

COUNCIL ASSESSMENT PANEL MEETING

Wednesday 8 September 2021

AGENDA – 8.1

Applicant: Wicks Estate Wines Pty Ltd	Landowner: Woodside Wines (SA) Pty Ltd
Agent: Ekistics, Richard Dwyer	Originating Officer: Melanie Scott
Development Application:	21/201/473
Application Description: Alterations & additions to existing winery, comprising cellar door sales outlet, restaurant & function centre (maximum capacity 400 persons), offices, car parking, advertising signage, fencing, landscaping & associated earthworks (non complying)	
Subject Land: Lot:7 Sec: P5244 DP:69672 CT:5958/272	General Location: 29 Riverview Road Woodside Attachment – Locality Plan
Development Plan Consolidated : 8 August 2019 Zone Maps AdHi/18 & AdHi/3 Policy Map AdHi/57	Zone/Policy Area: Watershed (Primary Production) Zone - Onkaparinga Valley Policy Area (10).
Form of Development: Non-complying	Site Area: 59.9 hectares.
Public Notice Category: Category 3 Notice published in The Advertiser on 2 July 2021	Representations Received: Four (4) Representations to be Heard: Two (2)

1. EXECUTIVE SUMMARY

The proposal seeks Planning Consent for alterations and additions to the existing Wick's Estate winery comprising a new cellar door sales outlet, restaurant, function centre (maximum capacity 400 persons), administration offices, car parking, advertising signage, fencing, landscaping & associated earthworks. All works are confined to Allotment 7 of the winery land which is adjacent to the intersection of Riverview Road and Onkaparinga Valley Road on the southern outskirts of Woodside.

The subject land is located within the *Watershed (Primary Production) Zone* and the *Onkaparinga Valley Policy Area (10)*. The proposal is identified as a non-complying form of development within the *Watershed (Primary Production) Zone* as it exceeds the prescribed threshold of 250m² floor area for a *Cellar Door, the capacity of 75 persons for a restaurant and includes a function centre*. A total of four (4) representations were received during the Category 3 public notification period with, one (1) representation in opposition and one (1) representation in support of the proposal. Two (2) representations were neither opposed nor supporting but raised concerns over existing and potential impacts, to be addressed in the assessment. Two representors wish to be heard.

The proposal purports a two-storey addition to the existing winery, incorporating a large, open-plan restaurant and tastings area with approximately 750m² ground floor, internal and outdoor 'al-fresco' areas (excluding kitchen, bars and administration/office component) and a 285m² function room and balcony upper storey (excluding service and bar areas), cumulatively hosting up to 400 guests. The overall building footprint is an approximate 1500m² addition to the southern aspect of the existing winery.

The proposed building will exhibit external material colours and finishes in a range of modern, low key finishes and themed configurations consistent with the winery's branding. The proposed, Colorbond Woodland grey or similar wall and roof materials are consistent with the existing winery sheds, with timber & masonry elements complementing these and landscaping all combining to present an acceptable interface for the winery.

The proposed development incorporates 118 visitor car parking spaces, inclusive of two (2) universal access car parking spaces and a further 14 staff parking spaces concealed behind architectural screening and landscaping. The proposed operating hours for the cellar door, restaurant and special events are between 9:00am and 10:00pm Sunday through Thursday (inclusive); and 9:00am to 12:00am (midnight) on Fridays and Saturdays. The existing access from Riverview Road, immediately east of the Onkaparinga Valley Road intersection is to be utilised by visitors.

The applicant has provided a comprehensive combined statement of Support and Effect, satisfying the requirements of Regulation 17 (1) and (5) of the Development Regulations 2008 which contain detailed assessments regarding traffic and parking and environmental noise matters.

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

Note, concurrence from SCAP is no longer required for consents to non-complying development lodged on or after 15 May 2020 as a result of the COVID-19 Emergency Response (Further Measures) Amendment Bill 2020 and the subsequent amendment to Section 35 of the Development Act 1993 which removed the need for concurrence to be obtained

The main issues relating to the proposal are scale and intensity of the proposed development, noise, traffic, environmental and site management, noting the elements raised in the public notification representations and in respect of the Development Plan policies.

Following an assessment against the relevant zone and Council Wide provisions within the Development Plan, staff are recommending the Council Assessment Panel resolve to **GRANT** Development Plan Consent.

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- Two storey building addition to the southern aspect of the existing winery building with overall dimensions of approximately 35 metres x 45 metres and overall height of 9.45 metres (ridge height), featuring long, swept (offset gable and skillion) rooflines, consisting of a new cellar door sales outlet, kitchen, bars and service areas, restaurant, function centre (maximum capacity 400 persons) and administration offices. The following is a summary of how the site could reach the capacity of 400 guests

The maximum capacity of the venue of 400 persons could therefore be achieved via a number of different scenarios including:

- Scenario 1: 400 patrons on site at any one time comprising:
 - » 200 patrons within the restaurant; and
 - » 200 patrons within the cellar door.
- Scenario 2: 400 patrons on site at any one time comprising:
 - » 200 patrons within the restaurant area attending a private function (i.e. wedding) with a maximum of two (2) private functions of up to 200 patrons to occur each week; and
 - » 200 patrons within the cellar door.
- Scenario 3: 400 patrons on site at any one time for up to six (6) major events or functions per annum with no more than one major event or function of up to 400 patrons to occur per month.

As demonstrated in the Traffic Impact Assessment undertaken by Cirqa, proposed car parking (including proposed event overflow car parking) has been designed to cater for the proposed maximum capacity of 400 persons at an event or function on site, where patrons could possibly be arriving and departing at the same or similar times (rather than typical 'design demand' associated with patrons arriving and departing at different times throughout the day to utilise the venue).

- The proposal purports a two-storey addition to the existing winery, incorporating a large, open-plan restaurant and tastings area with approximately 750m² ground floor, internal and outdoor 'al-fresco' areas (excluding kitchen, bars and administration/office component) and a 285m² function room and balcony upper storey (excluding service and bar areas), cumulatively hosting up to 400 guests. The overall building footprint is an approximate 1500m² addition to the southern aspect of the existing winery. The addition has a maximum height of 9.45 metres, but is estimated to be 3.9 metres below the highest point of the existing built form of the winery buildings. (13.35 metres above natural ground level).
- New internal driveways catering for passenger vehicles, heavy rigid (HR) bus/coach and medium rigid (MR) delivery/waste truck access and circulation.
- Visitor car parking provisions for 118 vehicles (inclusive of two (2) universal access car parking spaces) with 49 car park spaces provided as 'overflow' car parking 80 metres south-east of the proposed building
- Staff parking provisions for a further 14 vehicles
- Landscaping throughout the visitor car parking area and in the form of a trellis fence screen adjacent to the proposed staff car parking and service area. There are existing trees lining the driveway and no additional trees are proposed in the overflow car parking.
- Signage attached to the southern aspect feature masonry walling of the proposed building. It is proposed to condition this not to be lit.



- The proposed operating hours for the cellar door, restaurant and special events are between 9:00am and 10:00pm Sunday through Thursday (inclusive); and 9:00am to 12:00am (midnight) on Fridays and Saturdays.

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

3. BACKGROUND AND HISTORY

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
29 September 2007	06/534/473	Lapsed cellar door sales associated with existing winery
31 July 2006	05/944/473	Advertising sign
8 September 2005	05/D29/473	Boundary realignment
22 December 2003	03/718/473	Frost fan
4 November 2003	01/959/473	Variation to 473/222/99 & 473/497/00 for expansion to winery crush capacity from 500 tonnes pa to 2000 tonnes pa and associated expansion of the approved winery buildings Stage 1 the winery building only constructed and crush increased
10 September 2001	01/691/473	Detached dwelling and garage
2 July 2001	01/647/473	Change of use from dwelling to horticultural storage building
30 October 2000	00/933/473	Pump shed
16 November 2000 DPC 28 conditions	00/497/473	Relocation and redesign of winery including cellar door sales and tasting outlet
19 April 2000	00/294/473	Vineyard
DPC 4/8/99 no BRC 25 conditions	99/222/473	Vineyard and Winery

4. REFERRAL RESPONSES

- **EPA**

The Environment Protection Authority was a referral body pursuant to Schedule 8 in respect of non-complying forms of development within the Mount Lofty Ranges Water Protection Area, providing their response advice on 28 July 2021, for 'regard' in the assessment.

The EPA response was in respect to general water quality, stormwater and effluent management and management of impacts during construction. The response acknowledged that human wastewater generated from the proposed additions and existing wastewater provisions on site are both to be redirected to the Community Wastewater Management System (CWMS) network via a new connection, and to the SA Water 'Bird in Hand' wastewater treatment plant (WWTP). Given that the proposal seeks an overall potential improvement for site wastewater management the EPA concluded that:

"the improvement proposed to the wastewater management system including renewed irrigation area is considered to achieve a 'neutral or beneficial' impact to water quality for the surrounding environment, as required for development in Priority Area 1 of the Mount Lofty Ranges Watershed"

Accordingly the EPA raise no objection to the proposal subject to the recommended conditions and notes being attached to the consent if approved. (Refer recommended EPA conditions 21 & 22).

- **AHC EHU / SA HEALTH / SA WATER CORPORATION**

Early discussions commenced with the applicant regarding wastewater management options and requirements for effluent and trade waste output from the proposal soon after lodgement. A waste system application was lodged with SA Health (the relevant wastewater authority) in March 2021. Subsequently, the Wastewater Approval was issued by SA Health in June 2021 and is subject to conditions under the SA Public Health (Wastewater Regulations 2013 (refer SA Health WWI-10797 attachment of the response to representations - page 283 of CAP attachments).

- **AHC ENGINEERING**

Council's Engineering department have also reviewed the proposal in respect of *site access and egress, stormwater collection and discharge, waste water, and parking*.

Engineering have assessed that the proposed design of parking and circulation spaces accord with the requirements of the relevant Australian Standards for commercial parking management and that stormwater management is sufficient. However Engineering staff advise that the access and egress point from Riverview Rd may need to be widened to accommodate the extra vehicle movements as per recommendations in the Cirqa Traffic Consultants *traffic and parking report*. (Refer recommended condition 3 and 4).

Engineering confirmed to SA Health on 17 June 2021 that the waste application (including the connection into Councils CSWMS infrastructure) was supported.

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

5. CONSULTATION

The application was categorised as a Category 3 form of development in accordance with Section 38(2) (c) of the *Development Act 1993* requiring formal public notification and a public notice. Four (4) representations were received during the prescribed public notification period, one (1) representation opposes the proposal and one representation was supported the proposal. A further two (2) representations advised they were ‘undecided’ in their support or objection to the proposal, notwithstanding those representations raise elements of existing and potential impacts which should be addressed. All representations were from adjoining land owners/occupiers.

The following representations were received during public notification processes:

Name of Representor	Representor’s Property Address	Supports / Opposes	Appearing / Nominated Speaker
SC & KA Anderson	79 Nairne Road, Woodside	Representor in opposition to proposal	Appearing personally
Wendy Nicholson	70 Riverview Road, Woodside	Representor neither in support or opposition to proposal however raises concerns	Appearing personally
Trevor & Pamela Lee	36 Riverview Road, Woodside	Representor neither in support or opposition to proposal however raises concerns	Not Appearing
Kim Baddams	141 Nairne Road, Woodside	Supports Proposal	Not Appearing

The applicant and/or their nominated representative, Richard Dwyer from Ekistics, may be in attendance.

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

- Existing noise from the subject land, including noise from horticultural machinery & frost fans.
- Vehicular access issues and impact upon Riverview Road traffic.
- Proposed vehicle parking rate.
- Existing rubbish accumulation at or near Riverview Road.
- Landscaping to integrate and improve the health of Inverbrackie Creek.
- Noise from music/entertainment and events.
- Light pollution.
- Road/Traffic impacts to the Riverview Road, Nairne Road & Pfeiffer Road intersection.
- Adverse Social and Environmental Effects (Noise nuisances).
- Enhancement of the Area and Benefit to the Local Community.

A number of the matters raised in the representations, particularly those regarding noise impacts have identified existing issues emanating from the horticulture activities carried out upon the land including harvesting operations and frost fans operations, noting there are no frost fans associated with this vineyard. These are matters for the management of the vineyard and cannot be assessed as part of this proposal. Likewise noise emissions from other nearby lawful land uses and activities cannot be addressed in the subject application assessment.

A number of elements relating to potential impacts and/or potential accentuation of existing issues such as noise, light pollution and litter are addressed in the applicant's response to representations with supplementary responses from Cirqa Traffic Consultants and Sonus Acoustic Consultants in respect of traffic and noise issues respectively.

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

A copy of the plans which were provided for notification are included as **Attachment – Publicly Notified Plans**.

6. PLANNING & TECHNICAL CONSIDERATIONS

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

i. The Site's Physical Characteristics

The subject land is 59.9 hectares in area with unconventional boundaries, following road alignments and boundaries of adjoining allotments. The entire winery/vineyard land is made up of 3 separate allotments, but the site of the proposed development is allotment 7. The subject development site is approximately 55 ha in area.

The land incorporates a large proportion of existing and established vines across the majority of the property planted in the late 1990s and the Wicks Estate winery buildings established circa 2004.

The vineyard areas exclude small portions of the land, including the path of Inverbrackie Creek, which dissects the property from north-east to south-west, the site of an existing dwelling and outbuildings at the intersection of Riverview Road and Nairne Road, the winery and wastewater area, a combined area of approximately 3.6 ha. The land is gently undulating so that there is no line of sight from the area around the winery to Nairne Road but winery buildings are visible from Onkaparinga Valley and Riverview Roads.

ii. The Surrounding Area

The surrounding locality exhibits a mixed configuration of development, typically comprising a range of detached dwellings and domestic outbuildings of varying size and 'Rural Living' style on 'acreage' allotments, interspersed amongst substantially larger allotments engaged in horticulture or other lower intensity farming activities. All of the varying land uses are influential in the rural character of the locality lying beyond the southern edge of Woodside's Township Zone.

The locality's array of smaller and anecdotally low rural viability land parcels supporting detached dwellings and outbuildings also contribute to a 'Rural Living' influence upon the character of the locality.

The western boundary of the property abuts the former rail reserve which now supports a section of the Amy Gillett Trail extending south from Woodside along Onkaparinga Valley Road towards Balhannah. There is extensive landscaping on the subject land along this boundary.

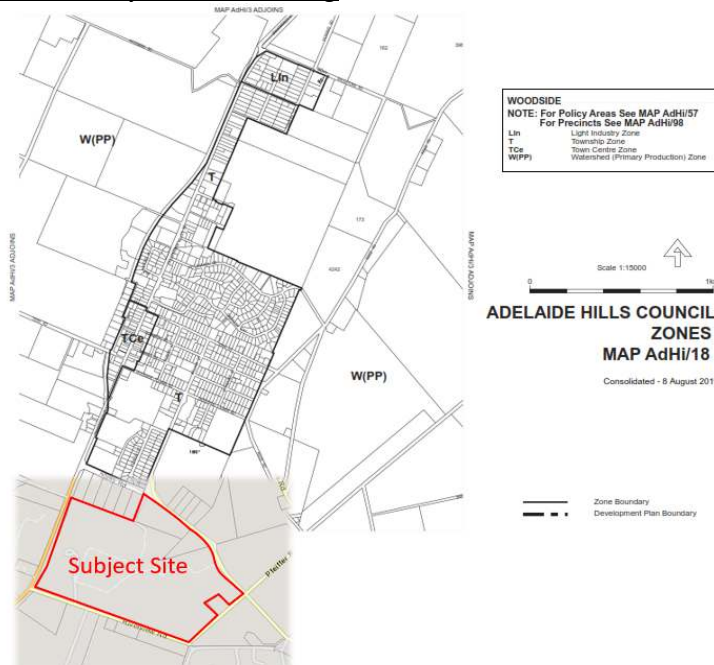
There are six (6) developed allotments adjoining the northern site boundary, each of approximately 1.7 ha in area, fronting Hutchens Road. These allotments are also within the *Watershed (Primary Production) Zone*, but contained in a different policy area.

The local landscape is gently-to-moderately undulating, more so about creek lines and the Onkaparinga River and about local hummocks and knolls in the immediate locality. Many allotments exhibit significant landscaping and/or native vegetation cover throughout the locality.

‘The Crest’ subdivision, previously Lot 300 Nairne Road is a notable exception to the general characteristics of the *Watershed (Primary Production) Zone*, with that land previously functioning as part of the Inverbrackie Army Barracks, then detention facility. This was recently subject to a land division assessed by the State Planning Commission in 2018. The portion of this land closest to the subject land still operates as an army base.

iii. Development Plan Policy considerations

Figure 1 - Development Plan Zoning



Adelaide Hills Development Plan (modified) – Consolidated 8 August 2019

a) *Policy Area/Zone Provisions*

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

- to maintain and enhance natural resources of the Mount Lofty Ranges particularly water resources

- *to protect the long term sustainability of primary production activities*
- *to enhance amenity and landscape value through preservation and restoration of native vegetation*
- *to support and develop the tourism industry with accommodation, attractions & facilities and increase visitation and overnight stays in the region, and*
- *to support Primary Production and low density rural living land uses within the Policy Area and exclude incompatible land uses in these areas.*

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

Objectives: 1

PDCs: Nil

Accordance with Policy Area

The proposed development supports the continuance of the existing primary production and viticulture activity established upon the land, with further value adding upon the site and potentially to the local economy in respect of attracting local activity, including wine/food tourism experiences throughout the Adelaide Hills region.

Maintenance of the existing horticulture activity upon the land along with sensible environmental improvements and landscaping are considered to suitably accord and maintain the desirable characteristics sought by the Policy Area's objective and the value adding aspect of the proposal is well connected to the active nature of the Hills' townships and regional attractions.

The following are considered to be the relevant **Watershed (Primary Production) Zone** provisions:

Objectives: 1, 2, 3, 5 & 6

PDCs: 1, 2, 3, 4, 9, 10, 11, 14, 15, 16, 39, 44, 50

Accordance with the Watershed (Primary Production) Zone

The proposed development is situated outside *Watershed Area 1* and in this respect is not offensive or prejudicial to the intent of the W(PP) zone, noting specifically PDC 50, which identifies that wineries outside of Watershed Area 1 should include certain activities, including crushing, fermenting, bottling, maturation/cellaring of wine and may include ancillary activities of administration, sale and/or promotion of wine product and dining, which are well represented by this proposal.

The proposal pursues the intent of the Zone in accord with Objectives 3 and 6 in respect of its contribution to primary production and value-adding industries in the Adelaide Hills, providing further versatility and diversification towards popular wine and food events and tourism, promoting the economy and activity within the region.

The proposal does not jeopardise the landscape or native vegetation (Zone Objectives 4 & 5) as the locality is one of a rural landscape, comprising grape production and wineries along with general farming activities. The built form is consistent with the primary production character of the area.

Connection and re-direction of wastewater in this proposal is considered to pursue Zone Objectives 1 & 2, reinforced by EPA comment that the proposal produces an overall benefit to the Watershed Zone and the quality of water resources.

Notwithstanding the matters raised in representations, including noise and traffic which are considered well addressed in the proposal by specialist consultant assessments, the proposal is not considered to present a land use or an intensity of activities which are not anticipated in the Zone. In this respect the proposal is considered to be appropriate, and does not prejudice primary production activity, as sought in Zone PDC 16.

Form of Development

Development of wineries and ancillary Cellar Door/Restaurant and facilities within the Watershed (Primary Production) Zone is identified in Zone PDC 50 as envisaged land uses.

The site is large and the development amongst existing vines and in association with the existing winery is considered to be in context with the land use and the character of the locality. It is recognised that rural living forms of land use in the zone are not intended to be prejudicial to primary production activities. Whilst more intensive activities have been identified as presenting actual and potential impacts to residential amenity of some nearby land, the primary intent of the zone must be acknowledged.

Appearance of Land and Buildings

The Development Plan seeks that buildings will have *a high standard of design, with respect to external appearance, choice of materials and colours, being sited to blend with, preserve and enhance the character and amenity of the locality* which is considered to be accorded by the proposed new facility's, appearance and siting.

The proposed development presents modern, tastefully finished buildings, which are situated within a rural landscape of vineyards and horticulture.

The built form of the proposed development is of lower profile than that of the existing winery buildings. The development will be landscaped about its southern and within the car parking area further 'softening' and improving the overall site appearance.

The proposal's built form and design is unlikely to present any adverse impacts to the locality and is considered appropriate for the locality.

Conservation

The proposed development does not represent any conflicts with the conservation values of the Zone or Policy Area. The proposal does not affect any existing or significant vegetation about the existing winery buildings.

As foreshadowed previously, the environmental protection and water resources matters relevant to the Zone seek that overall benefit is achieved by a development proposal, and in this respect the cumulative effect of improved wastewater management and terrestrial improvements such as landscaping and promoting permeable landscaped surroundings, contribute to the further overall environmental benefit.

b) *Council Wide provisions*

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

- *appropriate design and appearance standards for buildings*
- *orderly and sustainable development*
- *avoidance of incompatible land uses*

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

Design and Appearance

Objectives: 1 & 2

PDCs: 1, 3, 5, 8, 9, 12, 20, 21, 22 & 23

Siting and Visibility

Objectives: 1

PDCs: 1, 2, 7 & 10

The proposal is generally considered to present an appropriate and aesthetically pleasing building and landscaping, which will be visible from its frontage to Riverview Road. Views will be substantially less from Onkaparinga Valley Road, given substantial vegetation and landform of the former rail reserve and infrastructure such as the footbridge (part of the Amy Gillett Bikeway) over Inverbrackie Creek and the existing winery buildings, all obscuring clear and direct views.

The proposed cellar door additions to the existing winery will attenuate a great proportion of the bare walls of the winery, adding further articulation, variation in building form & materials and introduce landscaping and shadowing about the built form.

There is a sign proposed on a wall on the southern elevation of the proposed building. This is a modest sign and has limited visibility outside the subject land. The sign will be conditioned to restrict lighting and is in keeping with the sign on the winery building.

Interface Between Land Uses

Objectives: 1, 2 & 3

PDC's: 1, 2, 4, 5, 7, 9 & 10

The proposed development maintains its substantial separation distances to sensitive receptors in the locality, with setbacks in the order of 260 metres from the nearest dwelling, and generally in the order of 320 to 400 metres to other nearby surrounding dwellings. It is acknowledged that the nearby Bird in Hand Winery hosts a considerable scale of events including outdoor concerts, with noise emissions clearly presenting a concern if similar levels were to occur at the proposed development.

The proposed development envisages events, including weddings and similar private functions and these are considered less likely to present off-site impacts than the open air events held at Bird in Hand.

The Development Plan Table 4 offers a number of different algorithms which could be applied to this proposal with regards to car parking requirements, for example:

- 1 space per 3 seats or 1 space per 15 square metres, whichever is the greater (indoor areas) for a restaurant and
- 5.5 per 100m² for a shop (cellar door)

Council has traditionally used the one per 3 seats/persons on which basis 134 car parks would be required. The proposal identifies 122 car parking spaces being made up of 14 staff spaces, 49 overflow parking spaces and 69 spaces adjacent the proposed building. As detailed in the Cirqa report the shortfall of 12 spaces is considered acceptable based on the provision of bus parking spaces and the accepted parking rates for similar developments in the region.

Traffic impacts are considered to be well addressed by the Cirqa traffic consultants traffic and parking report, identifying the likely intensity of traffic movements and the impact upon the local road network, identifying that *“The proposed parking provision is considered to be more than sufficient to accommodate typical peak demands associated with the site”....* And that *“traffic generation associated with the site will be low, within the order of 35 movements generated during the peak hour. Minimal queuing and delays will be experienced at the site access. The forecast movements will be easily accommodated on the adjacent road network with minimal impact on conditions at the site access and adjacent intersections...”*

Noise impacts have been addressed in the Sonus environmental noise assessment report with sound modelling based upon human, mechanical (services) and vehicle noise elements, in which the report makes recommendations in order to achieve compliance with the Environment Protection Noise Policy and referenced to Interface Between Land Uses PDC 10 in respect of music noise outfall from the site. (Refer recommended condition 2).

The acoustic report concludes generally that the acceptable level of noise would *accommodate most types of music which may occur during a function including some live performances of certain genres, and that based on the assessments of music noise at various levels, the criteria will be achieved at all residences, while there is also flexibility to increase the music levels at some frequencies without exceeding these criteria.* On this basis it is considered that the intended function of the cellar door and functions facilities would be capable of operating within the sound assessment modelling recommendations. To demonstrate compliance a report after opening would be necessary.

There is a service area proposed for staff parking and waste facilities and recommended conditions 18 and 19 have be included for the management of hard waste disposal.

7. SUMMARY & CONCLUSION

The proposal as assessed against the provisions of the Adelaide Hills Development Plan, Consolidated 8 August 2019, is considered to demonstrate considerable merit insofar that it can suitably integrate with the surrounding locality, including:

- The proposal presents a form of development which is appropriate to the Watershed (Primary Production) Zone and exhibits a high standard of design and appearance and is considered unlikely to create any adverse impact upon the natural and built environment of the locality in which it will exist.

- The proposal's anticipated traffic movements and internal driveways and parking provide an appropriate parking ratio to meet or exceed the parking demands for the premises, and will not create any adverse impacts to traffic flow on the local road network.
- The noise impacts are considered to have been appropriately modelled by professional consultants and assessed as being in accordance with the relevant interface provisions of the Development Plan. Subject to adherence to appropriate conditions should the development be approved, the proposal is considered to be unreasonable within the zone and locality.

The proposal is sufficiently consistent with the relevant provisions of the Development Plan in terms of its land use and built form, despite its non-complying nature, and it is considered the proposal is not seriously at variance with the Development Plan.

It is noted that pursuant to Section 35 of the Development Act 1993, the date of this application, being lodged on 24 September 2020 'post deletion' of Section 35 (3) of the Development Act 1993, effective on 15 May 2020 the Relevant Authority will not be required to obtain the concurrence of the State Planning Commission in determining this application.

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 21/201/473 by Wicks Estate Wines Pty Ltd for alterations & additions to existing winery, comprising cellar door sales outlet, restaurant & function centre (maximum capacity 400 persons), offices, car parking, advertising signage, fencing, landscaping & associated earthworks (non complying) at 29 Riverview Road Woodside subject to the following conditions:

(1) Development In Accordance With The Plans

The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any):

- **Plans from JBG Architects project number 1906**
 - **Perspective & Block Plan Drawing A000 Issue H, Site Plan Drawing A001 Issue H & Floor Plan Level 1 Drawing A101 Issue H**
 - **Floor Plan Ground Drawing A100 Issue E, Perspectives Exterior Drawings A901 Issue E & A902 Issue E & Perspectives Interior Drawing A911 Issue E**
 - **Elevations Drawing A201 Issue I**
 - **Sections Drawings A301 Issue F & A302 Issue F**
- **Ekistics letter dated 11 June 2021**
- **Sonus Environmental Noise Assessment dated October 2020 referenced S6544C3**
- **TMK Engineers Stormwater Management Plan & Waste Water Management Report dated 15 February 2021**
- **TMK Engineers Hydraulic Services – Overall Site Plan Drawing 1910192-H1/PC dated 03 June 2021**

(2) Noise Management

Noise management shall be in accordance with the Sonus Environmental Noise Assessment dated October 2020 referenced S6544C3. In particular:

Construction:

- a) The function areas shall be constructed from materials which achieve the following minimum acoustic ratings:
- Walls: Rw+Ctr 43;
 - Roof/ceiling: Rw+Ctr 49; and
 - Windows: Rw+Ctr 37

Noise Generating Activities:

- b) Patrons and entertainment/music shall not be permitted within the licensed outdoor area beyond 10:00pm, unless they are leaving the site (walking to the car park or an awaiting coach)
- c) Buses/coaches shall only access the public car park between 9:00am and 10:00pm. After 10:00pm all buses/coaches accessing the site shall use the turning area to the north of the winery building after 10:00pm, not the public car park area.

Low Level Music:

- d) While doors and windows into the building remain open, music inside shall be restricted to a maximum of 76dbA.
- e) Music in the outdoor areas shall be limited to an unamplified soloist or music played through speakers at a “background level”.
- f) Music shall be limited to the terrace/pergola on the north and east faces of the building north of ‘Lounge 2’ and ‘Bar’/‘Bar Seating’ areas as shown on the approved floor plan- ground presentation(Plan A100 revision E).

High Level Function Music:

- g) All doors directly to outside from the function space (such as to the “Terrace”) shall remain closed at any time when a level of music greater than 76dbA is played.
- h) At times when the level of music is greater than 76dbA within the function space access into and out of the building shall be limited to an airlock entry/exit which incorporates doors fitted with self-closing mechanisms so that doors remain closed unless being used for immediate access.
- i) At times when the level of music is greater than 76dbA within the function space, no music shall be played in the outdoor areas.

(3) Commercial Access Points

The vehicle access point(s) and cross-over shall be constructed at a maximum width of 9 metres (for semi ridged vehicles) or 12 metres (HRV) with splays. Any existing crossing places not providing vehicle access shall be considered redundant and shall be closed off to the reasonable satisfaction of Council.

(4) Sealing Of Vehicle Access

The vehicle access point and cross-over shall be sealed in Hotmix bitumen, concrete, brick paving or similar material, from the edge of the sealed carriageway of Riverview Road to the property boundary.

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

- (5) **Commercial Lighting**
Flood lighting shall be restricted to that necessary for security purposes only and shall be directed and shielded in such a manner as to not cause nuisance to adjacent properties.
- (6) **External Finishes**
The external finishes to the building herein approved shall be as follows:
WALLS: Colorbond Woodland Grey or similar, stone and timber features
ROOF: Colorbond Woodland Grey or similar
- (7) **Restriction On Display/Sale Non-Beverage/Food Items**
A maximum area of 25m² shall be used for the display and sale of any non-beverage or non-food item within the approved development.
- (8) **Hours of Operation**
The cellar door and restaurant hours of operation shall be:
9.00am to 10.00pm Sunday to Thursday
9.00am to Midnight Friday and Saturday
- (9) **Capacity of Restaurant**
At any one time, the overall capacity of the restaurant shall be limited to a maximum of 200 persons.
- (10) **Capacity of Cellar Door & Restaurant/Function Uses**
The licensed premises overall capacity shall be restricted to a maximum of 400 persons at any one time. This includes any licensed outdoor areas.
- (11) **Number of Functions**
The number of functions/special events shall be restricted to the following:
 - Two functions per week of up to 200 persons
 - Six functions per calendar year of up to 400 persons
- (12) **Sale of Wine Restricted to Licensee's Own Product**
The sale of wine is limited to that which is the licensee's own product and shall be primarily produced within the Mount Lofty Ranges Region.
- (13) **Car Parking Directional Signage**
Directional signs indicating the location of car parking spaces shall be provided on the subject land and maintained in a clear and legible condition at all times.
- (14) **Carparking Stormwater Runoff – Commercial**
All surface water from carparking or hardstand areas shall be directed to a proprietary pollutant treatment device capable of removing oils, silts, greases, and gross pollutants to Council and EPA satisfaction prior to discharge to Council stormwater system or street water table.

- (15) **Car Parking Designed In Accordance With Australian Standard AS 2890.1:2004.**
All car parking spaces, driveways and manoeuvring areas shall be designed, constructed, drained and line-marked in accordance with Australian Standard AS 2890.1:2004. Line marking and directional arrows shall be clearly visible and maintained in good condition at all times. Driveways, vehicle manoeuvring and parking areas shall be constructed of compacted gravel prior to commencement of the use and maintained in good condition at all times to the reasonable satisfaction of the Council.
- (16) **Landscaping Protection In Carparks**
All landscaped areas and structures adjacent to driveways and parking areas shall be separated by a wheel stop device prior to the occupation of the development. Such devices shall not impede the free movement of people with a disability.
- (17) **Timeframe for Landscaping to be Planted**
Landscaping detailed in car park and for the trellis screen shall be planted in the planting season following occupation and maintained in good health and condition at all times. Any such vegetation shall be replaced in the next planting season if and when it dies or becomes seriously diseased.
- (18) **Removal Of Putrescible Waste**
All putrescible 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 the Amy Gillett Bikeway.
- (19) **Regular Removal Of Putrescible Waste From The Site**
All waste shall be removed from the subject land at least once weekly. Collection of waste shall be carried out only between hours of 9am and 7pm on a Sunday or public holiday and 7am to 7pm any other day.
- (20) **Overflow From Rainwater Tanks**
To prevent erosion, overflow from rainwater tanks shall be managed on-site to the satisfaction of Council, using design techniques such as:
- grassed swales
 - stone-filled trenches
 - small infiltration basins

ENVIRONMENT PROTECTION AUTHORITY CONDITIONS OF CONSENT

- (21) The wastewater treatment system must be established in accordance with the report titled "Stormwater & Wastewater Management Report Wicks Estate Winery, River View Road, Woodside" dated 11 February 2021 by TMK Consulting Engineers prior to occupation of the cellar door, restaurant and events occurring onsite in the function centre.
- (22) The stormwater management and treatment system must be established in accordance with the report titled "Stormwater & Wastewater Management Report Wicks Estate Winery, River View Road, Woodside" dated 11 February 2021 by TMK Consulting Engineers prior to occupation of the new buildings and new car parking areas associated with the proposal.

COUNCIL NOTES

(1) Development Plan Consent Expiry

The Development Plan Consent is valid for a period of twenty four (24) months commencing from the date of the decision. In either case - if an appeal has been commenced the date on which the appeal is determined.

Building Rules Consent must be applied for prior to the expiry of the DPC, or afresh development application will be required. 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) Food Business Notification

Food business notification must be provided prior to commencing any food (or consumable product) handling activities. This may be provided on-line at www.fbn.sa.gov.au or by obtaining a notification form from Adelaide Hills Council.

(4) Compliance with Food Act SA 2001

This approval under the Planning, Development and Infrastructure Act 2016 does not in any way imply compliance with the Food Act SA 2001 and/or Food Safety Standards. It is the responsibility of the owner of other person operating the food business from the building to ensure compliance with the relevant legislation before opening the food business on the site.

ENVIRONMENT PROTECTION AUTHORITY ADVISORY NOTES

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

(6) The applicant is reminded of the relevant provisions of the Environment Protection (Water Quality) Policy 2015 including the requirement to take all reasonable and practicable measures to prevent or minimise environmental harm and the pollution of waters. The Environment Protection (Water Quality) Policy can be found at:

(7) EPA information sheets, guidelines documents, codes of practice, technical bulletins etc can be accessed on the following web site:

<http://www.epa.sa.gov.au>

9. ATTACHMENTS

Locality Plan
Proposal Plans
Application Information
Applicant's Professional Reports
Referral Responses
Publically Notified Plans
Representations
Applicant's response to representations
SA Health Wastewater Approval

Respectfully submitted

Concurrence

Melanie Scott
Senior Statutory Planner

Deryn Atkinson
Assessment Manager

COUNCIL ASSESSMENT PANEL MEETING

8 September 2021

AGENDA – 8.2

Applicant: Scott Hruska	Landowner: S C Hruska
Agent: Mr Ben Green – Ben Green & Associates	Originating Officer: Damon Huntley
Development Application:	20/1175/473
Application Description: Demolition of an existing outbuilding, single storey tourist accommodation unit, water storage tank (22,000 litres) & associated earthworks and landscaping (non complying)	
Subject Land: Lot:51 Sec: P1922 DP:27770 CT:5250/496	General Location: 27 Onkaparinga Valley Road Verdun Attachment – Locality Plan
Development Plan Consolidated : 08 August 2019 Maps AdHi/3 & AdHi/42	Zone/Policy Area: Watershed (Primary Production) Zone - Onkaparinga Slopes Policy Area and Settlement Policy Area
Form of Development: Non-complying	Site Area: 9845m ² (approx.)
Public Notice Category: Category 3 Notice published in The Advertiser on 19 February 2021.	Representations Received: Three (3) Representations to be Heard: Two (2)

1. EXECUTIVE SUMMARY

The purpose of this application is for the construction of a single-storey self-contained tourist accommodation unit, following the demolition of an existing outbuilding. The proposal in its amended form seeks to provide accommodation for a maximum of two persons at any one time. Hiring arrangements are intended for short stays, up to a maximum period of 14 days.

The subject land is located within the Watershed (Primary Production) Zone - Onkaparinga Slopes Policy Area, and Watershed (Primary Production) Zone - Settlement Policy Area. The proposal is a non-complying form of development. Two (2) representations in opposition and one (1) representation neither supporting nor opposing the proposal were received during the Category 3 public notification period.

The proposed development would provide a tourist accommodation facility within the settlement of Verdun. The accommodation unit would be located at the rear of an existing dwelling and associated outbuildings situated at the lower eastern portion of the property. The accommodation unit would be closely grouped with the existing buildings on the site, and would not give rise to unwarranted loss of the agricultural land forming the rear balance of the allotment. The visual appearance of the proposed accommodation unit is not considered to be detrimental to the character of the area as direct views between Onkaparinga Valley Road and the proposed accommodation unit would be obscured by the position of the existing single-storey dwelling, and the existing outbuildings located at the rear of the dwelling. The proposed accommodation unit comprises a single-storey building incorporating quality external materials and finishes.

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

The main issues relating to the proposal include the partial change in the use of land, siting and visibility, the impact on agricultural land available for primary production, and compliance with the mandatory bushfire protection provisions of the *Minister's Code for undertaking development in Bushfire Protection Areas*.

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.

Note, concurrence from SCAP is no longer required for consents to non-complying development lodged on or after 15 May 2020 as a result of the COVID-19 Emergency Response (Further Measures) Amendment Bill 2020 and the subsequent amendment to Section 35 of the Development Act 1993 which removed the need for concurrence to be obtained.

2. DESCRIPTION OF THE PROPOSAL

The proposal has been amended since public notification. In its amended form the proposal is for the following:

- Operation of a tourist accommodation facility comprising the construction of a single-storey self-contained accommodation unit. The application seeks the proposed demolition of an existing outbuilding in order to accommodate the self-contained accommodation unit.
- The accommodation unit features a gable roof with a maximum ridge height of 5.0 metres. The external walls rise to a height of 3.5 metres. The unit comprises an attached alfresco area with flat roof elevating to a height of 2.5 metres.
- The accommodation unit measures 16.1 metres in depth, and 11.4 metres in width (incorporating the width of the attached alfresco).
- Internally, the layout of the accommodation unit consists of an open plan kitchen/dinning/living area, one (1) bedroom, and two bathrooms, one comprising a bathtub, and the other bathroom comprising a shower, basin, and toilet. Lastly, the unit also includes an internal storage space with direct access to the alfresco. Building work also includes a curved privacy wall measuring a height of 2.5 metres. The wall would be separated at a minimum of 600mm from the west facing wall of the accommodation unit.
- External finishes for the tourist accommodation unit include Basalt Trimdek cladding for both the walls and roof. The gable ends of the north and south elevations feature a glass wall at 2.5 metres above finished floor level. The west elevation features two ribbon windows which span the length of both the living room and bedroom. In terms of design, the glass walls and ribbon windows will allow entry of ample levels of natural light into the interior of the building.
- The accommodation unit would gain access via the existing driveway from Onkaparinga Valley Road. Car parking is proposed within an existing outbuilding in close proximity to the proposed accommodation. As proposed, the vehicle driveway incorporates a dedicated CFS fire-fighting vehicle manoeuvring area for the safe entry and egress of fire-fighting vehicles.
- The accommodation unit would be separated by a minimum of 64 metres from the front boundary (fronting Onkaparinga Valley Road), 13 metres from the northern side boundary,

18 metres from the southern side boundary, and 100 metres from the rear boundary of the property. The proposed structure would be situated at the rear of an existing dwelling and ancillary outbuildings on the site.

- The proposal seeks to provide accommodation for no more than two persons at any one time. The unit is intended for short stays, up to a maximum period of 14 days. The facility is to be staffed by one (1) full-time employee. The accommodation will be available all year round, with 4 days a month required to be 'unavailable' to allow for on-going farming activities, property maintenance, and deep cleaning. Check-in time would be at 3:00pm, and check-out time would be at 11:00am.
- The application proposes the installation of one (1) 22,000 litre water storage tank for the purpose of dedicated water supply for fire-fighting.
- No advertisement signage is proposed as part of the development application.

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

3. BACKGROUND AND HISTORY

There are no recent development proposals relating to the subject land.

In respect of the current development application, the Applicant has provided revised drawings and an updated Statement of Effect on 16 June 2021. The revised drawings consist of design changes, namely the reduction in the overall size of the tourist accommodation unit. The design amendment consists of removal of bedroom two and an ensuite bathroom at the northern side of the alfresco. In addition, revised Drawing No. A.01.4 incorporates indicative areas of the site for 'potential' low-medium height soft landscaping to provide screening.

In terms of the proposed operation of the tourist accommodation facility, the updated Statement of Effect states that the tourist accommodation facility seeks to provide accommodation for a maximum of two (2) persons at any one time, a reduction from the maximum of four (4) persons detailed in the original Statement of Effect received by Council dated 02 February 2021.

4. REFERRAL RESPONSES

- **CFS**

The SA Country Fire Service has no objection to the proposed development.

Category of Bushfire Attack is BAL 12.5.

Should the development application be granted Development Plan Consent, the SA Country Fire Service directs the Council to impose four (4) standard conditions relating to the mandatory provisions of the Minister's Code: Undertaking development in Bushfire Protection Areas. (Refer to recommended conditions 5 – 8).

The SA CFS further recommend an advisory note for the preparation of a Bushfire Survival Plan for the premises, seeking the following information:

TOURIST ACCOMMODATION – BUSHFIRE SURVIVAL PLAN

- The applicants to prepare and display a BUSHFIRE SURVIVAL PLAN (BSP) designed

specifically for the purpose of any guests that may be in residence during a bushfire event, especially during the Fire Danger Season.

- This BSP should give clear directions to persons that may be unfamiliar with the area/locality and unfamiliar with what protective actions they may need to take to protect their lives during a bushfire event, including when to take such protective actions.
- The BSP should address the possibility that the owners may not be present at the time of the bushfire event.
- The BSP should not expect guests to be involved in fire-fighting operations.
- The SA CFS ‘*Bushfire Safety and Survival for Business and Organisations*’ document (refer to CFS website) should be utilised as a basis for information and the drafting of the (GUEST) BSP.
- The applicant should consider reducing operating hours and restrictions on days of elevated bushfire danger, or bushfire events in the broader vicinity.

- **AHC EHU**

Council’s Environmental Health Unit has granted approval for the installation of a waste water treatment system to connect to the Community Wastewater Management Scheme (refer to 21/W182/473).

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

5. CONSULTATION

The application was categorised as a Category 3 form of development in accordance with Section 38(2) (c) of the *Development Act 1993* requiring formal public notification and a public notice. Three (3) representations were received. Of these, two (2) representations are in opposition to the proposal, and one (1) representation neither supports nor opposes the development proposal. All representations were from adjacent and nearby properties and two wish to be heard in support of their submissions as shown below.

Representations:

Name of Representor	Representor’s Property Address	Supports / Opposes	Nominated Speaker
Rosie and Chris Elmes	31 Onkaparinga Valley Road, Verdun	Representor in opposition to proposal	TBA
Lucy Cranendonk	19 Grivell Road, Verdun	Representor in opposition to proposal	TBA
David Nairn	30 Grivell Road, Verdun	Representor neither in support or opposition to proposal however raises concerns	Does not wish to be heard

The Applicant’s representative, Mr Ben Green, may be in attendance.

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

- Demolition of a historical structure (i.e. the existing outbuilding proposed for demolition);
- Impact on the character of the locality;
- Impact on residential amenity as a result of intrusion of privacy, noise generated from tourists, dust pollution, and light spill;
- Loss of land available for primary production;
- Potential risk of future division of land as a result of two habitable buildings situated on the property;
- Potential impact on the passage of a water course, and;
- Concern regarding potential authorisation of a secondary vehicle access point from Grivell Road.

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

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

6. PLANNING & TECHNICAL CONSIDERATIONS

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

- The Site’s Physical Characteristics

The subject land forms an irregular shaped parcel of land comprising an approximate area of 9,845 square metres. An existing cottage and three existing outbuildings are situated at the lower eastern portion of the property. At the rear of the existing dwelling and outbuildings the remaining balance of land forms an open paddock that is bordered by post and wire fencing. The land gains vehicle access at the east of the site via an existing driveway from Onkaparinga Valley Road. Land levels fall gently from west to east in the direction of Onkaparinga Valley Road. The existing buildings are situated on the lower and relatively flatter portion of land at the front of the site. In terms of natural features, a small number of trees are present on the property, most of which are concentrated in close proximity to the side boundaries. Between the existing dwelling and southern side boundary, a small watercourse (winter stream) meanders through the lower section of the property in the direction of Onkaparinga Valley Road.
- The Surrounding Area

The subject land is located within the settlement area of Verdun. The surrounding settlement area serves as a relatively small local centre with a limited number of local services. Predominantly situated on Onkaparinga Valley Road, the surrounding services include Australia Post (located at 25 Onkaparinga Valley Road), the Verdun Hall and Hills Christian Community School located further along Onkaparinga Valley Road to the west. To the east of the subject land, other businesses include a café, cellar door and Stanley Bridge Tavern. The surrounding area is highly influenced by the nature and function of Onkaparinga Valley Road, with frequent levels of traffic travelling north and south. Buildings in the surrounding locality are predominantly concentrated towards Onkaparinga Valley Road where the topography is relatively flat. Land sizes in this existing settlement area range between 728 square metres to 3.57 hectares.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Watershed (Primary Production) Zone - Onkaparinga Slopes Policy Area, and Watershed (Primary Production) Zone Settlement Policy Area. These provisions seek:

Policy Area – Watershed (Primary Production) Zone Settlement Policy Area:

- *A mixed use village environment with small collection of very low-density detached dwellings, recreation and community facilities;*
- *Small-scale services and facilities grouped together to services the requirements of the local community and the visiting public, and;*
- *Development concentrated within the passage of main roads passing through settlement areas.*

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

Objectives: 1, 2, & 4

PDCs: 3, 6, & 8

The desired character statement for the Watershed (Primary Production) Zone Settlement Policy Area acknowledges that the settlement of Verdun comprises a mixture of commercial businesses, and anticipates future development to be concentrated along the main road passing through the settlement area. In terms of location, it is considered that the proposal sufficiently meets the intent of the Settlement Policy Area desired character statement as the subject land is situated on Onkaparinga Valley Road (the 'main road'), and situated within the centre of the settlement area in a location that is characterised by a mixture of commercial land uses.

In terms of building design and appearance, the Settlement Policy Area discourages buildings in the form of semi-detached dwellings, and row dwellings. The Settlement Policy Area seeks to retain spacing between existing and new buildings, maintaining development at low density within the boundaries of the settlement. The proposed single-storey self-contained accommodation unit would be located to the rear of the existing residence and outbuildings situated on the property. Direct views between Onkaparinga Valley Road and the proposed accommodation unit would be obscured by the position of the existing single-storey dwelling, and the existing outbuildings located at the rear of the dwelling. In respect of the streetscape of Onkaparinga Valley Road, it is considered that the proposed building would not be of significant impact to the existing pattern of buildings that are in direct view of the road.

Policy Area – Watershed (Primary Production) Zone Onkaparinga Slopes Policy Area:

- *The retention of low density rural development.*

Objective: 1

PDCs: N/A

It is noted that the proposed self-contained accommodation unit would be located in the portion of the site which falls within the Onkaparinga Slopes Policy Area. Objective 1 for the Watershed (Primary Production) Zone Onkaparinga Slopes Policy Area seeks retention of low density rural development. The Watershed (Primary Production) Zone Onkaparinga Slopes Policy Area Principles of Development Control relate to the maintenance and growth of trees for commercial production, and boarding/breeding kennels for dog keeping. These Principles of Development Control do not relate to the proposed development. Given that the development is consistent with the desires of Objective 1, the proposal is considered to be an acceptable form of development within the Onkaparinga Slopes Policy Area.

Watershed (Primary Production) Zone:

- *To maintain and enhance natural resources of the Mount Lofty Ranges particularly water resources.*
- *To protect the long term sustainability of primary production activities.*
- *To enhance amenity and landscape value through preservation and restoration of native vegetation.*
- *To enhance the amenity and landscape of the south Mount Lofty Ranges for the enjoyment of residents and visitors and to support and develop the tourism industry with accommodation, attractions & facilities and increase visitation and overnight stays in the region.*

The following are considered to be the relevant Zone provisions:

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

PDCs: 1(a) (c) (d) (g), 2(a) (b), 3(a), 8, 9, 11, 14, 15, 16, 17, 29, 31, 35, 36, & 39

Accordance with Zone

Objective 6 (Watershed (Primary Production) Zone) contemplates the development of sustainable tourist accommodation offering opportunities for visitors to stay overnight. Given that the subject land is situated within the boundaries of the Verdun Township, it is considered the location of property presents a sustainable environment for a small-scale tourist accommodation facility. The subject land is serviced by SA Water mains, Community Wastewater Management Scheme (CWMS), and has direct vehicle access from Onkaparinga Valley Road.

In terms of land levels, the subject land rises gently from east to west. The existing single-storey dwelling and associated outbuildings are situated at the lower eastern portion of the property. The proposed self-contained accommodation unit would be situated to the rear of the existing outbuildings, and while this area of the site is slightly higher than the site level at the boundary fronting Onkaparinga Valley Road, the location intended for the accommodation unit forms is relatively low and on a flat portion of the allotment. The open paddock at the rear of the existing buildings covers a large portion of the site area, and it is this rear balance of the allotment where land levels rise gently in the direction of Grivell Road. The structure would be separated from the front boundary at a distance of approximately 64 metres, and as

such, it is considered that the proposal meets the desires of Watershed (Primary Production) Zone PDCs 1(a) (c) (d), 2(a), 11, and 15.

Watershed (Primary Production) Zone Principle of Development Control 8 states that “the number of outbuildings should be limited, and where appropriate they should be grouped together, located in unobtrusive locations.” While the policy makes sole reference to ‘outbuildings’, it is noted that this policy could be applied broadly to capture both dwellings, outbuildings, and buildings of a similar size and function. The position of the accommodation unit would have a relatively minor encroachment into the lower portion of the rear paddock. Given the spacious size of the paddock, the extent of encroachment would not be detrimental to the use and function of the overall paddock area. As the accommodation unit would be closely clustered with the existing buildings at the eastern portion of the allotment, it is considered that the proposal is in accordance with Watershed (Primary Production) Zone PDCs 8, 16, and 17.

The proposed development does not necessitate any tree damaging activities to any native trees, and as such, the proposal is consistent with the Watershed (Primary Production) Zone Principles of Development Control which seek the protection of native vegetation (refer to Zone PDCs 1(g), 14, 15, 29, and 31).

Form of Development

In terms of design and appearance, the accommodation unit features a gable roof with a maximum ridge height of 5.0 metres, external walls elevating to a height of 3.5 metres, and an attached alfresco area with a flat roof elevating to a height of 2.5 metres. The overall size and scale of the proposed accommodation unit is not considered to be a notably large, particularly when compared with the existing single-storey buildings situated on the property. The proposed accommodation unit would not be viewed as an incongruous structure when viewed amongst the pattern of low-profile buildings surrounding Onkaparinga Valley Road.

The accommodation unit would be separated from the northern side boundary at a distance of 13 metres, and would be separated by a distance of 18 metres from the southern side boundary. The building would have a generous setback distance in the order of 100 metres measured from the rear boundary of the property. These setback distances will offer sufficient separation between the proposed structure and the boundaries of the site. As such, it is considered that the size, scale, and position of the accommodation unit is acceptable. The proposal would not have a detrimental impact on the streetscape character of Onkaparinga Valley Road, and given the single-storey ‘low-profile’ size and scale of the building, combined with the generous setback distances, it is considered that the accommodation unit would not give rise to material impacts to the amenities enjoyed by occupants of the adjoining/adjacent properties.

Appearance of Land and Buildings

The external finishes for the tourist accommodation unit include Basalt Trimdek cladding for both the walls and roof. The gable ends of the north and south elevations feature glass walls at 2.5 metres above finished floor level. The west elevation features two ribbon windows which span the length of both the living room and the bedroom. In terms of design, the glass walls and ribbon windows will allow entry of ample levels of natural light into the interior of the building. It is considered that the proposed structure exhibits a pleasing architectural composition, employing passive solar design for optimal use of natural light collection during winter months.

Conservation

The settlement area of Verdun is serviced by Community Wastewater Management Scheme (CWMS). The Adelaide Hills Council Environmental Health Unit has issued a Wastewater authorisation to the Applicant for the proposed connection to CWMS. Given that the subject land is serviced by CWMS, no hazardous water quality impacts are anticipated.

There are no Local Heritage or State Heritage listed properties within the surrounding area that would be unreasonably impacted by the proposed accommodation unit. A representation received raised concern about the proposed demolition of the existing rear outbuilding. The representation expresses that the local community consider the outbuilding to be of historical significance. In light of this matter, it is noted that the existing structure does not have status as a Local Heritage or State Heritage listed building, and in this respect, no demolition controls apply.

The property has existing vehicle access directly from Onkaparinga Valley Road. Concern was raised within the representations about a potential second vehicle access being formalised from Grivell Road. It is noted that the application does not seek authorisation for a second vehicle access from Grivell Road. In terms of waste water disposal, it is noted that the site is serviced by SA Water mains. As such, it is considered that there would be no detrimental impacts in respect of conservation.

b) Council Wide provisions

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

- *Appropriate segregation of certain forms of development within appropriate zones or areas.*
- *Orderly and sustainable development.*
- *Avoidance of incompatible land uses.*
- *Appropriate limitations to design, height, bulk and visual / aesthetics.*
- *Tourist accommodation in areas that do not pose an unacceptable bushfire risk.*

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

Tourism Development

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

PDCs: 1, 2, 3, 4, 6, 7(a) (c), 9, & 10(a) (b) (c)

The Tourism Development – Council Wide provisions encourage tourist accommodation that contributes to local communities by adding vitality to townships, whilst sustaining the local environment, and preserving agricultural land available for primary production. As per Objective 9, development of tourist accommodation facilities shall take place in localities having convenient access to primary traffic routes as shown on *Map AdHi/1 (Overlay 1)*. It is noted that the South Eastern Freeway is situated in close proximity to the township of Verdun. The South Eastern Free Off-Ramp and the subject land are separated by a mere 860 metres. It is considered that proposal is an appropriate form of tourist development which would not have a significant impact within the local environment, and located in an area that is within close reach to a primary traffic route.

Principle of Development Control 6 (Tourism Development - Council Wide provisions) seeks major tourism developments to be located within existing townships. The subject land is situated within the settlement of Verdun, and while the proposal is not considered to be a 'major tourism development', the proposal meets the desires of PDC 6. In terms of off-street vehicle parking, it is noted that the subject land offers ample space for visitor parking. The area of the site intended for visitor parking is located approximately 45 metres from the neighbouring dwelling at no. 31 Onkaparinga Valley Road. The separation distance of the two proposed on-site visitor parking spaces shall mitigate impacts relating to noise and headlight glare associated with guest vehicle movements. As such, it is considered that the vehicle access and car parking arrangements are in accordance with PDC 10 (a), (b) & (c) (Tourism Development - Council Wide provisions).

Siting and Visibility

Objectives: 1

PDCs: 1(a), 2(a)(b)(c), 3(a)(d)(g), 4(a), 5, 6(a)(b), 7, & 9

In respect of land levels, it is noted that the development would not impact on the higher gradients of the subject land rising towards Grivell Road. The accommodation unit is to be situated at the lower portion of the property, grouped with the existing buildings on the site. Given that the subject land is located within the township of Verdun, the proposed accommodation unit would not be visible from a designated scenic route as outlined in Figure AdHi (EC)/1.

The proposed accommodation unit would be located in an area of the site that is predominantly flat. Relatively minor scrape would be required to accommodate the proposed structure. The development therefore does not give rise to significant impacts relating to earthworks and alteration of the landscape. It is therefore noted that the proposal is consistent with PDC 4 (a) (Siting and Visibility - Council Wide provisions). In respect of PDC 7, it is noted that the external surface materials of the proposed building would not be highly reflective, and therefore would not give rise to undue character or material amenity impacts to surrounding residential properties. It

is noted that the applicant has provided updated drawings which denote two areas of the site (a portion of the eastern boundary, and small section of the rear paddock) for the planting of additional screening trees. Such screening would further soften the environs surrounding the accommodation unit and mitigate views towards the building when viewed from the neighbouring property at 31 Onkaparinga Valley Road, and the area surrounding Grivell Road. A condition is recommended to reinforce that additional landscaping is planted (refer to recommended condition 4).

Orderly and Sustainable Development

Objectives: 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, & 13

PDCs: 1, 2, 3, 4, 9, 12, 13 (a) (b) (c), & 18

The purpose of the development proposal is to provide accommodation for no more than two persons at any given time, with hiring arrangements to be for short stays. The proposal seeks to allow booking options for a maximum period of up to 14 days. Given that the accommodation would primarily serve as a retreat for two people, the operation/function of the accommodation facility is considered to be of a nature that is small in scale. Whilst the proposed development entails a partial change in the use of the subject land, is it considered that the small scale operation of the accommodation unit would not jeopardise the continuance of adjoining land uses within the surrounding locality.

The development proposes accommodation for tourists at a location situated within an existing settlement, with no loss or detrimental impact to agricultural land available for primary production. It is considered that the development proposal is in accordance with PDCs 2, 4 and 9 (Orderly and Sustainable Development - Council Wide provisions).

Hazards

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

PDCs: 1, 2, 3(a)(b)(c), 4(a)(b)(c)(d)(e)(f), 6, 7, 8(a)(b)(c)(d)(e), 9(a)(b)(c), 11, & 22

The subject land is located within a mapped High Bushfire Risk Protection Area where development for tourist accommodation requires a statutory referral to the SA Country Fire Service. The SA Country Fire Service referral response directs four conditions to be imposed on any consent relating to fire-fighting vehicle access, bushfire fighting water supply, access to that water supply, and vegetation management (refer to recommended conditions 5 - 8). The SA Country Fire Service referral response indicates that the proposed requirements are to provide a measure of protection to the property in the event of a bushfire. These requirements are adopted from the mandatory provisions of the Minister's Code - Undertaking Development in Bushfire Protection Areas. The SA Country Fire Service has no objection to the development proposal, and therefore it is considered that the proposal adheres to PDC 7 (Hazards - Council Wide provisions).

The portion of the site intended for the accommodation unit is not located in an area that is subject to floodwaters in a 1-in-100 year average return interval flood event, and therefore there is no prevalent risk of flooding.

7. SUMMARY & CONCLUSION

The proposal is to construct a single-storey self-contained tourist accommodation unit, located at the rear of the existing residence and associated outbuildings. The proposal would provide a tourist accommodation facility within the settlement boundaries of Verdun. The subject land is situated in a locality comprised of an existing pattern of commercial businesses framing the passage of Onkaparinga Valley Road.

Whilst the proposal will result in a partial change to the use of the land, the accommodation unit is to be closely grouped with the existing buildings at the lower eastern portion of the property. The position of the tourist accommodation unit would be well separated from the boundaries of the site, and therefore, it is considered the proposal will not result in unreasonable amenity impacts to the occupants of nearby residential dwellings. There will be a negligible increase to traffic movements to and from the site with on-site car parking provided for the accommodation unit. Therefore, there will be minimal impact to the levels of traffic that frequent Onkaparinga Valley Road as a result of the proposal.

The proposed tourist accommodation unit presents a compact architectural profile comprising a quality design response, and given the generous setback distance of the building combined with its location at the rear of the existing residence, it is considered that the proposed structure would not have an overbearing impact on the established streetscape character within the locality.

Given that the accommodation unit has an authorised approval to connect to the Community Wastewater Management Scheme (CWMS), the proposed development will not give rise to adverse water quality impacts.

The proposal is sufficiently consistent with the relevant provisions of the Development Plan, despite its non-complying nature, and it is considered the proposal is not seriously at variance with the Development Plan. In the view of staff, the proposal has sufficient merit to warrant consent. Staff therefore recommend that 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 to GRANT Development Plan Consent to Development Application 20/1175/473 by Scott Hruska for Single storey tourist accommodation unit, water storage tank (22,000 litres) & associated earthworks (non complying) at 27 Onkaparinga Valley Road Verdun subject to the following conditions:

(1) Development In Accordance With The Plans

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

- **Amended Location Plan drawn by MK Drawing No. A.01.1 dated 20 January 2020 (received by Council dated 16 June 2021);**
- **Amended Existing Site Plan drawn by MK Drawing No. A.01.2 dated 20 January 2020 (received by Council dated 16 June 2021);**
- **Amended Demolition Plan drawn by MK Drawing No. A.01.3 dated 20 January 2020 (received by Council dated 16 June 2021);**

- Amended Proposed Site Plan drawn by MK Drawing No. A.01.4 dated 20 January 2020 (received by Council dated 16 June 2021);
- Amended Roof Plan drawn by MK Drawing No. A.01.5 dated 20 January 2020 (received by Council dated 16 June 2021);
- Amended Ground Floor Plan drawn by MK Drawing No. A.01.6 (received by Council dated 16 June 2021);
- Amended Elevations - North & South drawn by MK Drawing No. A.01.7 dated 20 January 2020 (received by Council dated 16 June 2021);
- Amended Elevations - East & West drawn by MK Drawing No. A.01.8 dated 20 January 2020 (received by Council dated 16 June 2021), and;
- Amended Statement of Effect prepared by Ben Green of Ben Green & Associates received by Council dated 16 June 2021.

(2) **External Materials and Finishes**

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

WALLS: Colorbond Trimdek - Basalt or similar

ROOF: Colorbond Trimdek - Basalt or similar

(3) **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.

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

Landscaping detailed in Proposed Plan (Drawing No. A.01.4) shall be planted in the planting season following occupation and maintained in good health and condition at all times. Any such vegetation shall be replaced in the next planting season if and when it dies or becomes seriously diseased.

(5) **CFS Access Requirements**

Minister's Code 2009 "Undertaking development in Bushfire Protection Areas" (as amended October 2012), Part 2.3.3.1 describes the mandatory provision that 'Private' roads and driveways to buildings shall provide safe and convenient access/egress for large bushfire fighting vehicles, where the furthest point to the building from the nearest public road is more than 30 metres:

- Access to the building sites shall be of all-weather construction, with a minimum formed road surface width of 3 metres and must allow forward entry and exit for large fire-fighting vehicles.
- The all-weather road shall allow fire-fighting vehicles to safely enter and exit the allotment in a forward direction by incorporating either:
 - i. A loop road around the building, OR
 - ii. A turning area with a minimum radius of 12.5 metres, OR
 - iii. A 'T' or 'Y' shaped turning area with a minimum formed length of 11 metres and minimum internal radii of 9.5 metres.
- Private access shall have minimum internal radii of 9.5 metres on all bends.
- Vegetation overhanging the access road shall be pruned to achieve a minimum vehicular clearance of not less than 4 metres in width and a vertical height clearance of 4 metres.

(6) CFS Water Supply

Minister’s Code 2009 “Undertaking development in Bushfire Protection Areas” (as amended October 2012), Part 2.3.4.1 prescribes the mandatory provision of a dedicated and accessible water supply to be made available at all times for fire-fighting.

Minister’s Specification SA78 provides the technical details of the dedicated water supply for bushfire fighting for the bushfire zone. The dedicated bushfire fighting water supply shall also incorporate the installation of a pumping system, pipe-work and fire-fighting hose(s) in accordance with Minister’s Specification SA78:

- **A minimum supply of 22,000 litres of water for each building shall be available at all times for bushfire fighting purposes.**
- **The minimum requirement of 22,000 litres may be combined with domestic use, providing the outlet for domestic use is located above the 22,000 litres of dedicated fire water supply in order for it to remain as a dedicated supply.**
- **The bushfire fighting water supply shall be clearly identified and fitted with an outlet of at least 50mm diameter terminating with a compliant SA CFS fire service adapter, which shall be accessible to bushfire fighting vehicles at all times.**
- **The water storage facility (and any support structure) shall be constructed of noncombustible material.**
- **The dedicated fire-fighting water supply shall be pressurised by a pump that has –**
 - i. **A minimum inlet diameter of 38mm, AND**
 - ii. **Is powered by a petrol or diesel engine with a power rating of at least 3.7kW (5hp), OR**
 - iii. **A pumping system that operates independently of mains electricity and is capable of pressurising the water for fire-fighting purposes.**
- **The dedicated fire-fighting water supply pump shall be located at or adjacent to the dwelling to ensure occupants safety when operating the pump during a bushfire. An ‘Operations Instruction Procedure’ shall be located with the pump control panel.**
- **The fire-fighting pump and any flexible connections to the water supply shall be protected by a non-combustible cover that allows adequate air ventilation for efficient pump operation.**
- **All bushfire fighting water pipes and connections between the water storage facility and a pump shall be no smaller in diameter than the diameter of the pump inlet.**
- **All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.**
- **A fire-fighting hose (or hoses) shall be located so that all parts of the building are within reach of the nozzle end of the hose and if more than one hose is required they should be positioned to provide maximum coverage of the building and surrounds (i.e. at opposite ends of the dwelling).**
- **All fire-fighting hoses shall be capable of withstanding the pressures of the supplied water.**
- **All fire-fighting hoses shall be of reinforced construction manufactured in accordance with AS 2620 or AS 1221.**

- All fire-fighting hoses shall have a minimum nominal internal diameter of 18mm and a maximum length of 36 metres.
- All fire-fighting hoses shall have an adjustable metal nozzle, or an adjustable PVC nozzle manufactured in accordance with AS 1221.
- All fire-fighting hoses shall be readily available at all times.

(7) CFS Access To Dedicated Water Supply

Minister's Code 2009 "Undertaking development in Bushfire Protection Areas" (as amended October 2012), Part 2.3.4.1 requires a dedicated and accessible water supply to be made available at all times for fire-fighting:

- The water supply outlet shall be easily accessible and clearly identifiable from the access way.
- The dedicated water supply and its location should be identified with suitable signage (i.e. blue sign with white lettering "FIRE WATER").
- Access to the dedicated water supply shall be of all-weather construction, with a minimum formed road surface width of 3 metres.
- Provision shall be made adjacent to the water supply for a flat hardstand area (capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes) that is a distance equal to or less than 6 metres from the water supply outlet.
- SA CFS appliance's inlet is rear mounted; therefore the outlet/water storage shall be positioned so that the SA CFS appliance can easily connect to it rear facing.
- A gravity fed water supply outlet may be remotely located from the tank to provide adequate access.
- All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.
- All water supply pipes for draughting purposes shall be capable of withstanding the required pressure for draughting.

(8) CFS Vegetation

Minister's Code 2009 "Undertaking development in Bushfire Protection Areas" (as amended October 2012), Part 2.3.5 mandates that landscaping shall include Bushfire Protection features that will prevent or inhibit the spread of bushfire and minimise the risk to life and/or damage to buildings and property.

- A vegetation management zone (VMZ) shall be established and maintained within 20 metres of the buildings (or to the property boundaries – whichever comes first) as follows:
 - i. The number of trees and understorey plants existing and to be established within the VMZ shall be maintained such that when considered overall a maximum coverage of 30% is attained, and so that the leaf area of shrubs is not continuous. Careful selection of the vegetation will permit the 'clumping' of shrubs where desirable, for diversity, and privacy and yet achieve the 'overall maximum coverage of 30%'.
 - ii. Reduction of vegetation shall be in accordance with SA Native Vegetation Act 1991 and SA Native Vegetation Regulations 2017.
 - iii. Trees and shrubs shall not be planted closer to the building(s) than the distance equivalent to their mature height.

- iv. Trees and shrubs must not overhang the roofline of the building, touch walls, windows or other elements of the buildings.
- v. Shrubs must not be planted under trees or must be separated by at least 1.5 times their mature height from the trees' lowest branches.
- vi. Grasses within the zone shall be reduced to a maximum height of 10cm during the Fire Danger Season.
- vii. No understorey vegetation shall be established within 1 metre of the buildings (understorey is defined as plants and bushes up to 2 metres in height).
- viii. Flammable objects such as plants, mulches and fences must not be located adjacent to vulnerable parts of the buildings such as windows, decks and eaves.
- ix. The VMZ shall be maintained to be free of accumulated dead vegetation.

(9) CFS Conditions To Be Completed Prior To Occupation

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

(10) 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.

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

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

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

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

(12) Maximum Number of Guests for Tourist Accommodation

The tourist accommodation unit shall accommodate a maximum of two (2) guests at any given time.

(13) Tourist Accommodation

The person(s) having the benefit of this consent shall refrain from permitting the use of the building (or any part thereof) for provision long term accommodation or as a separate dwelling. The tourist accommodation unit shall be used and operated on a short term rental arrangement with a maximum stay of 14 days.

A logbook shall be kept of all occupancies for each calendar year and made available for inspection by the Council upon request.

NOTES

(1) Development Plan Consent

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

(2) Water Storage Tanks

A water storage tank (and any supporting structure) which:

- a) is not part of a roof drainage system; or
- b) has a total floor area exceeding ten (10) square metres; or
- c) is not wholly above ground; or
- d) has a part higher than four (4) metres above the natural surface of the ground, will require Council approval.

(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) 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.

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

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

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

(6) Bushfire Survival Plan – Tourist Accommodation

A BUSHFIRE SURVIVAL PLAN (BSP) shall be displayed in the accommodation. This BSP shall be designed specifically for the purpose of any guests that may be in residence during a bushfire event, especially during the Fire Danger Season:

- **This BSP should give clear directions to persons that may be unfamiliar with the area/locality and unfamiliar with what protective actions they may need to take to protect their lives during a bushfire event, including when to take such protective actions.**
- **The BSP should address the possibility that the owners may not be present at the time of the bushfire event.**
- **The BSP should not expect guests to be involved in fire-fighting operations.**
- **The SA CFS ‘Bushfire Safety and Survival for Business and Organisations’ document (refer to CFS website) should be utilised as a basis for information and the drafting of the (GUEST) BSP.**
- **The applicant should consider reducing operating hours and restrictions on days of elevated bushfire danger, or bushfire events in the broader vicinity.**

(7) CFS Bushfire Attack Level

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

The Bushfire hazard for the area has been assessed as BAL 12.5.

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

9. ATTACHMENTS

Locality Plan
Proposal Plans
Applicant’s Professional Reports
Referral Responses
Representations
Applicant’s response to representations
Publically Notified Plans

Respectfully submitted

Concurrence

Damon Huntley
Statutory Planner

Deryn Atkinson
Assessment Manager

DEVELOPMENT NO.:	21009810
APPLICANT:	Angela Davison
ADDRESS:	814B & 814D MONTACUTE RD MONTACUTE SA 5134
NATURE OF DEVELOPMENT:	Variation to Development Authorisation 19/44/473 – to vary conditions of Development Plan Consent 1 and 3 (Revised Landscaping Plan)
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Hills Face <p>Overlays:</p> <ul style="list-style-type: none"> • Environment and Food Production Area • Hazards (Bushfire - High Risk) • Heritage Adjacency • Hazards (Flooding - Evidence Required) • Native Vegetation • Prescribed Wells Area • Regulated and Significant Tree • Water Resources
LODGEMENT DATE:	10 Aug 2021
RELEVANT AUTHORITY:	Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	2021.10
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	No
RECOMMENDING OFFICER:	Damon Huntley Statutory Planner
REFERRALS STATUTORY:	N/A.
REFERRALS NON-STATUTORY:	N/A.

CONTENTS:

ATTACHMENT 1: Application Documents

ATTACHMENT 5: Relevant P & D Code Policies

ATTACHMENT 2: Subject Land Map

ATTACHMENT 3: Zoning Map

ATTACHMENT 4: Court Order and Approved Plans

DETAILED DESCRIPTION OF PROPOSAL:

The proposal is for the following:

- Variation of condition 1 and 3 of Development Plan Consent (19/44/473):
 - **Condition 1** *The Development must be constructed and maintained in accordance with the following details and plans, marked as a bundle Exhibit 'A', unless varied by a subsequent condition:*
 - *1.4. Proposed Site Plan with Landscaping – Drawing No. P003, Revision A dated 29 October 2019, prepared by Town Planning HQ.*
 - **Condition 3** *Landscaping shall be established on the site in accordance with the proposed site plan with landscaping (condition 1.4 above) in the next planning season (May to September inclusive) following construction of the Development. This landscaping shall thereafter be maintained in good health and condition at all times with any dying or dead vegetation being replaced with the same or similar species of plant as reasonably practical if during a planting season (May to September inclusive), or at the commencement of the next planting season.*
- The revised landscaping plan seeks to still plant a new windbreak but to change the species from *Callitris gracillis* (Southern Cypress Pine) to *Casuarina cunninghamiana* (River she-oak). The varied landscaping consists of eighteen (18) *Casuarina cunninghamiana* (River she-oak) trees located along the western edge of the environmental netting authorised under Development Authorisation 19/44/473. The proposed introduction of the *Casuarina cunninghamiana* seeks to replace both an existing row of mature *Cupressus macrocarpa* (Monterey Pine) trees and the original proposed additional planting of *Callitris gracillis* (Southern Cypress Pine), both of which formed part of the landscaping plan relating to Development Authorisation 19/44/473.
- The row of River she-oak trees would have a minimum setback distance of 5 metres measured from the western wall of the environmental netting.
- The revised landscaping plan seeks to retain part of the approved landscaping plan relating to Development Authorisation 19/44/473, maintaining the proposed forest planting of *Eucalyptus leucoxylon* (SA Blue Gum) in place of 4,000 square metres of existing cherries.
- The approved landscaping plan in Development Authorisation 19/44/473 showed the existing row of mature Monterey Pine trees extend to a length of approximately 93 metres and proposed the Southern Cypress Pine trees extend to a length of approximately 50 metres. Both species of trees combined form a continuous row totalling a length of approximately of 143 metres, setback some 30 metres from the western wall of the environmental netting. These are proposed to be removed as they pose a bushfire risk.
- The proposed replacement windbreak of River she-oak trees would form a length in the order of 116 metres.
- In relation to fire hazard, the letter prepared by Town Planning HQ dated 10 March 2021 highlights that Monterey Pine trees are renowned as a highly combustible and hazardous tree species. In terms of the proposed revised landscaping plan, the Applicant endeavours to establish a windbreak comprised of trees that are more fire retardant, and less prone to combustion in the event of a bushfire.
- The eighteen (18) River she-oak trees are to be between 2.0 metres and 2.5 metres in height at the time of planting.

BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
18 September 2020	20/978/473	Post & wire fencing (maximum height 1.8m)
13 October 2020	20/594/473	Alterations and additions to existing Horticultural Building, internal alterations to existing Horticultural Building including staff facilities & 3x shipping containers
22 May 2020 (Court Order dated 06 May 2020 issued following Appeal by third parties)	19/44/473	Environmental cover (horticultural netting) over 5.8 hectares associated with existing horticulture
9 December 2013	13/421/473	Verandah
6 June 2013	13/204/473	Garage
12 October 2012	12/662/473	Verandah attached to farm building

This application seeks to vary two of the conditions of the Court Order dated 06 May 2020. The third party representors on the original application have been advised of the variation application and provided with a courtesy invite to the CAP meeting to hear the presentation of the proposal and the discussion. They also have been provided with a link to the staff report and attachments.

SUBJECT LAND & LOCALITY:

Site Description:

The subject land is approximately 18.52 hectares in area and consists of two separate allotments. The land is formally described as:

- Allotment comprising Pieces 25 and 26 in Deposited Plan 80153 in the area named Montacute, Certificate of Title Volume 6040 Folio 129; and
- Allotment 21 in Deposited Plan 78278 in the area named Montacute, Certificate of Title Volume 6155 Folio 417.

There are several electrical easements and rights of way registered on the titles.

The subject land is located on the southern side of Montacute Road and has a combined road frontage width of approximately 210 metres (excluding Piece 25 on the northern side of the road). A natural water course traverses the northern part of the subject land.

The allotment comprising Piece 26 primarily contains a cherry orchard, with two farm buildings located near Montacute Road and a dwelling further to the south. This allotment has a considerable slope from a ridge line to the south to a natural water course to the north.

Allotment 21 contains a dwelling and several outbuildings adjacent to the road frontage and there is approximately three hectares of vegetation.

Locality

The subject land is situated within a rural area where land in the vicinity of Montacute Road is used for primary production purposes, and in particular for cherry and apple orchards. There are some smaller rural living allotments along Montacute Road, which appear to have been excised from larger land holdings in the past.

Further north and south of Montacute Road is undulating land with large stands of native vegetation.

While Montacute Road has a status as 'Tourist Drive 51', it is noted that Montacute Road is not identified as a designated Scenic Route, as per FIGURE AdHi(EC)/1 of the Adelaide Hills Council Development Plan (Consolidated – 24 October 2017). Further to this, it is noted that the subject allotments do not fall within a Scenic Quality, Significant Landscape Protection, or State Significant Native Vegetation Overlay.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- Variation of Development Authorisation - DA: 19/44/473 Vary condition 1 and 3: -
- No Category

- **REASON**

Landscaping in this instance is not development itself under Section 4 of the *Planning, Development and Infrastructure Act* (the Act) but needs authorisation

PUBLIC NOTIFICATION

- **REASON**

If a proposed variation does not involve an act of development as defined in Section 4 of the Act, then it will not be subject to the public notification requirements under s107 of the Act. Public notification requirements only apply to a "proposed development", in the same way that public notification under the *Development Act 1993* only applies to 'development' that was capable of being categorised as category 1, 2 or 3.

AGENCY REFERRALS

No mandatory referrals were required.

INTERNAL REFERRALS

No internal referrals were required.

PLANNING ASSESSMENT

Desired outcomes

Desired outcomes are policies designed to aid the interpretation of performance outcomes by setting a general policy agenda for a zone, subzone, overlay or general development policies module. Where a relevant authority is uncertain as to whether or how a performance outcome applies to a development, the desired outcome(s) may inform its consideration of the relevance and application of a performance outcome, or assist in assessing the merits of the development against the applicable performance outcomes collectively.

Performance outcomes

Performance outcomes are policies designed to facilitate assessment according to specified factors, including land use, site dimensions and land division, built form, character and hazard risk minimisation.

Designated performance features

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a *designated performance feature* or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Attachment 5.

Hills Face Zone

Desired Outcomes	
Hills Face Zone: DO 1	To maintain the western slopes of the South Mount Lofty Ranges as an important natural asset of Greater Adelaide by limiting development to low-intensity agricultural activities and public and private open space. The natural character of the zone will be preserved, enhanced and re-established to: 'Natural character' refers to the natural topography, native vegetation and colours, such as greens and browns of non-reflective earthen tones, normally associated with a natural landscape. Additionally, natural character refers to the open character of the land in those areas of the zone where open grazing currently predominates.
Hazards (Bushfire High Risk) Overlay DO 1	Development, including land division is sited and designed to minimise the threat and impact of bushfires on life and property with regard to the following risks: <ul style="list-style-type: none"> a) potential for uncontrolled bushfire events taking into account the increased frequency and intensity of bushfires as a result of climate b) change high levels and exposure to ember attack c) impact from burning debris d) radiant heat likelihood e) direct exposure to flames from a fire front
Native Vegetation Overlay DO 1	Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystems services, carbon storage and amenity values.
Regulated and Significant Tree Overlay DO 1	Conservation of regulated and significant trees to provide aesthetic and environmental benefits and mitigate tree loss.

Interface between Land Uses DO 1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses
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Relevant Performance Outcomes/Designated Performance Features	
Hills Face Zone	Land use and Intensity: PO 1.1, and 1.2 Horticulture: PO 6.4 Environment and Amenity: 10.2 a, b, c, and 10.4 Native Vegetation: 11.1
Hazards (Bushfire High Risk) Overlay	Siting: 2.1
Native Vegetation Overlay	Environmental Protection: PO 1.1, PO 1.4 and DPF 1.1
Regulated and Significant Tree Overlay	Tree Retention and Health: PO 1.1
Design Interface between Land Uses	Landscaping: PO 3.1(a)(d), and 3.2. Interface with Rural Activities: PO 9.6

Hazards - Bushfire

Allotments 814B and 814D Montacute Road are located in a designated high bushfire risk bushfire protection area. In order to mitigate the risk of bushfire threat, the Applicant is seeking to establish appropriate landscaping for bushfire management, whilst maintaining a windbreak at the western periphery of the horticultural netting. As detailed in the letter prepared by Town Planning HQ dated 13 May 2021, Monterey Cypress and Southern Cypress Pines are two species that are both identified as having relatively high flammability ratings.

The South Australia Country Fire Service Community Fire Safe (Fire Retardant Plants) fact sheet dated September 2000 includes *Casuarina cunninghamiana* among a list of native trees and shrubs that are hard to burn. In principle, the introduction of a less flammable tree species along the western wall of environmental netting will provide greater protection to the property in the event of a bushfire.

All trees included in the revised landscaping plan are to be located wholly within the subject land. The nearest neighbouring dwelling located at 812 Montacute Road is located some 150 metres from the location proposed for the River she-oak trees. Given the significant separation distance between the proposed row of trees and surrounding dwellings, it is considered that the revised landscaping plan would not pose an unacceptable bushfire risk to adjoining property.

As proposed, the row of River she-oak trees would have a minimum setback distance of 5 metres measured from the western wall of the environmental netting. Performance outcome 2.1 (Hazards (Bushfire – High Risk) Overlay) seeks “structures” to be located away from areas posing an unacceptable bushfire risk. Whilst a greater setback distance between horticultural netting and vegetation would be beneficial, it is important to take into account the fact that the proposed tree species (River she-oak) is listed by the South Australia Country Fire Service as a species that are relatively resistant to fire.

Environment and Amenity

Hills Face Zone Desired Outcome 1(a)(b), and Performance Outcome 1.1, seek preservation of the “natural character” of the zone. The revised landscape plan does not incorporate any additional removal of native trees. The revised landscape plan is similar to the previously approved landscaping plan as the plan maintains the planting of a cluster of *Eucalyptus leucoxydon* (SA Blue Gum) in place of a 4,000 square metre area of existing cherries and an additional windbreak is still proposed. However the Monterey Cypress trees that were being retained, and now proposed to be removed. The revised plan will however contribute to the enhancement of the natural character within the zone.

As part of the previously approved landscaping plan the existing Monterey Pine trees and proposed Southern Cypress Pine together formed a continuous line of trees with a total length of approximately of 143 metres. In comparison, the proposed row of River she-oak trees would be approximately 27 metres shorter in length. Given that the environmental netting covers a footprint of 5.8 hectares, it is noted that the proposed row of River she-oak trees would not significantly alter the extent of screening to the western wall of the netting when viewed from surrounding areas to the west, north, and south of the subject properties. Taking this into consideration, it is considered that the revised landscaping plan does not offend Hills Face Zone performance outcomes 1.2, 10.2(a)(b)(c), and 10.4(a). Given that the subject allotments cover a large portion of the southern tier of the surrounding valley, surrounded by high ridges approximately 500 metres to the west, the revised landscape arrangement would not significantly alter views towards the authorised environmental netting. Views between the subject land and the Adelaide Plains are, for the most part, concealed by the high ridges located further to the west.

Zone PO 6.4 and Interface between Land Uses PO 9.6 seeks the following:

“Horticulture activities incorporate a suitably sized vegetated buffer area/strip to mitigate any adverse impacts from horticultural activity (including noise, chemical spray drift and run-off) on nearby dwellings, tourist accommodation or other sensitive receivers in other ownership.”

River she-oak trees are considered to be a suitable tube stock species, and according to Natural Resources South Australia, River she-oak trees are not declared pest plant species. Whilst the row of River she-oak trees would not completely screen the horticultural netting from the wider views surrounding the valley, the trees will achieve a near equal degree of screening when compared to the combined row of Monterey Pine trees and Southern Cypress Pine trees. As such, it is considered that the the revised landscaping plan meets the desires of POs 6.4 and 9.6.

The proposal is considered to meet the policy intent of the Hills Face Zone and accordingly would not undermine the desired outcome of the Hills Face Zone.

Landscaping

Design Performance Outcome 3.2 seeks “*soft landscaping and tree planting maximises the use of locally indigenous plant species, incorporates plant species best suited to current and future climate conditions and avoids pest plant and weed species.*” Whilst River she-oak trees are not identified as a locally indigenous species to South Australia, it is noted that the species is native to Australia. In contrast, Monterey Cypress is a species native to the west coast of the United States, and New Zealand. Southern Cypress Pine trees, however, are a species indigenous to South Australia, found commonly in lower rainfall areas. When considered on balance, the differences between tree species are not considered to be at variance to the intent of PO 3.2.

The revised landscaping arrangement would maintain an extent of screening along the outer western edge of the horticultural netting. The location of the River she-oak trees would not impede on the passage of power lines, plumbing infrastructure, water courses, or vehicle manoeuvring areas. Given that the proposed row of River she-oak trees are to be located closer to the western wall of the horticultural netting, the location of the trees would not give rise to amenity impacts to the neighbouring properties (812 Montacute Road, 780 Montacute Road, and 22 Trebilcock Gullt Road) adjoining the western boundary of the subject land.

For the above reasons, the proposed landscaping is considered to be orderly, and would not form an incongruous feature within the surrounding landscape.

Other

As per Schedule 6A of the *Planning, Development and Infrastructure (General) Regulations 2017*, (the Regulations) horticultural netting is now listed as a form of development that is ‘accepted development’, and therefore, subject to select criteria, if a new application was lodged today for horticultural netting it would not require planning permission. The Schedule 6A test relating to horticultural netting does not impose

controls in respect of minimum setback distance between netting walls and trees located at the periphery of netting.

Furthermore, clause (4) of Regulation 3F of the Regulations provides a list of tree species that are exempt from needing permission to be removed under regulated and significant trees controls. Monterrey Cypress is listed in point (b) of clause (4).

CONCLUSION

The subject land has longstanding use rights as a cherry orchard, and development authorisation for the construction of environmental netting (5.8 Hectares) associated with this horticulture. The revised landscaping plan would not alter the structural parameters of the environmental netting.

Whilst not indigenous to the local area, River she-oak trees are considered to be an appropriate tree species to maintain a large extent of screening to the western wall of the horticultural netting and reduce bushfire risk. The reduced length of the proposed row of trees is not considered to have a significant impact on the amenity of the locality and the intent to undertake further planting as originally approved is maintained.

The proposed row of River she-oak trees would be setback 5 metres from the western wall of the horticultural netting. River she-oak trees are not identified as a species hazardous to bushfire, and as such, it is considered that the revised landscaping plan would not pose an unacceptable risk to life and property.

The variation proposal is considered to meet the policy intent of the Hills Face Zone and accordingly would not undermine the Objectives of the Hills Face Zone.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and**
- 2) Development Application Number 21009810, by Angela Davison for Variation to Development Authorisation 19/44/473 – to vary conditions of Development Plan Consent 1 and 3 (Revised Landscaping Plan) at 814b and 814D Montacute Road Montacute is granted Planning Consent subject to the following conditions:**

Planning Consent

1) Development in Accordance with Stamped 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:

- Cover Letter prepared Angela Davison of Town Planning HQ dated 13 May 2021**
- Attachment 1 - Proposed Site Plan with Landscaping drawn by IR of Town Planning HQ Drawing P103 Sheet 03 of 05 Rev B dated 10 March 2021.**

2) Timeframe for Landscaping to be Planted

Landscaping shall be established on the site in accordance with the proposed Site Plan with Landscaping in the next planting season (May to September inclusive) following approval. The landscaping shall thereafter be maintained in good health and condition at all times with any dying or dead vegetation being replaced with the same or similar species of plant as soon as reasonably practical if during a planting season (May to September inclusive) or, at the commencement of the next planting season.

3) Except where varied by this authorisation, all other conditions, plans and details relating to Development Authorisation 19/44/473 continue to apply to this amended authorisation.

ADVISORY NOTES

1) This development authorisation to vary the original authorisation is valid for a period not exceeding that of the original authorisation (i.e. 22 May 2023). This time period may be further extended by written request to, and approval by, Council prior to the approval lapsing. Application for an extension is subject to payment of the relevant fee and will be required to be paid for both the original authorisation and the variation authorisation.

2) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

3) Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

OFFICER MAKING RECOMMENDATION

Name: Damon Huntley
Title: Statutory Planner