the boundaries of three allotments in the Watershed (Primary Production) Zone and Lenswood Policy Area.

The purpose of the proposal is to realign the allotment boundaries to relocate existing allotment 65 containing a historic packing shed further north and create a rural living allotment of 2,065m². The proposal also proposes to realign the boundaries between existing allotments 64 and 11 to consolidate the entire orchard within a singular proposed allotment 1 and consolidate allotments 65 and 64 into a smaller rural living allotment of 3,505m².

Whilst it is acknowledged that a small section of the primary production land will be impacted by the proposed realignment, the Agricultural Feasibility Assessment has concluded that this will not impact on the viability of the primary production allotment and the growing of apples. Furthermore the proposal improves the management of the land for primary production by consolidating the orchard into one single proposed allotment 2.

The development of the proposed allotments does not result in a greater risk to water quality in the watershed area than the existing allotments. Existing dwellings will be retained on individual allotments with an existing approved waste systems whilst the status quo for the vacant allotment will remain. Preliminary Site Investigation report has also determined that there are no environmental considerations which would preclude the boundary realignment from proceeding.

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

8. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent and Land Division Consent to Development Application 20/714/473 (20/D031/473) by W Murdoch & J Murdoch for Boundary realignment (3 into 3) at 792 Swamp Road, 832 Swamp Road, and Lot 65 Swamp Road Lenswood subject to the following conditions:

Planning Conditions

(1) Development In Accordance With The Plans

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

- Amended plan of division prepared by Richard Retallack, plan number R20034MUR-01B date stamped by Council 18/02/2021
- Amended Land Application Area Layout Plan with vegetated buffer location and dimensions date stamped by Council 01/04/2021

(2) Maintenance of Vegetated Buffer

The vegetated buffer established on proposed allotment 1 shall be maintained in good health and condition at all times with any vegetation replaced in the next planting season should they become diseased or die.

Notes

(1) Land Division Development Approval Expiry

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

(2) Department of Environment and Water (DEW) - Native Vegetation Council

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

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

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

(3) Property Identifiers

The property identifiers for these properties are now:

Proposed Lot 1 - vacant land - RPA number will be allocated upon driveway approval

Proposed Lot 2 - remains 832 Swamp Road

Proposed Lot 3 - remains 792 Swamp Road

Land Division Conditions

Council Land Division Statement of Requirements

(1) Prior To Section 138 Clearance- Removal of the Orchard on Allotment 1

Prior to Section 138 clearance, the orchard on proposed allotment 1 shall be removed.

(2) Prior to Section 138 Clearance - Separation Buffer

Prior to Section 138 clearance, a 10 metre separation buffer shall be established on proposed allotment 1 to the satisfaction of Council. The separation buffer shall comprise a vegetated area with a minimum width of 3 metres and a 7 metre firebreak on either side of the vegetated area. The vegetated area shall contain random plantings of a variety of fast growing and hardy tree and shrub species of differing growth habits, including at least one row of semi-mature trees. Such vegetated areas shall be in accordance with Appendix 3 of the Council's Buffers Policy dated 14 November 2017. The vegetated areas shall not include species listed in Appendix 2 of the Council's Buffers Policy (Bushland Invasive Plants).

For further information on Council's Buffers Policy refer to:

COUNCIL-POLICY-Buffers-2017.pdf (ahc.sa.gov.au)

SCAP Land Division Statement of Requirements

(1) Requirement For Certified Survey Plan

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

- 9. ATTACHMENTS**
Locality Plan
Proposal Plans
Application Information
Applicant's Professional Reports
Referral Responses

Respectfully submitted

Concurrence

Doug Samardzija
Statutory Planner

Deryn Atkinson
Assessment Manager