

## COUNCIL ASSESSMENT PANEL MEETING

14 July 2021

### AGENDA – 8.1

<b>Applicant:</b> R Bowman & K Bissland	<b>Landowner:</b> K D Bissland & R M Bowman
<b>Agent:</b> N/A	<b>Originating Officer:</b> Ashleigh Gade
<b>Development Application:</b>	20/1307/473
<b>Application Description:</b> Demolition of existing two storey detached dwelling & construction of new two storey detached dwelling, deck (maximum height 3.5m), retaining wall (maximum height 1.2m), 2 x 20,000L water tanks & associated earthworks	
<b>Subject Land:</b> Lot:45 Sec: P48 FP:32038 CT:6104/79	<b>General Location:</b> 19 Orley Avenue, Stirling  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 8 August 2019 <b>Map</b> AdHi/28 & AdHi/72	<b>Zone/Policy Area:</b> Country Living Zone - Country Living (Stirling And Aldgate) Policy Area
<b>Form of Development:</b> Merit	<b>Site Area:</b> 3231 m <sup>2</sup>
<b>Public Notice Category:</b> Category 2 Merit	<b>Representations Received:</b> 4 (3 in support, 1 opposed).  <b>Representations to be Heard:</b> 1

#### 1. EXECUTIVE SUMMARY

The application seeks Development Plan Consent for the demolition of an existing two storey detached dwelling and the construction of a new two storey detached dwelling with decking to a height of 3.5m above natural ground level, a retaining wall to a maximum height of 1.2m and associated earthworks. The proposed dwelling contains four bedrooms, two living areas and an undercroft garage across two levels. The dwelling presents as single storey to Orley Avenue and thereafter follows the existing site levels, rising to two storeys as the natural land falls away to the east.

The subject land is located within the Country Living Zone and the Country Living (Stirling and Aldgate) Policy Area. 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 four (4) representations during the public notification period, of which one (1) representor is opposed to the development and has indicated that they wish to be heard.

As per the Adelaide Hills Council Instrument of Delegation made pursuant to Section 102 (1) of the Planning, Development and Infrastructure Act 2016, the CAP is the relevant authority for Category 2 development applications where representors wish to be heard.

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 two storey detached dwelling
- Construction of a two storey detached dwelling of a contemporary design with pitched Colorbond roofing in dark grey and a mixture of weatherboard cladding and brickwork to the walls in white, located predominantly on the site of the previous dwelling
- A deck on the second storey, referred to as the balcony in the assessment documents, to a maximum height of 3.5m above natural ground level
- A retaining wall sited between the dwelling and Orley Avenue, to retain excavated land to a height of 1.2m above finished ground level
- Two water tanks each with a 20,000L capacity, to be sited below the upper level of the dwelling and obscured from view by the ground floor of the dwelling

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

## 3. BACKGROUND AND HISTORY

The proposal has undergone amendments since lodgement and public notification.

It was originally proposed that the application include an outbuilding (studio) to the rear of the allotment near the eastern and Madeline Road boundaries. This outbuilding was sited within the Tree Protection Zone (TPZ) of the Stringybark tree located within the Madeleine Road Council verge. Council’s Arboriculture Team were not supportive of the siting of the outbuilding given the risk to the health of the tree and the potential safety risk to the building itself, considering the incidence of historic limb failure. The outbuilding has since been removed from the application.

Following receipt of the representation in opposition to the proposal, the applicant has also made amendments to the proposal with regard to siting of the dwelling and treatments to the northern windows. The side setback to the northern boundary has been increased from 2m in the originally submitted plans, to a minimum of 2.5m at the front of the dwelling and increasing to 3m toward the rear of the dwelling. The amended plans also include frosted glazing to 1.7m above finished floor level to two windows on the northern elevation of the upper floor.

The amendments made to the proposal in response to the representation are discussed in further detail below.

## 4. REFERRAL RESPONSES

### • AHC Engineering

The subject land has an existing crossover. The proposal involves the creation of a new crossover, with sufficient splay to accommodate a CFS firefighting truck performing a ‘T-turn’ movement between the driveway and Orley Avenue. As a consequence, the existing crossover is to be decommissioned. Council’s Engineering Department are supportive of the proposed access.

It is proposed that stormwater be managed via the proposed water tanks, with overflow to be directed to the street. Council's Engineering Department advise that the level of detention provided in the proposed water tanks is sufficient and that Madeline Road has the appropriate capacity to manage the anticipated rate of discharge.

- **AHC Arboriculture**

The proposal was referred to Council's Arboriculture Team due to the original inclusion of an outbuilding, sited within the TPZ of a Council-owned Stringybark tree. Arboriculture were not supportive of a building within the TPZ of the tree, given the sensitivity of Stringybark trees to root disturbance, and the historic incidence of branch failure in this specific tree.

The outbuilding has since been removed from the application.

- **AHC Local Heritage**

The subject land is sited within proximity of two Local Heritage Places. To the north, directly adjacent the subject site, is the Local Heritage listed dwelling known as 'Taminga' at 15 Orley Avenue. To the south-west across Madeline Road is a Local Heritage listed dwelling at 16 Madeline Road.

Council's Heritage Advisor reviewed the proposal and considers the dwelling appropriate in the context of the locality. The design of the proposed dwelling is contemporary but the pitched roof and selection of brick and weatherboard cladding materials, as well as the retention of the established garden setting, are consistent with the character of the locality.

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

## 5. CONSULTATION

The application was determined to be a Category 2 form of development in accordance with the procedural matters for the Country Living Zone, due to the height of the decking above natural ground level.

A total of four (4) representations were received during the public notification period, of which three (3) were in support of the proposal and one (1) was opposed. The representor opposing the development indicated that he wishes to be heard in support of his representation. None of the supportive parties wish to be heard. The CAP is the relevant authority for Category 2 applications where representors wish to be heard and the hearing of representors is at the discretion of the CAP.

The following representor wishes to be heard:

<b>Name of Representor</b>	<b>Representor's Property Address</b>	<b>Nominated Speaker</b>
Chris Jamieson	15 Orley Avenue, Stirling	Self

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

- The impact of the proposal on the interface between the subject land and the representor's property, the Local Heritage Place 'Taminga'
- The length of the dwelling along the shared boundary, particularly when considered relative to the length of the previous dwelling along this boundary
- The height and length of unobscured windows facing the shared boundary

As noted previously in the report, the applicant's response to representations involved the revision of certain aspects of the dwelling design. The amendments made can be summarised as follows:

- Increase in side setback to the shared boundary with 15 Orley Avenue
- Obscuring of two windows along the side elevation with frosted glass, to a height of 1.7m above finished floor level

The issues raised and amendments made to the plans in response are discussed in the following sections of the report in further detail.

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:

i. The Site's Physical Characteristics

The subject land is a rectangular allotment of approximately 3231m<sup>2</sup> in area, located within a well landscaped urban environment. The allotment is among some of the larger allotments within the surrounding locality. The land has a moderate slope and falls away from Orley Avenue in a south-easterly direction down to its lowest point to the east of the Madeline Road frontage.

The site currently contains a two storey detached dwelling, a gazebo, a disused tennis court, and well established gardens. The property is serviced by SA Water mains water and sewer connections.

ii. The Surrounding Area

The locality is predominantly residential in nature, characterised by significantly varied allotment sizes and layouts. Along Orley Avenue and Madeline Street allotments are generally larger in size to accommodate large detached dwellings. Many dwellings in the locality are two storey and a number of the dwellings are Local Heritage Places.

The locality is typically well vegetated, both within the Council verge and through well-maintained gardens on private land. The surrounding vegetation is primarily comprised of exotic species, within limited examples of native vegetation. It is common for dwellings to be at least partially obscured from view from public roads by established plantings.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Country Living Zone - Country Living (Stirling And Aldgate) Policy Area and these provisions seek:

- Low density residential character, comprising mostly detached dwellings.
- Residential development be sensitive to the topography of the land and minimise environmental and visual impacts.

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

*Objective: 1*

*PDC: 1*

Objective 1 and PDC 1 for the Policy Area seek that development be consistent with the desired character for the Policy Area. The desired character statement envisages that dwelling designs will vary significantly throughout the Policy Area, but that typically large dwellings are anticipated, with a range of materials and designs. Furthermore, the desired character statement seeks that the generous setbacks and heavily landscaped gardens common within the Policy Area be maintained, to create a sense of space and openness. The use of split-level designs and careful siting is desired, to ensure dwellings respect the topography of the land and minimise resulting earthworks.

The proposed dwelling is considered to accord with the desired character for the locality. It is a large, two storey dwelling on a large site, incorporating generous setbacks that maintain the careful siting of the previous dwelling. The retention of much of the existing landscaping, which provides a visual buffer from Orley Avenue and Madeline Road and contributes significantly to the local character, has been considered in the orientation and siting of the dwelling design. Consistent with the anticipated range of dwelling styles, the proposal is contemporary and incorporates modern design with materials that are complementary to existing development in the locality.

The following are considered to be the relevant Zone provisions:

*Objectives: 1, 2 & 3*

*PDCs: 1, 6, 7 & 9*

*Desired Character Statement – Paragraphs 5 & 6*

Objective 3 and PDC 6 for the Zone seek that development contributes to the desired character for the Zone. The desired character statement acknowledges the presence of traditional dwelling designs and materials and envisages new dwellings will incorporate modern designs with use of traditional materials. As discussed previously, the dwelling is considered to respond to this in its use of materials that are consistent with development within the locality in conjunction with the contemporary dwelling design.

The desired character statement also seeks that development respond sensitively to site topography. The form of the dwelling design, which utilises the topography of the land to facilitate the graduation from one to two storeys, is considered to appropriately

address this. The use of the natural fall of the land to accommodate an 'undercroft' style garage further minimises the need for excessive earthworks while significantly reducing the potential visual impact of parking areas.

PDCs 7 & 9 seek development be designed and sited such that the bulk and scale of the built form does not dominate the landscape. As discussed, the siting of the dwelling responds to site topography and neatly utilises the footprint of the former dwelling to reduce the need for extensive earthworks. The retention of the mature gardens provides a visual buffer to both Orley Avenue and Madeline Road, reducing the potential visual impact of the dwelling from the public realm. Along the northern side boundary, the proposed dwelling is setback 2.5m from the boundary where the dwelling presents as single storey and increases to 3m where the dwelling becomes two storey. These setbacks meet the minimum side boundary setbacks for two storey development and exceed the minimum side boundary setbacks for single storey development, in accordance with PDC 9.

It is noted that the removal of the outbuilding from the proposal has significantly reduced potential impact to any protected trees, and eliminated the potential for the proposal to impact any native trees. The remainder of the site is planted out with exotic species. There are two large trees on the allotment sited close to the existing dwelling and driveway. Their proximity to the existing dwelling, and the adjacent dwelling in relation to the driveway tree, excludes these trees from development control as Regulated trees. Notwithstanding this, the applicant has provided an arborist report demonstrating that these trees are to be retained and will not be unduly impacted by the development. The health of the tree currently adjacent the driveway is expected to improve with the removal of this crossover and the relocation of vehicle access further south. It is therefore considered the proposal adequately addresses the desired character statement and PDC 3 with regards to retention of vegetation.

#### Accordance with the Country Living Zone and Policy Area

The proposal is not offensive or prejudicial to the intent of the Country Living Zone or the Stirling and Aldgate Policy Area. It is noted that the proposal is particularly in accordance with the desired character statements for both the Zone and Policy Area insofar as they relate to residential forms of development. The proposal particularly does not divide or intensify development in the area, and it is considered to largely maintain the 'status quo', with a new built form which will enhance and blend with the locality.

The proposal comprises features which reinforce the residential characteristics of the land and the locality. The proposal is considered unlikely to impair the amenity of the locality and is compatible in terms of its use, scale and form with other development in the locality. The proposal retains existing landscaping including substantive trees across the whole site also as sought by the desired character statement for the Policy Area.

#### 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 sustainable development that creates a safe, convenient and pleasant environment in which to live.
- The avoidance of incompatible land uses.
- A diverse range of dwelling types and sizes.

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

*Design and Appearance*

*Objectives: 1*

*PDCs: 1, 3, 9, 15, 16 & 18*

Objective 1 seeks that development be of a high design standard and PDC 1 seeks buildings that reflect the desired character of the locality whilst incorporating contemporary designs which have regard for mass and proportion, external materials, roof pitch, façade articulations and detailing. The proposed dwelling is considered to be of a compatible design standard and that it incorporates contemporary design with complementary external materials. The use of darker tones for the roof will ensure the dwelling blends with the locality, while the lighter weatherboard and brickwork walls reflect those materials used on existing dwellings in the surrounds of the subject land. The materials selected are consistent with PDC 3.

The design sufficiently addresses and responds to the fall of the natural land, in accordance with PDC 9.

Council's Heritage Advisor considers the design and materials for the proposed dwelling to be complementary to the surrounding historic character, and has advised that the dwelling will not detract from surrounding Local Heritage Places. This is considered to address PDCs 15 & 16.

It is not considered that the proposal introduces the potential for undue overlooking, as per PDC 18. The upper level windows within areas of the dwelling that are considered truly to represent an upper level, for example where a full wall exists on a level below that window, are predominantly oriented toward the rear of the site or towards Madeline Road. The windows oriented towards the northern boundary begin at a maximum height of 1.2m above natural ground level and the subject land sits lower than the adjoining neighbour to the north. It is acknowledged that the applicants have elected to obscure two windows on this elevation to a height of 1.7m above finished floor level to address the concerns of the representor and increase privacy which is considered to generously address PDC 18.

The proposed balcony decking on the upper level is sited between the two ‘wings’ of the dwelling and in doing so, is screened entirely from the northern boundary by the northern wing of the dwelling. Looking east from the deck, the rear private open space of adjoining allotments is sited over 50m away and screened by thick and tall vegetation. It is not considered the decking will allow views further than the rear section of the subject land itself and some views out over Madeline Road. The decking is therefore considered to retain visual privacy to surrounding dwellings in accordance with PDC 18.

Hazards

*Objectives:* 5

*PDCs:* 7 & 8

The proposed dwelling is sited over 30m from Orley Avenue and as such, the dwelling requires access for firefighting vehicles. It is noted that following the release of the *Planning, Development and Infrastructure Act 2016* and the *Planning and Design Code* this requirement has been revised to 60m and as such it is likely that CFS firefighting vehicles would not access the site. Notwithstanding this, pursuant to the requirements at the time of lodgement the applicant has splayed the driveway at the access point to allow for a ‘T-turn’ manoeuvre to be performed between the driveway and Orley Avenue. The proposal is therefore considered consistent with PDC 7.

The proposal provides the minimum dedicated water supply, as well as ample additional discretionary supply, for firefighting purposes consistent with PDC 8.

Orderly and Sustainable Development

*Objectives:* 1 & 4

*PDC:* 1

The proposed dwelling is to be constructed on land already used for residential purposes, within the Country Living Zone which anticipates predominantly residential development. The Zone and Policy Area envisage large dwellings and note the prevalence of two storey dwellings. The proposal is therefore considered to be on land suitable and intended for the proposed use, consistent with Objectives 1 & 4 and PDC 1.

Residential Development

*Objectives:* 1 & 2

*PDCs:* 4, 9, 10, 17, 18, 19 & 27

Objective 1 seeks safe, convenient, sustainable and healthy living environments whilst Objective 2 seeks a diverse range of dwelling types and sizes to cater for changing demographics. The proposed dwelling is considered consistent with these objectives being residential in nature and through its incorporation of contemporary design features.

The dwelling is oriented toward the primary street frontage of Orley Avenue and is designed with living areas and external spaces that overlook the existing surrounding vegetation. The proposal is therefore consistent with PDCs 9 & 10.



The site coverage of the proposed dwelling is modest, particularly given the large size of the allotment. The proposal retains a generous amount of private open space, well in excess of the minimum provision of 80m<sup>2</sup>. The proposal meets the intent of PDCs 17, 18 & 19.

It is not considered that the proposal introduces the capacity for undue overlooking of adjacent allotments and, as previously mentioned, additional obscuring of windows has been added to the proposal since the public notification period. The siting and distance of the decking from surrounding allotments prevents the potential for overlooking despite its upper level positioning. The proposed dwelling is considered to adequately address and protect visual privacy in accordance with PDC 27.

## 7. SUMMARY & CONCLUSION

The proposal herein considered is to demolish an existing two storey detached dwelling and construct in its place a new two storey dwelling of contemporary design with attached decking and associated retaining walls, water tanks and earthworks at 19 Orley Avenue, Stirling. During the public notification period Council received four representations. Of those, three representations were in support of the proposal and one was in opposition. The primary concerns of the representor opposing the development were the impacts to their dwelling, a Local Heritage listed place, through the length of the dwelling adjacent the shared boundary and the positioning, height and lack of treatments to the windows facing this boundary.

The proposal has been assessed against the provisions of the Adelaide Hills Development Plan, Consolidated 8 August 2019, and is considered to demonstrate appropriate merit through a high standard of design and a scale and siting appropriate for the locality. The proposal responds to the topography of the site, and will maintain the existing high level of visual amenity in the locality.

The concerns with regard to siting of the dwelling in relation to the side boundary has been considered, and the applicant's revision to the plans meets both the qualitative and quantitative provisions for the Country Living Zone with regard to setbacks and scale. The concerns raised with regard to overlooking are considered to have been reasonably addressed by the applicant given the topographical context of the land along the northern side boundary, particularly given that the windows are not considered of a height that would reasonably require them to be treated as upper level windows.

Based on the above the proposal is considered to sufficiently satisfy the relevant provisions of the Development Plan, and is not considered to be 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 20/1307/473 by R Bowman & K Bissland for Demolition of existing two storey detached dwelling & construction of new two storey detached dwelling, deck (maximum height 3.5m), retaining wall (maximum height 1.2m), 2x 20,000L water tanks & associated earthworks at 19 Orley Avenue Stirling subject to the following conditions:

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

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

- Site Levels and Drainage Layout Drawing 22186-C01 Issue C prepared by PT Design dated 21 May 2021 and received by Council 24 May 2021
- Site Plan Drawing 666-S-01e prepared by Max Pritchard Gunner Architects dated December 2020 and received by Council 13 May 2021
- Upper Floor Plan Drawing 666-S-02d prepared by Max Pritchard Gunner Architects dated December 2020 and received by Council 13 May 2021
- Lower Level Floor Plan Drawing 666-S-03d prepared by Max Pritchard Gunner Architects dated December 2020 and received by Council 13 May 2021
- Elevations Drawing 666-S-04d prepared by Max Pritchard Gunner Architects dated December 2020 and received by Council 13 May 2021

### (2) Stormwater Overflow Directed to Street

All roof runoff generated by the development hereby approved shall be directed to a rainwater tank with overflow to the street in accordance with the Site Levels and Drainage Layout Plan prepared by PT Design Issue C dated 21 May 2021 and to the reasonable satisfaction of Council, within one month of the roof cladding being installed. All roof and hard paved water runoff shall be managed to prevent trespass onto adjoining properties.

### (3) Residential Lighting

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

### (4) External Finishes

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

**WALLS:** Weatherboard in white, Brick in white, or similar

**ROOF:** Colorbond in dark grey, or similar

**(5) 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.

**(6) Residential Access Point – SD13**

The new vehicle access point and crossover shall be constructed in accordance with Adelaide Hills Council standard engineering detail SD13 – residential vehicular crossing paves for sealed road with kerb and SD 19 – allowable crossover locations, within 3 months of occupation/use of the development.

**(7) Former Access Point to be Decommissioned and Reinstated**

The existing vehicle access point and crossover shall be decommissioned and the verge reinstated to the reasonable satisfaction of Council, within 3 months of occupation/use of the development.

**(8) Access Requirements**

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

- Access to the building site shall be of all-weather construction with a minimum formed road surface of 3 metres.
- The 'T'-shaped turning area, utilising the public road, shall be a minimum formed length of 11 metres with minimum internal radii of 9.5 metres on bends, including bends connecting private access to public roads.
- Vegetation overhanging the access road shall be pruned to achieve a minimum vehicular clearance of not less than 4 metres in width and a vertical height clearance of 4 metres.
- Entry and exit angles to the driveway shall be designed to accommodate safe travel for large fire-fighting vehicles with a long wheel base (length of 8.3 metres).
- The gradient of the access road shall not exceed 16 degrees (29%), in steep terrain the construction of the public road or driveway shall be a sealed surface.

**(9) Firefighting Water Supply – Mains Water Supply Available**

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

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

## 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.

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.

Further details in relation to the Planning Reforms can be found [https://www.saplanningportal.sa.gov.au/planning\\_reforms](https://www.saplanningportal.sa.gov.au/planning_reforms)

(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 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.

(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.

- 9. ATTACHMENTS**  
Locality Plan  
Proposal Plans  
Applicant's Professional Reports  
Referral Responses  
Representations  
Applicant's response to representations  
Publically Notified Plans

Respectfully submitted

Concurrence

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**Ashleigh Gade**  
**Statutory Planner**

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**Deryn Atkinson**  
**Assessment Manager**

## COUNCIL ASSESSMENT PANEL MEETING

14 July 2021

### AGENDA – 8.2

<b>Applicant:</b> Bridgewater Inn	<b>Landowner:</b> Tweedale Nominees Pty Ltd
<b>Agent:</b> Future Urban	<b>Originating Officer:</b> Melanie Scott
<b>Development Application:</b>	20/1302/473
<b>Application Description:</b> Alterations & additions to commercial premises (hotel) including a deck (maximum height 3.5m), associated earthworks & change to licensed area plan	
<b>Subject Land:</b> Lot:19 Sec: P1141 FP:103906 CT:6124/77	<b>General Location:</b> 387 Mount Barker Road Bridgewater  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 8 August 2019 <b>Map</b> AdHi/30 and AdHi/74	<b>Zone/Policy Area:</b> Neighbourhood Centre Zone - Neighbourhood Centre (Bridgewater) Policy Area Watershed (Primary Production) Zone - Rural Landscape Policy Area
<b>Form of Development:</b> Merit	<b>Site Area:</b> 2.31 hectares
<b>Public Notice Category:</b> Category 2 Merit -	<b>Representations Received:</b> 5  <b>Representations to be Heard:</b> 4 (previously heard)

#### 1. EXECUTIVE SUMMARY

The proposal seeks Development Plan Consent to further develop the existing Bridgewater Inn with additions of new convertible function / dining room, under-cover (open sided) al-fresco dining area and bar and un-covered 'outdoor' beer garden terrace and al-fresco dining areas, which are currently (somewhat informally) utilised at 387 Mount Barker Road, Bridgewater.

The Bridgewater Inn is identified as a place of local Heritage significance, and therefore the effect of the development needs to be considered in respect of the listed heritage values. The demolition of a shed, existing terrace areas and pergola are also necessarily considered as part of the subject application.

The subject land is located across two Development Plan policy zones, being the Neighbourhood Centre Zone and the Watershed (Primary Production) Zone. The proposed development however lies within the Neighbourhood Centre Zone portion of the land exclusively, and accordingly also falls within the Neighbourhood Centre (Bridgewater) Policy Area.

The Watershed (Primary Production) Zoned portion of the subject land lying to the northwest of the development remains undeveloped and is not affected by the proposal.

The proposal was deferred by the CAP on 14 April 2021 to seek the following further information and amended draft conditions in relation to:

1. Noise from patrons and music/entertainment;
2. Landscaping;
3. Waste Management;
4. Proposed Licensed Area Plan/s;

5. Numbers of patrons and hours of operation in the areas proposed to be altered, both indoors and outdoors; and
6. Further consideration of the adequacy of the car parking for the capacity of the premises.

The applicant has provided a response to the requested further information, including a waste management plan and landscaping plan to address the concerns of the CAP.

The CAP report and minutes of the meeting on 14 April 2021 are provided in ***Attachment Previous CAP report and minutes.***

In consideration of all the information presented, including amended information dated 27 May 2021 and following an assessment against the *Neighbourhood Centre Zone* and its (*Bridgewater*) *Policy Area* and Council Wide provisions within the Adelaide Hills Development Plan, staff are recommending that the proposal be **GRANTED** Development Plan Consent, subject to conditions with amendments to draft conditions in relation to amplified music, stormwater management, waste management collection and landscaping.

## 2. APPLICANT'S RESPONSE

The proposal coincides largely with areas already utilised for outdoor functions, dining and bar activities.

The proposal comprises the following elements of development for assessment:

*Demolition works:*

Demolition of an existing storage shed, lower terrace, stage and upper terrace including pergola on-site is necessary in order to enable the proposed development.

*Internal Alterations:*

- Internal works and alterations within the lower level of the existing hotel building include the refurbishment of toilet amenities and kitchen facilities, cool rooms and the installation of a new lift to the upper level dining area with re-configured additional seating to create a bar/dining area facilitated by the reduction in the size of the gaming room.

*Upper Level Terrace - New convertible function / dining room and under-cover (open sided) al-fresco dining area and bar:*

The proposed function room and upper terrace dining/bar together form the major component of the new structural additions to the premises. The area utilised immediately adjoins the northern wall of the existing hotel building and faces towards Cox's Creek to the north. The existing terrace area is situated on sloping land which is to be terraced/decked with a lightweight pergola covering the area.

The proposed function/dining room and upper level terrace is to be a 40 metre length x 14 metre width, featuring a 2.5 metre x 5.0 metre deck at the north-eastern end of the function room that widens to 22 metres at the north-western side of the upper terrace (shown on plan as including the 'sunken terrace' component). The combined area of the function/dining room and upper level terrace is 470 m<sup>2</sup>.

The maximum overall height of the additions forming the upper terrace area are approximately 5.1 metres above the bench level of the lower terrace adjacent to the creek line. This is well below the upper floor level of the existing hotel which is estimated to be approximately 6.0 metres above the natural contour of the site (pre-excavation), with the overall height of the existing hotel building at

approximately 11 metres above natural ground.

The convertible function/dining area is designed as an enclosed space, however features 'tilt-up doors' to open the entire upper terrace into one unified floor area without divisions except for a centrally located fire place. This is one of three fireplaces on the new upper terrace area.

The upper level terrace is accessed from the western carpark. There is an atrium between the existing building and the new terrace area which offers access to refurbished toilet facilities, a new bar and to the internal part of the existing hotel building. A new bar area and pizza kitchen/food bar is proposed to be directly accessible at the western side of the new upper terrace area.

Stairs and ramp access to the Lower Terrace:

Connecting the upper terrace area and the lower terrace area is a ramp access and staircase for the height transition of approximately 1.8 metres between the two terraces.

The ramp access is formed over approximately 20 metres in total length (plus landings) to achieve the universal access grade requirement of 1:14. A conventional stairway provides alternate access between levels.

The lower terrace is effectively the existing benched site adjacent to the southern bank of Cox's Creek.

Lower Terrace - Un-covered 'outdoor' beer garden terrace and a-fresco dining areas:

The lower terrace area occupies a footprint of 200 m<sup>2</sup> between the southern bank of Cox's Creek and the bottom of the upper terrace embankment/building work.

The lower terrace is dimensioned 42 metres in total length x 8 metres width at its widest dimension.

Licensed Premises Occupancy:

Although not an assessable part of the application, the occupancies have been provided for reference, related to the Liquor Licensing Act 1997 maximum occupants for the proposed development would be provided at a rate of 1 person per 1m<sup>2</sup> - or otherwise potentially attributable to approximately 670 patrons on the site.

The existing premises is licensed currently for a maximum of 700 patrons (Liquor License 50100517) with the outdoor areas already defined for 350 patrons maximum. The further information provided to Council on 27 May 2021 indicates that the applicant will not seek to increase the total numbers of patrons, but rather the proposal seeks to make the outdoor areas more useable and to increase their use.

An amendment of the Liquor Licence 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.

The numbers of patrons, allocation (areas) and licensed hours of operation as requested in point 4 and 5 of the CAP resolution have been provided within the amended application detail and additional information. (See Attachment proposal plans) It should be noted that some of the representations raising liquor licensing matters are not relative to the lawful service of alcohol, or licensing conditions, but may come down to management practices resulting in unnecessary impacts to nearby residents, for which it would be improper to address via the development assessment process.



External Materials and Finishes:

The proposed development is to incorporate a range of materials and finishes, including natural finish face-stonework, painted/rendered masonry, natural timber and Colorbond finishes to create a modern aesthetic. Materials and finishes are specified within the application package.

Landscape treatment:

A Landscaping Plan has been provided. Landscaping has been confirmed to retain one existing Regulated Tree within the site of the proposed development, and this is incorporated into the landscaping design. Detailed landscaping plans and details are provided in the amended application detail (*See attachment proposal plans*).

The proposed landscaping is considered to substantially improve upon the existing aesthetics of the lower terrace, where it interfaces with the creek line. In the past the boundaries of human activity and the creek line have been unclear, the proposed landscaping will assist in better management of the creek line interface by the Hotel.

Earthworks:

The proposed development substantially follows the established form of the existing terrace and pergola and lower bench adjacent to the creek line, corresponding with the contour of the site and reducing the need for earthworks associated with the building.

The extent of proposed earthworks in the architectural drawings require further refinement, but it is noted that the finished levels have been set in accordance with the hydrological study submitted with the proposal. A condition is recommended (condition 8) to require a civil plan and associated soil drainage and erosion management plan to be provided prior to Building Consent being issued.

Car parking provisions:

Car parking provisions are not proposed to be increased as patron numbers are proposed to be reduced. This is supported in the applicant's traffic assessment report.

The amended proposed plans are included as **Attachment – Amended Plans** with other information included as **Attachment – Response to Further Information Request** and **Attachment – Applicant's Professional Reports**.

### 3. REFERRAL RESPONSES

AHC Engineering Referral:

The amended plans were referred to AHC Engineering for consideration of the stormwater run-off resulting from the proposed development. This has been confirmed as being comparable to the existing (pre-development) configuration of permeable and non-permeable surfaces. Engineering have requested details of a gross pollutant device prior to discharge of surface and roof stormwater to the creek, along with details of the location of the discharge point. This is reflected in *recommended condition 7*.

AHC Open Space Referral:

A landscape plan was referred to AHC Natural Resources given proximity to the Aldgate Creek. Council Natural Resource staff commented it looks pretty good and great to see consideration of plants that have habitat benefits. Further some recommendations were made regarding alternate plants based on the potential invasive nature of some of those proposed. All the recommendations were adopted by the applicant and amended landscaping was submitted and forms part of the proposed plans for this proposal.

#### 4. CONSULTATION

Refer previous report for full details.

Additional details provided by the applicant in response to the CAP deferral reference case law regarding '*existing use rights*' judgement(s) relating to use of a *site, building or development*, which are essentially to be considered unalienable rights – unless altered by a formal variation, change of use, or where a use is abandoned.

In this instance it is considered relevant that the aspects of entertainment as permitted by liquor license, and in respect of the general operation of the land use, providing live music and ambient/amplified music (as the case may be), is in fact already established by the existing and long standing uses of the land and accordingly should not be alienated by the assessment of an application which fundamentally purports new structures and landscaping to facilitate the improvement and greater enjoyment of existing uses of land and buildings.

#### 5. SUMMARY & CONCLUSION

The application has been amended, based on further traffic and acoustic advice provided following public consultation and in response to the matters raised by the Panel at its deferral of the application's decision in April 2021.

It is considered that the proposed reduction in patron numbers by way of Liquor Licence Amendment and the further clarification provided in the amended plans and submission assists in responding to the matters raised in the representations and by the Panel, noting the recommended conditions should consent be granted.

In this instance it is considered relevant that the aspects of entertainment as permitted by liquor license, and in respect of the general operation of the land use, providing live music and ambient/amplified music (as the case may be), is in fact already established by the existing and long standing uses of the land. With regards to noise attenuation the only matter for consideration as a part of this application is noise associated with the new function/dining area and this is reflected in condition 3.

It must be acknowledged that matters pertaining to patron behaviour cannot be controlled by Conditions – to do so is improper as these matters are peripheral to the matters of land use and built form. The applicant has however acknowledged these factors as management issues to address and continue to reinforce for the benefit of the surrounding sensitive residential land uses.

Subject also to the additional information and landscaping detail, it is considered that the proposal has been refined to improve aesthetics of the proposed development and containment of the proposed activities.

The proposal demonstrates a high degree of consistency with the provisions of the relevant criteria in the Development Plan and it is considered that the proposed development will enhance the function and amenity of the long-standing and historic hotel use and improve its interface with the surrounding natural environment and publically accessible domain, 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 have been confirmed by specialist advice to be sympathetic to the heritage values of existing hotel building, being substantially concealed, and of such scale that it will not

dominate or overwhelm the buildings heritage value observed from areas of public outlook or in the context of the locality.

There are minor internal 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.

## 6. 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:**

### (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:**

- **Plans from Dickson Emmett The Bridgewater Hotel Redevelopment Planning Application October 2020 Project No. DE20016**

SK000 P1	02/10/2020	Location Plan
SK00 P6	26/03/2021	Site Plan
SK01 P9	03/05/2021	Proposed Floor Plan – Lower Level
SK02 P8	03/05/2021	Proposed Floor Plan – Upper Level
SK05 P4	03/05/2021	Existing / Demo Plan – Lower Level
SK06 P4	03/05/2021	Existing / Demo Plan – Upper Level
SK10 P4	03/11/2020	Elevations
SK11 P4	03/11/2020	Elevations
SK15 P1	14/10/2020	Sections
SK20 P4	03/11/2020	Sections
SK100 P4	03/11/2020	Sections
SK101 P4	03/11/2020	Sections
02/10/2020		Summary of Licensed Areas
- **Plans from Landskap Reference Number 21.019 dated 2 July 2021, Site Context Plan, Existing Site Images, Landscape Approach / Statement, Landscape Plan, Materials Elements, Planting**
- **CIRQA Proposed Development Bridgewater Inn, Bridgewater Waste Management Plan**
- **Ref:20343|BNW 20/11/2020 Parking Assessment**
- **Ref:20343|BNW 01/03/2021 Supplementary Parking Assessment 7 Pages – V126/06/2021**
- **Waste Management Plan V1 26 May 2021**

- Tonkin Consulting Bridgewater Inn Redevelopment 23/10/2020 Flood Assessment
- SONUS Bridgewater Inn Environmental Noise Assessment March 2021, S3432.1C2 March 2021

(2) **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 as proposed by the applicant. This includes any associated outdoor areas.

(3) **Noise Attenuation Measures**

In accordance with the Sonus Report dated March 2021, the following measures shall be included in the construction of the approved alterations and additions for noise attenuation:

- 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
- 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/m<sup>3</sup> (Rockwool or similar) above the ceiling.

(4) **Entertainment – Internal Amplified Music**

- Amplified music shall be limited within the new function/dining room during the operating hours of the Hotel and only played through the Hotel sound system;
- All external glazing (windows and doors) of the new function/dining room shall remain closed when amplified music is played; and
- The noise from internal amplified music in the new function/dining room shall not exceed 57dB(A) between 10.00am and 10.00pm and 50 dB(A) from 10.00pm to 12.00am (midnight) within nearby dwellings.

(5) **External Entertainment Noise Levels**

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

(6) **Flood Controls**

The furniture on the lower terrace shall comprise non-fixed tables and chairs, which can be packed away in advance of forecasted high rainfall/flooding events.

(7) **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 including the location and design of a gross pollution device and the proposed discharge point to Cox Creek.

**(8) 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.

**(9) 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 and, shall be in accordance with the Cirqa Waste Management Plan dated May 2021.

**(10) 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.

**(11)** Landscaping shall be completed within 3 months of occupation of the additions herein approved, in accordance with the plans from Landskap Reference Number 21.019 dated 20 April 2021. Landscaping shall be 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.

**NOTES**

**(1) Development Plan Consent Expiry**

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 the appeal is determined.

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. The time period may be further extended by Council agreement following written request and payment of the relevant fee.

- (2) **Erosion Control During Construction**  
Management of the property during construction shall be undertaken in such a manner as to prevent denudation, erosion or pollution of the environment.
- (3) **EPA Environmental Duty**  
The applicant is reminded of his/her general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes, or may cause, environmental harm.
- (4) **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.
- (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**

Proposal Plans  
Amended Plans  
Response to Further Information Request  
Applicant's Professional Reports  
Previous CAP report and minutes

Respectfully submitted

Concurrence

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

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**Deryn Atkinson**  
**Assessment Manager**

## COUNCIL ASSESSMENT PANEL MEETING

14 July 2021

### AGENDA – 8.3

<b>Applicant:</b> Judith Bradsen	<b>Landowner:</b> J B Bradsen
<b>Agent:</b> N/A	<b>Originating Officer:</b> Amelia De Ruvo
<b>Development Application:</b>	21/304/473 21/D010/473
<b>Application Description:</b> Land division - boundary realignment (2 into 2) (Non-Complying)	
<b>Subject Land:</b> Lot:72 FP:151027 CT:5685/104 Pces: 2 & 3 FP:151757 CT:5283/878	<b>General Location:</b> 117 Sheoak Road, Crafers West  <b>Attachment – Locality Plan</b>
<b>Development Plan Consolidated :</b> 8 August 2019 <b>Map</b> AdHi/26 and AdHi/70	<b>Zone/Policy Area:</b> Hills Face Zone Watershed (Primary Production) Zone & Rural Landscape Policy Area.
<b>Form of Development:</b> Non-complying	<b>Site Area:</b> 15.34 Hectares
<b>Public Notice Category:</b> Category 1  Exempt from Public Notification – Category 1 Pursuant to Schedule 9 Part 1 (3)(c)	<b>Representations Received:</b> N/A  <b>Representations to be Heard:</b> N/A

#### 1. EXECUTIVE SUMMARY

The purpose of this application is to affect a minor boundary realignment which is to correct an anomaly in the position of current allotment boundaries between existing Allotment 72 and Piece 3\*

The Statement of Support provided by the applicant indicates that, *'boundaries of original allotments were once in the same ownership where the current boundary position was of no consequence to the use of the land'*. The current common boundary is not however aligned with existing fencing, which passes through a 45-year-old dam and across the middle of the dwelling's garden and lawn areas on existing Allotment 72. Additionally the vehicle access to the dam which is associated with dwelling on existing allotment 72 passes over piece 3 on the adjoining allotment and is in the wrong tenure.

The subject allotments are located within both the Hills Face Zone and the Land Division (including boundary realignment) is prescribed as a non-complying form of development in the Hills Face Zone.

Land division where the same or lesser number of allotments result (i.e. *boundary realignment*) is identified as a Category 1 form of development pursuant to Schedule 9 Part 1 (3)(c) of the Development Regulations 2008 and accordingly the application is not subject to public notification processes or any representations.

The proposal is fundamentally based upon the need to address and rectify an anomaly in the historic location of the current boundary and in this respect represents a logical and desirable outcome which creates little to no impact in respect of the Adelaide Hills Council Development Plan Policy or, upon the natural environment.



As per the CAP delegations, the CAP is the relevant authority for all non-complying land division applications.

Note that concurrence from SCAP is no longer required for consents to non-complying development effective 15 May 2020 as a result of the COVID-19 Emergency Response (Further Measures) Amendment Bill 2020. 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 proposed development seeks planning and land division consent for the realignment of the common boundary between Allotment 72 and Piece 3 of Allotment comprising Pieces 2\* and 3\*. The proposal development, which will be retaining independent Torrens Titled land parcels, is proposed to specifically address the anomalies in the position of existing boundaries related to the misaligned fence, the dam and its access and dwelling curtilage/garden area.

The proposed boundary realignment exchanges 177m<sup>2</sup> from existing Allotment 72 to Piece 3\* and 7676m<sup>2</sup> from Piece 3\* to existing Allotment 72 resulting in a nett transfer of 7499m<sup>2</sup> of land.

The resulting allotments have the following attributes:

### Existing Allotments

Allotment	Area (ha)	Currently containing
<b>72</b>	7.891	Dwelling, Driveway, multiple Outbuildings, Swimming Pool, Stables & Yards, Water Tanks, Dam & Part Dam.
<b>Pieces 2* &amp; 3*</b> comprising one allotment	<b>2*</b> 7.163	Vacant
	<b>3*</b> 0.0203	Vacant, Dam & Part Dam.

### Proposed Allotments

Allotment	Area (ha)	Currently containing
<b>51</b>	8.907	Dwelling, Driveway, multiple Outbuildings, Swimming Pool, Stables & Yards, Water Tanks, 2 Dams.
<b>Allotment</b> <b>comprising</b> <b>Pieces 52* &amp; 53*</b>	<b>52*</b> 6.413	Vacant
	<b>53*</b> 0.0203	Vacant with Dam.

The plan of division (including aerial image overlay) and statement of support include the relevant detail of the elements to be rectified by the boundary realignment.

The proposed alignment of the proposed boundary appears to practicably avoid intact and substantial standing vegetation, following existing fence lines amongst vegetation and in this respect can avoid unnecessary and undesirable impact to the natural environmental characteristics of the locality.

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

The proposal has not undergone any amendments since the initial lodgement of the application. Council staff sought to clarify a few items as part of development which include the location of bores, septics and effluent disposal areas on site, the location of grazing / primary production areas and the location of driveways / manoeuvring areas. Council staff also raised concern with the 'Possible House Location' on Allotment 52, as it will be located on viable primary production land.

Amended Plans were provided by the applicant detailing the requested information above. The applicant further advised that indicated dwelling location is only shown to satisfy Principle of Development Control (PDC) 18 of Watershed (Primary Production) Zone:

***Land Division should only occur where a suitable site for a detached dwelling is available which complies with the criteria detailed in Table AdHi/5.***

The application is for a boundary re-alignment with the dwelling location not to be considered as part of the development.

Past applications on site are as follows:

Approval Date	Application Number	Description of Proposal
18 April 1996	1996/135/330	Outbuilding
6 April 1984	1984/291	Additions to Dwelling
17 October 1980	13512/1154	Bathroom / Laundry Extension & farm building
21 June 1977	11241	Stone addition to dwelling & tone hayshed & stable
2 February 1976	10219	Stone, laundry, home activities work room
30 August 1974	9338	Stone tool and implement shed, workshop 7 garage to replace existing.

### 4. REFERRAL RESPONSES

There were no mandatory referrals required pursuant to Schedule 8 of the Development Regulations 2008. Informal referrals were undertaken via the EDALA system to the SA Country Fire Service and the SA Water Corporation:

- **CFS**

The CFS have raised 'no objection' to the proposal and have indicated the following:

*The SA Country Fire Service has no objection to the proposed land division (boundary alignment) at Lot 72, Sheoak Rd, Crafers West.*

*The SA Country Fire Service seeks to comment on any subsequent residential development applications on the land division.*

ACCESS

*Public access created by a land division to and from the proposed allotments shall be in accordance with the Minister's Code Part 2.2.2.*

*SA CFS notes no public roads are being created as a result of this land division.*

NOTE, PLANNING REFORM

*SA CFS notes that applications for residential developments on residential allotments, made after the 19 March 2021, will be assessed against the requirements of 'The Planning and Design Code', Hazards (Bushfire – High Risk) Overlay, as published under the Planning, Development and Infrastructure Act 2016.*

ACCESS TO HABITABLE BUILDINGS

*'The Planning and Design Code', Hazards (Bushfire – High Risk) Overlay (Performance Objective 6.2) details the mandatory requirements for 'Private' roads and driveways to facilitate safe and effective firefighting and evacuation. These requirements apply when the path of travel to the furthest point of the building is more than 60m from the nearest public road.*

*Access shall be in accordance with PO 6.2 and the provisions outlined under DTS/DPF 6.2.*

WATER SUPPLY

*A supply of water to the land division shall be available at all times for fire-fighting purposes. Ministerial Building Standard MBS 008 "Designated bushfire prone areas - additional requirements" July 2020, as published under the Planning, Development and Infrastructure Act 2016, provides the technical details of the dedicated water supply for bushfire fighting for the bushfire zone.*

- **SA WATER**

SA Water has indicated that it will be necessary for the developer to satisfy the Corporation's requirements, for the financial requirements of SA Water to be met for the provision of water supply, and have also indicated that:

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

- **SA State Planning Commission SCAP:**

The Commission returned their consultation report on 1 April 2021 reiterating the requirements of the SA Water Corporation and additionally requiring:

*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 Development Assessment Commission for Land Division Certificate purposes. (Refer Recommended Land Division Condition 1)*

The above responses are included as **Attachment – Referral Responses and the advisory information is included in the Recommended Land Division Notes.**

## 5. CONSULTATION

The application was determined in accordance with Schedule 9 Part 1 (3)(c) of the Development Regulations 2008, to be a Category 1 form of development as follows:

3. Any development classified as non-complying under the relevant Development Plan which comprises—

(a) .....

(b) .....

(c) the division of land where the number of allotments resulting from the division is equal to or less than the number of existing allotments.

As the proposal purports a boundary realignment resulting in the same number of allotments as currently exist, the proposal is determined to be a Category 1 form of development and accordingly the application has not been subject to public notification processes or any representations.

Concurrence from SCAP is no longer required for consents to non-complying development effective 15 May 2020 as a result of the COVID-19 Emergency Response (Further Measures) Amendment Bill 2020

## 6. PLANNING & TECHNICAL CONSIDERATIONS

In cases where land to be divided lies across two or more Planning Policy Zones, the assessment of the proposal is against the relevant Provisions of both Zones (citing *Hagger v DAC – SAERDC 56/2006*) and accordingly regard is given to both the Hills Face Zone and the Watershed (Primary Production) Zone (and Rural Landscape Policy area) in this Assessment.

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

i. The Site's Physical Characteristics

The subject land parcels are currently 7.891 ha and 7.183 ha in area respectively and will result in adjusted allotments of 8.907 -ha and 6.433 -ha respectively, with a transfer of 7676 m<sup>2</sup>.

The land is moderately undulating, with approximately 60 metres variation in elevation across the whole site, being approximately 480 metres AHD at the north-eastern boundary of existing Allotment 72 adjacent to Sheoak Road, Albert and George Avenues, falling away to its lowest point near the middle of the southern boundary of Piece 3.

The land is sparsely vegetated and contains three dams.

Within the surrounding natural environment, the alteration of boundaries is relatively insignificant and will not detrimentally affect the appearance or configuration of the land.

ii. The Surrounding Area

Similarly, the surrounding locality provides a range of allotment sizes and configurations, with Allotment 72 and combined Pieces 2 and 3 representing the larger

scale of allotments within the locality. In all other respects the allotments exhibit characteristics which are comparable to the broader locality.

The realignment of boundaries also largely retains the 'status quo', in terms of allotment size, increasing (existing Allotment 72 and decreasing Piece 3 by a small degree, with negligible effect on the locality.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Hills Face Zone and the Watershed (Primary Production) Zone (and Rural Landscape Policy Area).

The Hills Face Zone provisions seek to preserve and enhance the natural characteristics of land in the area for aesthetic and biodiversity value whilst accommodating sensitive forms of development and low intensity rural land uses.

Similarly, the Watershed (Primary Production) Zone reflects a high degree of environmental sensitivity in maintaining and enhancing natural resources of the Mount Lofty Ranges particularly water resources, protection of long term sustainability of primary production activities and enhancement of amenity and landscape value through preservation and restoration of native vegetation.

The Zone and Policy Area also emphasises low density rural living type land uses and primary production activities prevail.

The following are considered to be the relevant *Zone* provisions:

*Hills Face Zone*

*Objectives:* 1 & 2

*PDCs:* 1 & 3

*Watershed (Primary Production) Zone*

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

*PDCs:* 18, 20, 21 & 22

*Rural Landscape Policy Area*

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

*Objectives:* 1, 2, 3 & 4

*PDC:* 2

*Accordance with Zone*

The relevant zone provisions (from both zones) illustrate the intention for development to remain unobtrusive and to preserve the natural environment, as a natural backdrop to the Adelaide Plains relative to the Hills Face Zone and, more locally within the Watershed (Primary Production Zone) to preserve a pleasant natural and rural environment.

The proposed boundary realignment preserves all existing natural features, particularly, it does not influence any part of the land within the Hills Face Zone and otherwise produces a relatively minor realignment of boundaries around site features, native vegetation and building curtilage on Existing Allotment 72, without creating any discernible effect upon appearance of the land.

The establishment of the realigned boundary will not increase visibility of any of the buildings concerned and maintains an opportunity for development of an appropriate form to occur on proposed Piece 52.

As discussed previously within this report, the realignment is fundamentally to address the anomaly of the previously established boundary alignment which is reasonably inconsequential to the continued and future use of the land or its appearance in the landscape.

The proposal is not considered to be prejudicial to the natural landscape amenity of the locality and the realignment will not in itself influence the potential for impacts upon natural water resources within the Watershed Area.

*b) Council Wide provisions*

The Council Wide provisions relevant to the proposed development seek to reinforce safety of life and property from natural hazards, in this instance bushfire, and continue to preserve and enhance the natural environment, watershed area resources and the area's rural characteristics.

The Council Wide land division provisions specifically seek to ensure that the arrangement of land is orderly and does not result in improper arrangement of boundaries, or land parcels which are inappropriate for their intended use.

The balance of these matters is critical to the achievement of the Development Plan policies' intent.

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

Hazards

*Objectives:* 1 & 2

*PDCs:* 8 & 13

Additional to the principal intention of the proposed boundary realignment to correct misaligned boundaries, the proposal accords with Hazards provisions, particularly PDCs 8 & 13 by realigning boundaries according to the position of the existing built assets, which will provide the legal capability for the owner to maintain asset protection envelopes upon the relevant land title.

Elements of access, and water supply are existing and established, only the arrangement of the dividing boundary and tenure of the land and affected features will be altered by the realignment. The proposal accordingly represents no further impact to the environment other than the establishment of the new boundary alignment.

Land Division

*Objectives:* 2 & 4

*PDCs:* 2 & 7

The proposal accords with the Land Division Objectives 2 & 4 and PDCs 2 & 7 specifically in reasonably correcting the misaligned boundaries around existing features and infrastructure.

Realignment of the boundary returns the composition of the land to a state where it is appropriate and consistent with the established rural living use of the land. .

The proposed development does not create allotments which are compromised for future development and the 'status quo' is largely maintained in this respect.

Natural Resources

*Objectives:* 8, 10, 13 & 14

*PDCs:* 6 & 38

The proposal will not perpetuate any additional development within the area beyond that which already exists, and is considered to pursue the Zone and Council wide Natural resources provisions generally seeking protection of the natural landscape and biodiversity values.

The proposed boundary realignment does not propagate any new or increased development opportunity for the subject sites and therefore will not perpetuate pollution potential for the Watershed Area.

The proposal purports no further adverse effects from clearance of native vegetation for the proposed boundaries and therefore avoids further incremental impact upon the natural environment or the Hills Face landscape.

The potential impact of the proposed boundary realignment upon natural resources is considered minimal and in any case is the equivalent of impacts which could occur in respect of the existing boundary alignment.

**7. SUMMARY & CONCLUSION**

The proposal assessed against the provisions of the Adelaide Hills Development Plan, Consolidated 8 August 2019, is considered to demonstrate appropriate merit to be supported by Council's Assessment Panel.

The fundamentally functional nature of the proposed boundary realignment does not purport any unreasonable impacts to the natural environment or the amenity of the area, but importantly re-establishes the orderly arrangement of boundaries and existing land use.

The proposal is therefore considered to be 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 21/304/473 (21/D010/473) by Judith Bradsen for Land division - boundary realignment (2 into 2) (Non-Complying) at 117 Sheoak Road and Pieces 2 & 3 in File Plan 151757 Sheoak Road, Crafers West SA 5152 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:

Plan of Division prepared by Steed Surveyors, REFERENCE: 12222 P1.2 dated 30/04/21.

### Planning Notes

(1) Development Approval

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

### Council Land Division Statement of Requirements

Nil

### Council Land Division Notes

Nil

### 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.

(2) The financial requirements of the SA Water Corporation shall be met for the provision of water supply. (S A Water H0111865)

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



**WATER PROTECTION** - Due to the sensitivity of development within the Watershed areas SA Water is unable to assess this application until the Planning Decision Notification (PDN) has been issued regarding this development. Please advise as soon as the PDN has been issued and the Corporations requirements can then be confirmed.

**SCAP Land Division Notes**

- (1) **The SA Country Fire Service has no objection to the proposed land division (boundary alignment) at Lot 72 Sheoak Rd, Crafers West.**

The SA Country Fire Service seeks to comment on any subsequent residential development applications on the land division.

**Access**

Public access created by a land division to and from the proposed allotments shall be in accordance with the Minister's Code Part 2.2.2.

SA CFS notes no public roads are being created as a result of this land division.

- (2) **Planning Reform**

SA CFS notes that applications for residential developments on residential allotments, made after the 19 March 2021, will be assessed against the requirements of 'The Planning and Design Code', Hazards (Bushfire – High Risk) Overlay, as published under the Planning, Development and Infrastructure Act 2016.

- (3) **Access to Habitable Buildings**

'The Planning and Design Code', Hazards (Bushfire – High Risk) Overlay (Performance Objective 6.2) details the mandatory requirements for 'Private' roads and driveways to facilitate safe and effective firefighting and evacuation. These requirements apply when the path of travel to the furthest point of the building is more than 60m from the nearest public road.

Access shall be in accordance with PO 6.2 and the provisions outlined under DTS/DPF 6.2.

- (4) **Water Supply**

A supply of water to the land division shall be available at all times for fire-fighting purposes. Ministerial Building Standard MBS 008 "Designated bushfire prone areas - additional requirements" July 2020, as published under the Planning, Development and Infrastructure Act 2016, provides the technical details of the dedicated water supply for bushfire fighting for the bushfire zone.

- (5) **Building Considerations**

Individual allotments undertaking applications for development consent will require a site bushfire attack assessment in accordance with the National Construction of Australia [NCC] and Australian Standard™3959 (AS3959) "Construction of Buildings in Bushfire Prone Areas".

Please refer to the NCC, relevant standards and state provisions for construction requirements and performance provisions.

**9. ATTACHMENTS**

Locality Plan  
Proposal Plans  
Application Information  
Applicant's Professional Reports

Referral Responses

Respectfully submitted

Concurrence

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**Amelia De Ruvo**  
Statutory Planner

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**Deryn Atkinson**  
Assessment Manager

# COUNCIL ASSESSMENT PANEL MEETING

14 July 2021

## AGENDA

### BUSINESS ITEM – 12.1

**Originating Officer:** Deryn Atkinson, Assessment Manager

**Subject:** Delegations Review of Powers & Functions of Council Assessment Panel (CAP) as a Relevant Authority under the Planning, Development and Infrastructure Act 2016 & General Regulations – Instrument C

**For:** Decision

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#### EXECUTIVE SUMMARY

The Council Assessment Panel (CAP) was established by the Council on 26 September 2017 under Section 83 of the *Planning, Development and Infrastructure Act 2016*.

Section 100 of the *Planning, Development and Infrastructure Act 2016 (PDI Act)* allows a relevant authority, other than an accredited professional, to delegate its powers and functions under this Act. The relevant authorities under the **PDI Act** are the Minister, the State Planning Commission, an assessment panel appointed by a joint planning board, an assessment panel appointed by a council, an assessment panel constituted by the Minister, an assessment manager, an accredited professional and a council. Thus the CAP, the Council and the Assessment Manager can all sub-delegate their powers and functions.

Delegations from the Council Assessment Panel to staff were last adopted by CAP on 10 February 2021 in readiness for the full implementation of the **PDI Act** on 19 March 2021. The delegations were based upon model delegations provided by the Local Government Association (LGA) at the time. The delegations included sub-delegation of powers and functions as a relevant authority to the Assessment Manager and sub-delegation of powers and functions in relation to building rules matters to the Administration. The Assessment Manager in turn is able to delegate these functions to staff.

Since adoption of the further amendments to Instrument C under the *Planning, Development and Infrastructure Act 2016* and Regulations by CAP on 10 February 2021, further amendments have been made.

The amendments include new delegations in relation to:

- the powers pursuant to the *Planning, Development and Infrastructure (General) Regulations 2017* (the **PDI General Regulations**) and the State Planning Commission Practice Direction 14 Site Contamination in relation to site contamination investigations for development proposals
- the powers pursuant to the State Planning Commission Practice Direction 16 Urban Tree Canopy Off-set Scheme and the requirements of the Urban Tree Canopy Off-set Scheme
- the powers pursuant to Regulation 31 for verification of development applications

Corresponding to the new delegations for land relating to Practice Direction 14 Site Contamination the amendments also include deletion of provisions that are superseded by the Practice Direction.

The entire set of delegations in Instrument C is included as **Attachment 1** of this report for the consideration of CAP.

## RECOMMENDATION

1. That, having considered a review of the Council Assessment Panel Delegations as presented, the Council Assessment Panel hereby revokes all previous delegations to the Assessment Manager and Council (Elected Body) for powers and functions under Instrument C of the Planning, Development and Infrastructure Act 2016 and General Regulations 2017.
2. In exercise of the power contained in Section 100 of the Planning, Development and Infrastructure Act 2016, the powers and functions under the Planning, Development and Infrastructure Act 2016 and statutory instruments made thereunder contained in the proposed Instrument of Delegation (Instrument C) (Attachment 1 of the Report dated 14 July 2021) are hereby delegated this 14<sup>th</sup> day of July 2021 to the Assessment Manager and the Administration subject to the conditions and/or limitations, if any, specified herein or in the Schedule of Conditions in in the proposed Instrument of Delegation.
3. Such powers and functions of Instrument C may be further delegated by the Assessment Manager in accordance with Section 100(2) (c) of the Planning, Development and Infrastructure Act 2016 as the Assessment Manager sees fit, unless otherwise indicated herein or, in the Schedule of Conditions in the proposed Instrument of Delegation.
4. That the Assessment Manager be authorised to make any formatting, nomenclature or other minor changes to Instrument C during the period of currency.

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## 1. GOVERNANCE

### ➤ Legal Implications

The Council is required to have an Assessment Panel in place which is currently comprised of independent members and up to one Council Elected Member.

The *Planning, Development and Infrastructure Act 2016 (PDI Act)* was assented to by the Governor on 21 April 2016. On 1 October 2017 the operation of Council Assessment Panel (CAP) pursuant to Sections 82 and 83 of the **PDI Act** commenced and the *Planning, Development and Infrastructure (General) Regulations 2017* [the **PDI General Regulations**] came into operation.

There is a requirement under the **PDI Act and Regulations** for delegations. Pursuant to Section 100(2) (c) of the **PDI Act** the planning functions and powers related to the delegations in **Attachment 1** are recommended to be delegated to the Assessment Manager.

➤ **Customer Service and Community/Cultural Implications**

All applications which have been publicly notified and have representors who wish to be heard are reported to the CAP for consideration unless delegations allow otherwise. This ensures that such members of the community have an opportunity to present their views about a specific development and its potential impacts to the CAP. Other types of development which do not require public notification, are assessed by other relevant authorities, including Accredited Professionals, the Assessment Manager and the State Commission Assessment Panel.

➤ **Engagement/Consultation**

Community consultation on the Planning Reforms has been undertaken by the State Planning Commission and Council.

No community engagement or consultation is required for new legislation or the delegation of powers and functions, as this is the administrative governance, required out of necessity.

## 2. **THE NEED FOR DELEGATIONS**

The relevant authorities under the **PDI Act** are the Minister, the State Planning Commission, an assessment panel appointed by a joint planning board, an assessment panel appointed by a council, an assessment panel constituted by the Minister, an assessment manager, an accredited professional and a council. The CAP and the Assessment Manager are the relevant authorities rather than the Council. Additionally the CAP is also the relevant authority for the building assessment functions.

The functions of an Assessment Manager as prescribed in Section 87 (e) of the **PDI Act** extend beyond acting as a relevant authority under the Act. They also include being responsible for managing the staff and operations of the CAP and providing advice to the CAP. Out of administrative necessity this requires that there are delegations to the Assessment Manager from CAP.

The CAP typically considers approximately 5% of the development applications lodged with Council and thus it is necessary for the CAP to delegate its planning functions and powers to Council staff for the assessment of the remaining 95% of development applications. As mentioned above under the **PDI Act** the building functions and powers are now bestowed on the CAP. Section 99(1) of the **PDI Act** permits a CAP to refer the building rules assessment function onto the Council, and only then can Council become the relevant authority.

Under the **PDI Act** the CAP and Assessment Managers as relevant authorities in their own right, will both be respondents to planning appeals in their own right rather than the Council. However the Council is directly responsible for the costs associated with both appeals and the activities of its CAP and its Assessment Manager pursuant to Section 83 (1) (h) (ii) and 87(f) of the **PDI Act**.

The model delegations prepared for the LGA and consist of the following four instruments:

- Instrument A - Delegations for the Powers of a Council as a Designated Authority
- Instrument B - Delegations for the Powers of a Council as a Relevant Authority
- Instrument C - Delegations for the Powers of a Council Assessment Panel
- Instrument D - Delegations for the Powers of an Assessment Manager

### 3. AMENDMENTS TO DELEGATIONS FROM CAP (INSTRUMENT C)

The amendments include new delegations in relation to:

- the powers pursuant to the **PDI General Regulations** and the State Planning Commission Practice Direction 14 Site Contamination in relation to site contamination investigations for development proposals (7 new delegations necessary to administer the requirements and process defined in the Practice Direction)
- the powers pursuant to the State Planning Commission Practice Direction 16 Urban Tree Canopy Off-set Scheme and the requirements of the Urban Tree Canopy Off-set Scheme (5 new delegations necessary to administer the requirements and process defined in the Practice Direction and the Urban Tree Canopy Off-set Scheme)
- the powers pursuant to Regulation 31 for verification of development applications and inclusion of additional detail and re-numbering

Corresponding to the new delegations relating to Practice Direction 14 Site Contamination the amendments also include deletion of provisions that are superseded by the Practice Direction (2 delegations deleted).

The entire set of delegations in Instrument C is included as **Attachment 1** of this report for the consideration of CAP and the “tracked change” version of Instrument C highlighting the amendments and the renumbering is included as **Attachment. 2**. A copy of the two Practice Directions and Urban Tree Canopy referred to in the new delegations are included as **Attachments 3, 4 and 5**.

Aligned with good governance practice, it is recommended that the delegations by CAP in Instrument C be revoked and readopted in their entirety for completeness and to avoid confusion i.e. there is a point of in time where the entire Instrument is adopted.

### 4. SUMMARY

The **PDI Act and PDI General Regulations** delegations from the CAP (Instrument C) to staff have been updated using the updated model delegations provided by the Local Government Association.

It is recommended that the delegations as detailed in **Attachment 1** of this report be adopted by the CAP and the previously adopted Instrument of Delegation under the *Planning, Development and Infrastructure Act 2016* and Regulations - Powers of an Assessment Panel (Instrument C) of 10 February 2021 be revoked.

**5. ATTACHMENTS**

- (1) Updated Delegations under the Planning, Development and Infrastructure Act 2016 and General Regulations - Powers of an Assessment Panel (Instrument C)
- (2) Tracked Change Version of Delegations under the Planning, Development and Infrastructure Act 2016 and General Regulations - Powers of an Assessment Panel (Instrument C)
- (3) Practice Direction 14 Site Contamination
- (4) Practice Direction 16 Urban Tree Canopy Off-set Scheme
- (5) Urban Tree Canopy Off-set Scheme

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***Attachment 1  
Updated Delegations under the Planning, Development and Infrastructure Act  
2016 and General Regulations - Powers of an Assessment Panel  
(Instrument C)***

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