

COUNCIL ASSESSMENT PANEL MEETING

13 October 2021

AGENDA – 8.1

Applicant: R Ceravolo & Co Pty Ltd	Landowner: S & A Ceravolo
Agent: Rob Gagetti, of Ekistics	Originating Officer: Marie Molinaro
Development Application:	21/113/473
Application Description: Change of use of existing horticulture building to house a wastewater treatment plant	
Subject Land: Lot:5 Sec: P1199 DP:48914 CT:6124/915 Lot:4 Sec: P406 DP:48914 CT:5648/830	General Location: 376A and 376B Lobethal Road Ashton Attachment – Locality Plan
Development Plan Consolidated : 8 August 2019 Map AdHi/3	Zone/Policy Area: Watershed (Primary Production) Zone - Water Protection (Marble Hill) Policy Area
Form of Development: Merit	Site Area: Approx. 56 hectares
Public Notice Category: Category 2	Representations Received: Two Representations to be Heard: One

1. EXECUTIVE SUMMARY

The purpose of this application is to construct a new wastewater treatment plant associated with an existing agricultural industry (fruit processing facility). The wastewater treatment plant equipment will be mostly contained within an approved horticultural building, with external construction of three wastewater holding tanks, a jetty across an existing wastewater dam, installation of an aerator mixer within the dam and fencing around the facility.

The subject land is located within the Water Protection (Marble Hill) Policy Area of the Watershed (Primary Production) Zone. Two representations in opposition to the proposal were received during the Category 2 public notification period.

As per the CAP delegations, the CAP is the relevant authority as one of the representors wishes to be heard in support of their written submission.

The main issues relating to the proposal are environmental and noise impacts.

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

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- Use of an existing horticultural building to house new wastewater treatment plant equipment.
- Construction of external elements comprising three wastewater holding tanks, jetty over an existing wastewater dam, installation of an aerator mixer within the dam and 2.1m high cyclone mesh fencing around the facility.
- The tanks will have a combined capacity of 95,000L and will be finished in Colorbond ‘Woodland Grey’ colour to match the existing building.
- The new wastewater treatment plant will provide wastewater that is more suitable for irrigation of the orchard on the land. It will also allow for further expansion/increase to fruit processing capabilities, mainly the juicing of fruit. Extracted solid waste will be used as fertiliser.
- There are no modifications proposed to the existing horticultural building.
- The proposal is partly retrospective as the plant equipment is already in place, but not yet operational.

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Attachment – Application Information**.

3. BACKGROUND AND HISTORY

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
4 May 2020	19/333/473	Horticultural building – this is the building to be converted to wastewater treatment plan holding facility
20 February 2017	15/147/473	Building fire safety upgrade comprising 100,000 litre hydrant water storage tank, hydrant main & booster system, essential building fire safety provisions & associated infrastructure for existing buildings A,B, C & D
5 March 2015	07/408/473	Apple juice processing and packaging plant and new shedding warehouse/workshop additions (Building A – juicing shed)
12 March 2015	14/947/473	Alterations and additions to existing horticultural building (mezzanine level 22.4m x 17.8m)

25 June 2015	14/733/473	Horticultural buildings (semi-enclosed canopies) attached to existing buildings, retaining walls (maximum height 900mm) & associated earthworks
14 February 2012	11/879/473	Canopy extension to existing horticultural building and 50,000 litre water tank
15 August 2005	04/153/473	Construction of an additional building for the storage of fruit bins and pallets in association with an existing orchard activity and construction of a carport over an existing car parking area
5 June 2000	00/422/473	Farm building
5 January 2000	99/186/473	Office, coldstore and packing (non-complying)

4. REFERRAL RESPONSES

- **EPA**

The proposal is a listed activity of major environmental significance as per Schedule 22 of the *Development Regulations (2008)*. The EPA have power of direction and are satisfied that environmental risks are acceptable, subject to two conditions. See recommended conditions 2 & 3. The EPA also recommended a suite of advisory notes, see recommended notes 2-5.

A copy of the response is provided in ***Attachment - Referral Responses***

- **Council Environmental Health**

Advised that the EPA are the relevant authority and separate wastewater approval by Council or SA Health is not required.

5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with Watershed (Primary Production) Zone PDC 72 requiring formal public notification. Two representations from adjacent land owners/occupiers were received in opposition to the proposal.

Name of Representor	Representor's Property Address	Nominated Speaker
Jerusha Howes	344 Lobethal Road, Ashton	Does not wish to be heard

Simon Gray	142 Collins Road, Ashton	TBA
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The applicant, or his representative –Rob Gagetti from Ekistics, may be in attendance.

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

- Negative noise impact associated with the wastewater treatment plant operations.

This issue is discussed in the following sections of the report.

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

6. PLANNING & TECHNICAL CONSIDERATIONS

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

i. The Site’s Physical Characteristics

The subject land comprises two allotments. The land contains orchard plantings, dwellings and numerous buildings used for the processing of fruit (agricultural industry), including a fruit juicing plant, all associated with Ashton Valley Fresh and Ceravolo Orchards.

The buildings on the land are clustered together and set-down in a valley. Access to the buildings is via a sealed internal driveway with connection to Lobethal Road.

A wastewater dam has been constructed near the south-eastern corner of the land. The dam was constructed as part of approved development authorisation 473/408/07 for the juicing plant. The horticultural building proposed to contain the new wastewater treatment plant is located on the bank of the dam.

ii. The Surrounding Area

The locality comprises a mix of land uses including horticulture and rural residential. The location for the proposed wastewater treatment plant equipment is approximately 240m from the nearest dwelling on an adjoining allotment.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Water Protection (Marble Hill) Policy Area of the Watershed (Primary Production) Zone. The following are considered to be the relevant Policy Area provisions:

- *Retention of agricultural activities which have low pollution potential*
- *Processing activities and facilities associated with horticulture should be sited to ensure all buildings and structures are clustered*

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

Objectives: 1 & 2

PDCs: 2, 3, 7, 9 & 10

Objective 2 and PDCs 9 & 10 relate to the appearance and siting of buildings. The proposed wastewater treatment plant is to be contained mainly in an existing building, which is next to the existing wastewater lagoon. New external elements of the wastewater treatment plant are clustered next to the existing building and are well setback from the allotment boundaries. The proposal is consistent with Objective 2 and PDCs 9 & 10.

The following are considered to be the relevant Zone provisions:

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

Objectives: 1, 2, 3 & 5

PDCs: 14, 48, 61, 62 & 63

Objective 2 seeks the enhancement of the Mount Lofty Ranges Watershed as a source of high quality water.

Whilst the proposal does not necessarily enhance/improve the Mount Lofty Ranges Watershed as a source of high quality water, the EPA are satisfied the risk to water quality is low. However, this is subject to two directed conditions for bunding of the plant equipment, and the installation of an impervious base between the plant equipment and the wastewater lagoon. See recommended conditions 2 & 3.

PDCs 48 and 61-63 relate specifically to agricultural industries.

This proposal does not require the re-assessment of the existing agricultural industries activities on the land, however PDC 61 is useful as it gives specific guidance in relation to effluent management systems. Criterion d) of PDC 61 states that agricultural industries should incorporate effluent management systems that do not impact on the local environment by way of malodour or the pollution of surface or ground water.

The EPA considered air quality in their assessment of the proposal. Air quality impacts were considered to be acceptable. As noted earlier the EPA were also satisfied that the risk to water quality is low.

Criterion d) of PDC 62 is also useful as it sets out that agricultural industries should not generate noise greater than 40 decibels during the hours of 10pm to 7am and 47 decibels between 7am to 10pm measured at the nearest neighbouring dwelling or boundary of a vacant allotment.

With regard to this criteria it is considered more relevant to review noise impacts in relation to the *Environment Protection (Noise) Policy 2007*. The EPA note that the most likely source of adverse noise impacts will be the wastewater dam aerator. However the EPA are satisfied that noise levels at the nearest dwelling on an adjoining allotment will be in accordance with the requirements of the Noise Policy. The nearest dwelling on an adjoining allotment is 240m away from the wastewater treatment plant; and the EPA is satisfied that noise impacts associated with other mechanical components of the wastewater plant are low given this separation distance, and that they are contained in an enclosed building. The EPA have directed two notes regarding the use of the aerator and the closing of the doors to the wastewater treatment plant building. See recommended notes 4 & 5.

For consistency with condition 7 of the juicing plant approval (07/408/473) recommended condition 4 imposes a noise level restriction. See recommended condition 4.

The proposal is sufficiently consistent with PDC 62.

PDC 63 seeks agricultural industries no closer than 300m to a dwelling not in the ownership of the applicant. Whilst the wastewater treatment plant is approximately 240m from the nearest dwelling on the adjoining allotment there is no alternative siting as its location is dictated by the location of the existing wastewater dam. The EPA document *Evaluation Distances for Effective Air Quality and Noise Management* recommends a 200m buffer between such proposed wastewater treatment plants and sensitive receivers. Noting the 240m separation distance non-compliance with PDC 63 is considered to be acceptable.

b) Council Wide provisions

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

- *The development of agricultural industries (small-scale), wineries, cellar doors, mineral water extraction and processing plants and home based industries in rural areas*
- *Industrial development occurring without adverse effects on the health and amenity of occupiers of land in adjoining zones*
- *Development located and designed to minimise adverse impact and conflict between land uses*

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

Industrial Development

Objectives: 2 & 4

PDCs: 6, 11, 12, 13, 14

Objective 4 and PDC 6 seek for industrial development to occur without adverse effects on adjoining uses, including but not limited to noise or other harmful impacts.

As discussed above the EPA are satisfied that the risk of noise and odour impacts are low.

The proposal supports the continuing use of an agricultural industry. Small-scale agricultural industries are encouraged in rural areas as per PDCs 11-14. The purpose of this application is not to determine if the agricultural industry occurring at the site is still small-scale.

Interface Between Land Uses

Objectives: 1 & 2

PDCs: 7, 8 & 11

The proposal is considered to minimise impact on adjoining residential uses as per the EPA recommendation. The proposal is sufficiently consistent with the Objectives and PDCs of the Interface Between Land Uses module, with the recommended noise conditions requirements.

Other Matters

The applicant has given assurances that a separate development application will be lodged to seek approval for an increase to the crushing capacity of the juicing plant. Impacts associated with an increase to the crushing capacity of the juicing plant will be assessed as part of any future application.

7. SUMMARY & CONCLUSION

The applicant is seeking consent to use an approved horticulture building as a storage facility for a new wastewater treatment plant associated with an existing agricultural industry in the Watershed (Primary Production) Zone.

The proposal constitutes an activity of major environmental significance and accordingly required a referral to the EPA. The EPA are satisfied that environmental risks, including noise noted as an area of concern in the representations are acceptable.

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

8. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent to Development Application 21/113/473 by R Ceravolo & Co Pty Ltd for Change of use of existing horticulture building to house a wastewater treatment plant at 376A & 376B Lobethal Road Ashton subject to the following conditions:

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

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

- Locality plan (ref. 2241/04/19 wd 1) by Zummo Design, received by Council 2 February 2021
 - Proposed site plan (ref. 2241/04/19 wd2) by Zummo Design, received by Council 2 February 2021
 - Plant-room layout, drainage & dimensions, bunded floor slab layout, aeration dam & bunded pad configuration and elevations plans (drawings 11492.E.4, 11492.L.5 & 11492.L.2) by Land Energy Environmental Science & Engineering, received by Council 2 February 2021
- (2) **Construction of Impervious Base**
Prior to operation of the new wastewater treatment plant, an impervious base must be constructed between the new wastewater treatment plant and the wastewater lagoon.
- (3) **Construction of Bunding**
Prior to operation of the new wastewater treatment plant, the bunding must be constructed and in place (being a spill containment system constructed of impervious material, with a net capacity of at least 120% of the volume of the largest container/wastewater able to be processed). Note further guidance refer to the EPA Guideline Bunding and Spill Management (2016)
https://www.epa.sa.gov.au/files/47717_guide_bunding.pdf
- (4) **Noise**
Noise resulting from the approved development must not exceed:
- a) 47dB(A) between the hours of 7am and 10pm when measured and adjusted at any neighbouring dwelling in accordance with the relevant environment protection noise policy.
 - b) 40dB(A) between the hours of 10pm and 7am when measured and adjusted at any neighbouring dwelling in accordance with the relevant environment protection noise policy.

NOTES

- (1) **Development Plan Consent Expiry**
This Development Plan Consent (DPC) is valid for a period of twenty-four (24) months commencing from the date of the decision.
- Building Consent must be applied for prior to the expiry of the DPC and lodged through the PlanSA portal unless a private certifier was engaged prior to 19 March 2021. Further details in relation to the Planning Reforms can be found https://www.saplanningportal.sa.gov.au/planning_reforms
- (2) **EPA Environmental Duty**
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 construction, do not pollute the environment in a way which causes or may cause environmental harm.

(3) EPA Licence

An environmental authorisation in the form of a licence is required for the operation of this development. The applicant is required to contact the Authority before acting on this approval to ascertain if there are any changes to current licencing requirements.

(4) Aerator operation

Wherever practicable, the aerator should be run during the day time periods to reduce night time operations, to achieve compliance with the *Environment Protection (Noise) Policy 2007*.

(5) Wastewater treatment building

Wherever practicable, the doors to the wastewater treatment plant shed should be shut during operations to achieve compliance with the *Environment Protection (Noise) Policy 2007*.

9. ATTACHMENTS

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

Respectfully submitted

Concurrence

Marie Molinaro
Statutory Planner

Deryn Atkinson
Assessment Manager