

CAP MEETING – 10 NOVEMBER 2021
ITEM 9.1

DEVELOPMENT NO.:	21020989
APPLICANT:	Rob Mitchell
ADDRESS:	8 BUCHANAN DR WOODFORDE SA 5072
NATURE OF DEVELOPMENT:	Two storey detached dwelling, combined fence and retaining walls and swimming pool
ZONING INFORMATION:	Zones: <ul style="list-style-type: none"> • Housing Diversity Neighbourhood Overlays: <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Affordable Housing • Hazards (Bushfire - Urban Interface) • Hazards (Flooding - Evidence Required) • Prescribed Wells Area • Regulated and Significant Trees • Stormwater Management • Traffic Generating Development • Urban Tree Canopy Technical Numeric Variations (TNVs): <ul style="list-style-type: none"> • Maximum Building Height (9 Metres) • Maximum Building Height (2 Levels)
LODGEMENT DATE:	27 Jul 2021
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	2021.9
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Ashleigh Gade Statutory Planner
REFERRALS STATUTORY:	N/A
REFERRALS NON-STATUTORY:	Engineering

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DETAILED DESCRIPTION OF PROPOSAL:

The proposal is for the construction of a two-storey dwelling, combined fencing and retaining walls, and a swimming pool at 8 Buchanan Drive, Woodforde. The proposed dwelling has a total ground floor area of 211.4m² including alfresco and garage, and a total overall floor area of 348.54m², with 116m² of private open space. The proposed dwelling has a contemporary design with face brick in PGH 'Matterhorn' and rendered finish in Colorbond 'Surfmist' and a stonework feature. The combined fencing and retaining reaches a maximum height of 4.1m on the eastern boundary and 2.3m on the western boundary.

The subject land is currently vacant of any significant development. There are two sections of retaining wall existing on the site, installed by the developer responsible for the land division. The subject land forms part of the 'Hamilton Hill' land division and is an allotment created for residential purposes.

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The application documents are provided in **Attachment 1**.

BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
Withdrawn	21/72	Two storey detached dwelling, retaining walls (maximum height 2.65m), swimming pool & associated barriers and associated earthworks
17 August 2020	20/116	Benching of allotments incidental to residential development, associated retaining walls (maximum height 2.8m) and combined fence and retaining walls (maximum height 4.6m)

As detailed above, the applicant had previously lodged an application for the dwelling under the *Development Act 1993*. This application was submitted through the PlanSA Portal to be assessed under the *Planning Development and Infrastructure Act 2016* on 27 July 2021. The previous application 21/72 was subsequently withdrawn on 17 August 2021.

The prior application (20/116) for benching and retaining on the allotment was lodged by the developer responsible for the land division. This work has been completed and is existing on site.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 8 BUCHANAN DR WOODFORDE SA 5072

Title ref.: CT 6199/111

Plan Parcel: D116718 AL70

The subject land is a residential allotment within the 'Hamilton Hill' land division at Woodforde. The land currently contains a number of retaining walls and is otherwise vacant. The allotment has a site area of approximately 443m² and a frontage of 15m to Buchanan Drive. The land slopes away from the rear south-eastern boundary of the site down toward the street frontage in a north-westerly direction. The natural fall of the land is approximately 4 metres over a distance of 30 metres, though the land has been heavily modified by the existing retaining. There is no vegetation on the subject site, however the land is partially covered by the Tree Protection Zone (TPZ) of a Significant Tree sited on the adjacent land at 29 Norton Summit Road. The site is serviced by SA Water mains sewer and water connections.

Locality

The subject land is located in Woodforde and forms part of a wider division of land that is currently being developed. The land forming part of the division was formerly that of the Magill Youth Training Centre and is now known as 'Hamilton Hill'. The subject site is located on the southern extent of the Hamilton Hill division and is sited adjacent existing residential allotments not forming part of the master-planned development on its southern boundary. Allotments within 'Hamilton Hill' typically range between 200m² and 450m² in area and comprise detached dwellings or row dwellings. A number of these allotments, particularly to the east of the subject land, are currently vacant. To the south and further to the west, the locality comprises an established residential neighbourhood with a mixture of dwelling types including detached, row dwellings, group dwellings, and residential flat buildings. All of these allotments are within a different zone to the subject land.

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The subject land is identified on the map in **Attachment 2**. The zoning is shown on the map in **Attachment 3**.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Detached Dwelling: Code Assessed – Performance Assessed
Fence: Code Assessed - Performance Assessed
Retaining Wall: Code Assessed – Performance Assessed
Swimming Pool: Accepted
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
The swimming pool meets the requirements for Accepted development and therefore does not require assessment for Planning Consent.

The Planning & Design Code does not identify an Accepted or Deemed to Satisfy pathway for retaining walls or fences within the Zone, and therefore these elements are categorised as Code Assessed – Performance Assessed development pursuant to Sections 105 and 107 of the *Planning, Development and Infrastructure Act 2016 (The Act)*.

The detached dwelling does not meet the requirements to be considered Deemed to Satisfy under the Planning & Design Code for the Zone due to the height of the side boundary wall, the upper-level side boundary setbacks, and the height of the required earthworks. The dwelling is therefore categorised as Code Assessed – Performance Assessed development Sections 105 and 107 of the Act.

PUBLIC NOTIFICATION

- **REASON**
A dwelling is listed as exempt in Table 5 for the Housing Diversity Neighbourhood Zone except where it involves a building wall on a side boundary that exceeds a height of 3m, measured from the top of the footings, and does not directly abut an existing wall or structure of greater height on the adjoining allotment.

The application underwent public notification from 27 August 2021 to 17 September 2021.

- **LIST OF REPRESENTATIONS**

Three (3) representations were received by Council. Of these, two (2) oppose the proposal and one (1) is supportive of the proposal with some concerns. Two (2) of the representors indicated that they wished to be heard in support of their representation.

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The representators are detailed below:

Representor Name	Representor's Property Address	Wishes to be Heard (Y/N)	Nominated Speaker (if relevant)
Sui Hei Lui	80 The Strand, Mawson Lakes	Y	Sui Hei Lui
Louise Pascale	4/29 Norton Summit Road, Woodforde	Y	Louise Pascale
Ho Fan Lok	3 Newton Terrace, Enfield	N	N/A

The applicant or representative may be in attendance.

- **SUMMARY**

The representations received raised the following issues:

- Inconsistency with the Building Envelope Plans associated with the land division.
- Potential to overlook neighbouring dwellings from the balcony.
- The works proposed on the boundary will undermine works on adjacent sites.
- The demolition of existing retaining walls will cause damage to existing structures on adjacent sites.
- The proposal does not comply with Residential Code requirements.
- Potential risk to the health and retention of the adjacent Significant Tree.

The subject land relative to the representations received (where applicable) is provided in **Attachment 4**. A copy of the representations is provided in **Attachment 5** and the applicant's response is provided in **Attachment 6**.

AGENCY REFERRALS

No referrals to external agencies were required.

INTERNAL REFERRALS

- Council Engineering - Internal referral advice is provided in **Attachment 7**.

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in **Attachment 8**.

Quantitative Provisions

The Zone, General Section – Design and General Section – Transport, Access and Parking seek the following quantitative outcomes:

Element	Designated Performance Feature (DPF)	Proposed
Front boundary setback	3m	4.14m
Side boundary setbacks	900mm, for walls up to 3m in height 900mm plus 1/3 of the wall height above 3m (the calculation results in a requirement for a 2.1m setback to the upper level from the eastern	940mm to the eastern side boundary (ground level) 1.9m to the eastern side boundary (upper level)

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	boundary and a 2.2m setback to the upper level from the western boundary)	1.1m to the western side boundary (ground level) 2.1m to the western side boundary (upper level)
Rear boundary setback	3m for the first building level 5m for the second building level	9.23m (ground level) 11.1m (upper level)
Boundary walls	3m in height, maximum 11.5m in length, maximum Does not exceed 45% of the length of the boundary (in conjunction with any other boundary walls on the site)	3.85m height 6.59m length 40% the length of the boundary
Building height (metres)	9m	8.14m
Building height (levels)	2 levels	2 levels
Private open space	60 square metres located behind the building line A minimum directly accessible from a living room of 16 square metres, with a minimum dimension of 3m.	116 square metres, located behind the building line and all accessible from a living room 9.2m minimum dimension
Car parking spaces	2 spaces per dwelling, 1 of which is to be covered	4 spaces, 2 covered and 2 uncovered

The proposed dwelling largely meets all quantitative provisions with the exception of the height of the boundary wall and the setbacks to the side boundaries from the upper level. These elements are assessed in further detail below.

Land Use

The Desired Outcome (DO1) for the Zone seeks medium density housing that supports a range of needs and lifestyles, located within easy reach of a diversity of services and facilities.

Relevant Performance Outcomes/ Designated Performance Features	
Housing Diversity Neighbourhood Zone	Land Use and Intensity DPF 1.1

The proposal is consistent with the envisaged forms of development within the Zone. It is a dwelling and associated residential structures on a site intended for residential development.

Building Height

Relevant Performance Outcomes/ Designated Performance Features	
Housing Diversity Neighbourhood Zone	Building Height DPF 3.1
Airport Building Heights (Regulated) Overlay	Built Form DPF 1.1

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The proposed dwelling satisfies Zone DPF 3.1 and Airport Building Heights (Regulated) Overlay DPF 1.1 and is no taller than 9 metres or two building levels.

Setbacks, Design & Appearance

The Desired Outcome (DO 1) for the Zone seeks medium density housing, and the Desired Outcome (DO 1) for Design in Urban Areas seeks that development respond to the context of the natural and built environment. Design in Urban Areas (DO 1) envisages development will positively contribute to the locality and will be sited and designed to manage urban heat impacts, environmental performance considerations, and have a positive impact on local amenity.

Relevant Performance Outcomes/ Designated Performance Features	
Housing Diversity Neighbourhood Zone	Primary Street Setback DPF 4.1 Boundary Walls PO 6.1 Side Boundary Setback DPF 7.1 & PO 7.1 Rear Boundary Setback DPF 8.1
Hazards (Flooding – Evidence Required) Overlay	Flood Resilience DPF 1.1
Stormwater Management Overlay	DPF 1.1
Urban Tree Canopy Overlay	DPF 1.1
Clearance from Overhead Powerlines	DPF 1.1
Design in Urban Areas	Earthworks and Sloping Land PO 8.1 Overlooking/Visual Privacy (low rise buildings) DPFs 10.1 & 10.2, PO 10.1 Front Elevations and Passive Surveillance DPFs 17.1 & 17.2 Outlook and Amenity DPF 18.1 External Appearance External Appearance DPFs 20.1 & 20.2 Private Open Space DPFs 21.1 & 21.2 Landscaping DPF 22.2
Interface Between Land Uses	Overshadowing POs 3.1 & 3.2

The proposed dwelling satisfies the front and rear boundary setbacks and the side boundary setbacks for the lower level, consistent with Zone DPFs 4.1, 7.1 and 8.1.

The upper level is set closer to the boundary than the calculation for Zone DPF 7.1 seeks for wall heights exceeding 3m. On the eastern side boundary the upper level is in shortfall of the desired setback by 200mm and on the western side boundary it is in shortfall by 100mm. The shortfall in each instance is considered minor and negligible in considering the overall impacts of the proposed dwelling. The building incorporates appropriate articulation and is consistent with the prevailing character of the area. Furthermore, on the eastern side boundary where the shortfall is largest the dwelling will be sited at a lower ground level than the adjacent dwelling, reducing the potential impact.

The side boundary wall which forms part of the garage meets the Zone DPF 6.1 for length and percentage of structure along the site boundary, but exceeds the maximum height sought. The proposed boundary wall is 800mm higher than envisaged, but is considered acceptable in the context of its siting. The neighbouring dwelling adjacent to the proposed boundary wall also has a blank wall which will run parallel to the proposed wall. While the neighbouring wall is not sited on the boundary, it is set close to the site's side boundary and is not in an area that provides any valuable outlook for the adjacent dwelling. The positioning of the neighbouring dwelling close to Buchanan Drive will also mitigate any negative impacts from the road by largely screening the proposed boundary wall when

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travelling east into the 'Hamilton Hill' locality. It is therefore considered that the boundary wall is reasonable when considered in context and will not unduly impact on the neighbouring allotment.

The design of the dwelling incorporates a living room with an outlook to the street and an entry door clearly identifiable from the street, consistent with Design in Urban Areas DPFs 17.1, 17.2 & 18.1.

As sought by Design in Urban Areas DPF 20.1, the garaging is setback from the building line of the dwelling and 5.5m from the front boundary. The garage element has an opening that does not exceed 7m or 50% of the width of the site frontage. The proposal incorporates five of the design elements listed in Design in Urban Areas DPF 20.2 and has a building wall setback an additional 300mm from the building line, a porch extending from the building wall, a balcony projecting from the building wall, a portion of the upper level projecting forward of the lower level by at least 300mm and 3 different material finishes on the front elevation. This comprehensively addresses DPF 20.2 which requires a dwelling to have a minimum of two of these elements.

A rainwater tank connected to a minimum 80% of the dwelling roof area with a capacity of 1,000L is included in the proposal, in accordance with Stormwater Management Overlay DPF 1.1.

The proposal involves the planting of one small tree, in addition to ensuring the retention of the Significant Tree on the adjacent site, consistent with Urban Tree Canopy Overlay DPF 1.1. In accordance with Design in Urban Areas DPF 22.2 the proposal incorporates soft landscaping over a minimum of 20% of the site and landscaping in excess of 30% of land between the building line of the dwelling and the front property boundary. As noted in the quantitative table above, the private open space on the site well exceeds the minimums sought in Design in Urban Areas Table 1 – Private Open Space and is accessible from a habitable room.

Earthworks

The dwelling has a finished floor level over 300mm above the highest point of the kerb on the street, consistent with Hazards (Flooding - Evidence Required) Overlay DPF 1.1.

The earthworks proposed in association with the dwelling exceed the maximum vertical height sought by Design in Urban Areas DPF 8.1. The earthworks also result in the height of the combined fencing and retaining, which at its maximum reaches 4.1m on the eastern elevation. The earthworks and resulting retaining walls are considered reasonable given the natural slope of the land and the medium density residential character of the surrounds. It is noted that in accordance with the associated arborist report, the applicant has shifted elements of the proposal requiring excavation and subsequent retaining away from the rear of the site, in order to protect the Tree Protection Zone (TPZ) of the Significant Tree on the adjacent site. This has necessitated higher retaining to the east and south-east of the dwelling to accommodate the dwelling and swimming pool in close proximity. It is further considered that significant retaining is common on allotments in the locality, to allow for the density of residential development envisaged, on allotments in this area at the base of the foothills. The retaining walls that exceed 1m in vertical height will retain excavated land, meaning that the visual and shadowing impacts of these walls will be internal to the subject land. The extent of earthworks is therefore considered reasonable when assessed against Design in Urban Areas PO 8.1. Furthermore, the visual and shadow impacts from the proposed retaining walls, and the combined fencing where applicable, is considered to address Interface Between Land Uses PO 3.1 and 3.2.

The applicant was not requested to provide overshadowing diagrams pursuant to Interface Between Land Uses PO 3.1 and PO 3.2, due to the context of the site and the only proximate neighbouring dwelling. The proposed dwelling is generally consistent with the maximum heights and setbacks to boundaries sought within the Zone and is therefore consistent with the heights and setbacks of other

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buildings in the locality. The adjacent dwelling to the west is considered the only dwelling proximate to warrant overshadowing concern. This dwelling has only one window on the elevation it shares with the subject land, and all other walls facing the proposed dwelling are blank. The existing dwelling to the east also extends further back into its allotment than the proposed dwelling, and due to the south-westerly orientation of its rear yard and the existing vegetation to the rear, aerial imagery shows the dwelling itself already shadows its own backyard in the afternoon. The majority of the windows on the adjacent dwelling are sited and oriented away from the proposed dwelling, toward the northern street frontage or toward the west which overlooks an open reserve. It is therefore considered unlikely that the proposed dwelling would have the capacity to unduly overshadow or exacerbate any existing overshadowing to the existing dwelling to a degree that would conflict with to Interface Between Land Uses POs 3.1 and 3.2.

The dwelling incorporates large windows on the western elevation to take advantage of views to the Adelaide CBD afforded by the terrain of the locality. The applicant has incorporated a window shroud around the living room window and louvres on the stairwell window to prevent overlooking into the neighbouring allotment but allow for north-westerly views across Buchanan Drive toward the city. The shrouding and louvres prevent views in a southerly direction toward the only window on the eastern elevation of the adjacent dwelling, and to a small courtyard beside this window. The applicant has included sightline diagrams demonstrating that the shrouding and louvres will prevent overlooking to this portion of the adjacent site. The screening on the western elevation is therefore considered to address the intent of Design in Urban Areas PO 10.1.

All upper level windows on the rear and eastern elevation are obscured to a height of 1.5m above finished floor level or have a sill height at 1.5m above finished floor level, consistent with Design in Urban Areas DPF 10.1. The upper level balcony faces Buchanan Road and therefore pursuant to Design in Urban Areas DPF 10.2 does not require fixed screening.

Traffic Impact, Access and Parking

Relevant Performance Outcomes/ Designated Performance Features	
Design in Urban Areas	Car Parking, Access and Manoeuvrability DPFs 23.2 & 23.5, PO 23.4
Transport, Access and Parking	Vehicle Parking Rates DPF 5.1

The dwelling provides parking spaces in excess of the minimums sought by Transport, Access and Parking – Table 1, as demonstrated in the quantitative table above. The uncovered spaces forward of the garage have a minimum width of 2.4m and a length of 5.5m, consistent with Design in Urban Areas DPF 23.2.

The driveway slope does not exceed 1-in-4 and the departure from being 90 degrees to Buchanan Road, as sought by Design in Urban Areas DPF 23.5 is considered minor. The crossover is sited sufficiently away from infrastructure, street furniture and service connections. There are no street trees along the site frontage. The proposed crossover location does extend across a partially-eroded yellow line which follows the corner of Buchanan Drive, however given the street furniture and infrastructure within the verge forward of the dwelling, this is the safest point of access and potentially the only point of access clear of impediments and the cornering of the road. The proposed access is therefore considered consistent with PO 23.4 as its siting provides the safest and most appropriate point of vehicular access.

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Environmental Factors

Waste Management & Water Supply

Relevant Performance Outcomes/ Designated Performance Features	
Infrastructure and Renewable Energy Facilities	DPFs 11.2 & 12.1

The subject site is connected to mains water and sewer, consistent with Infrastructure and Renewable Energy Facilities DPF 11.2 & 12.1.

Site Contamination

Relevant Performance Outcomes/Designated Performance Features	
Site Contamination	DPF 1.1

The proposal is not considered as a change to a more sensitive land use as the allotment was created for residential purposes and site contamination remediation was undertaken during the land division. The site contamination report from the land division stage requires that allotments not contain a basement, which this proposal does not. It is therefore considered that Site Contamination DPF 1.1 has been sufficiently met.

Trees

Relevant Performance Outcomes/Designated Performance Features	
Regulated and Significant Trees Overlay	PO 1.1 & 2.1

There is a Significant Tree sited on the adjacent land to the rear of the subject site. The applicant has consulted an arborist and provided an arborist report in association with the proposal, demonstrating that the proposal is supportable when considered against the Tree Protection Zone (TPZ) of the tree. The proposal will ensure the retention of the tree consistent with Regulated and Significant Trees Overlay PO 1.1. The siting of the retaining walls and the swimming pool have been determined to reduce impact to the tree root systems, in accordance with Regulated and Significant Trees Overlay PO 2.1.

CONCLUSION

The proposed dwelling, associated retaining walls and combined fencing and retaining is considered an appropriate development for the site. The proposal reflects the existing built form of the locality and the character of development sought and anticipated within the Housing Diversity Neighbourhood Zone. It is considered that where the dwelling is in shortfall of the Designated Performance Features, these shortfalls are minor and the proposal comfortably addresses the associated Performance Outcome.

It is therefore considered that the proposal is sufficiently in accord with the Planning and Design Code and that as such it warrants consent.

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 21020989 by Rob Mitchell for Two storey detached dwelling, retaining walls and swimming pool at 8 Buchanan Drive Woodforde is granted Planning Consent subject to the following conditions:

CONDITIONS

Planning Consent

- 1) Development in Accordance with Approved 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).
- 2) Stormwater Overflow Directed to Street
All roof runoff generated by the development hereby approved shall be directed to a rainwater tank with overflow to the street within one month of the roof cladding being installed. All roof and hard paved water runoff shall be managed to prevent trespass onto adjoining properties.
- 3) Residential Lighting
All external lighting shall be directed away from residential development and, shielded if necessary to prevent light spill causing nuisance to the occupiers of those residential properties.
- 4) External Finishes
The external finishes to the building herein approved shall be as follows:

WALLS: Painted Render finish in 'Colorbond Surfmist', Face Brick 'PGH Matterhorn', Stonework, or similar

ROOF: Colorbond Custom Orb in 'Surfmist or similar
- 5) Treatment to Windows
The upper level windows on the eastern and southern elevations as shown on Elevations DA07 prepared by The Design Place Adelaide, Revision A dated 23 July 2021, shall be glazed with fixed obscure glass to a minimum height of 1.5 metres above finished floor level, except where windows have a sill height of not less than 1.5m above finished floor level. The glazing in these windows shall be maintained in good condition at all times.

The upper level windows on the western elevation as shown on Elevations DA06 prepared by The Design Place Adelaide, Revision A dated 23 July 2021, shall be fixed with shrouding and louvres in accordance with the stamped approved plans and consistent with the sightlines demonstrated on the Overlooking Diagram DA10 prepared by The Design Place Adelaide, Revision A dated 23 July 2021, to the reasonable satisfaction of Council.

6) Erosion Control – Straw Bales

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.

7) Development in Accordance with Arborist Recommendations

The applicant shall undertake the development in accordance with the recommendations contained within the Arborist's Report prepared by Project Green Pty Ltd and submitted as part of this application.

8) Establishment of Tree Protection Zone

A tree protection zone (TPZ) shall be established around the portion of the TPZ for the Significant Tree that affects the subject site. The protection zone is to encompass the structural root zone of the tree and shall be determined by the project arborist. During construction each TPZ shall be fenced with 2.0 metre high chain mesh material with posts at 3 metre intervals and incorporate a clearly legible sign displaying the words "Tree Protection Zone". The following restrictions apply to the tree protection zone:

- a) No machine excavation is permitted.
- b) If any major roots (roots with a diameter greater than 25mm) are found outside the TPZ during construction the project arborist shall be contacted immediately to assess the situation.
- c) No material, equipment or temporary buildings shall be placed within any TPZ.
- d) No items shall be attached to each tree including temporary service wires, nails, screws or any other fixing device.
- e) Supplementary watering shall be provided to the trees through any dry periods during and after the construction process. Each tree is to be provided with a circular dripper system comprising 19mm polypipe, 4 litre per hour drippers spaced every 2 metres.
- f) Only landscaping, permeable paving or rubble paths shall occur in the TPZ, and only when all construction of the proposed dwelling has been completed. The area within each TPZ shall be retained at natural ground level and no additional soil or fill shall be placed within the zone
- g) Only hand digging is permitted at all times.
- h) Any services such as stormwater, sewer and electrical that enter the TPZ are to be excavated using non-destructive methods such as Hydro vac® or directional boring systems. This work is to be supervised by the project arborist. If any tree roots are discovered at this time, the project arborist is to assess and address accordingly.

9) Urban Tree Canopy Overlay – Tree Planting

Landscaping detailed on the Site Plan DA01 prepared by The Design Place Adelaide, Revision A dated 23 July 2021, shall be planted within 12 months of occupation of the dwelling or the in the planting season following occupation, whichever comes first. Any such vegetation shall be replaced in the next planting season if and when it dies or, becomes seriously diseased.

ADVISORY NOTES

- 1) This Planning Consent is valid for a period of twenty four (24) months commencing from the date of the decision.

Building Consent must be applied for prior to the expiry of the Planning Consent.

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- 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: Ashleigh Gade

Title: Statutory Planner

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DEVELOPMENT NO.:	21019844
APPLICANT:	Bird in Hand Winery
ADDRESS:	150 PFEIFFER RD WOODSIDE SA 5244
NATURE OF DEVELOPMENT:	Variation to 18/828/473 to increase the floor area and the height of the cellar door, restaurant & function facility and internal alteration
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Productive Rural Landscape <p>Overlays:</p> <ul style="list-style-type: none"> • Environment and Food Production Area • Hazards (Bushfire - Medium Risk) • Heritage Adjacency • Hazards (Flooding - Evidence Required) • Limited Land Division • Mount Lofty Ranges Water Supply Catchment (Area 2) • Native Vegetation • Prescribed Water Resources Area • Water Resources
LODGEMENT DATE:	29 Jul 2021
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	2021.10
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Doug Samardzija Statutory Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil

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DETAILED DESCRIPTION OF PROPOSAL:

The proposal is for a variation to Development Application 18/828/473 which was for the expansion to the existing mixed use development. The proposal comprises a cellar door, restaurant & function facility (400 person capacity), including building alterations & 4 storey additions with an additional restaurant, ancillary bars, viewing deck and underground cellar. The proposal also included the construction of sewer pumping main, associated car parking, combined fence and retaining walls & earthworks and was a non-complying form of development. Additionally there

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was a proposed Variation to Development Authorisation 473/65/10 to vary Conditions 2 & 3 relating to hours of operation & overall capacity of the premises (excluding outdoor concerts) and to delete Conditions 9 & 10 relating to other operational restrictions.

This application now seeks to vary elements of Development Application 18/828/473 which are summarised below:

- Increase the height of the building from 15.24m to 18m, an increase in height by 2.76m
- Increase the floor area by 150m², which includes a combined increase in the ground floor and first floor areas
- Internal alterations which are all detailed in the report submitted by Heynen Planning Consultants. The reasons behind the changes as identified by the planning consultant are:
 - a) Review of the technical requirements associated the preparation of working drawings
 - b) The need for a more versatile day to day operational spaces and functions
 - c) Compliance with fire safety regulated regulations
 - d) The need to provide improved access for people with mobility impairment
 - e) The need to improve the safety of occupants associated with the roof garden; and
 - f) The desire for enhanced architectural expression of the building (internal and external).
- The proposal does not seek to alter any operational aspects of the original approval in terms of the capacity, the hours of operation, car parking arrangements, access or waste management. In addition, the amendments proposed will not alter any conditions imposed on the original consent.

BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
22 January 2021	20/1062/473	Two storey domestic outbuilding
9 November 2020	20/853/473	Change of use from outbuilding to worker accommodation building & associated building alterations (non-complying)
22 February 2021	20/839/473	Masonry wall- pool safety barrier (maximum height 1.2m)
13 November 2021	20/308/473	Change of use from office to tourist accommodation (maximum of 6 guests) & associated building alterations & additions (non-complying)
20 August 2021	20/178/473	Masonry fence (maximum height 2.2m) & pillars (maximum height 4m)
2 December 2019	19/593/473	Retaining walls (maximum height 1.6m), masonry walls & chimney (maximum height 3.9m), & associated earthworks
16 August 2019	19/527/473	Retaining walls (maximum height 2.6m)
4 March 2021	19/175/473	Temporary change of use of office (storage and meeting rooms only) to include relocated cellar door for a period of two years and a temporary variation to condition 13 of Development Authorisation 473/674/17 & associated building alterations and car parking
2 October 2020	18/828/473	Expansion to existing mixed use development comprising cellar door, restaurant & function facility (400 person capacity), including

		building alterations & 4 storey additions with an additional restaurant, ancillary bars, viewing deck and underground cellar, construction of sewer pumping main, associated car parking, combined fence and retaining walls & earthworks and Variation to Development Authorisation 473/65/10 to vary Conditions 2 & 3 relating to hours of operation & overall capacity of the premises (excluding outdoor concerts) and to delete Conditions 9 & 10 relating to other operational restrictions (non-complying)
17 July 2019	18/827/473	Variation to 17/674/473- to vary building dimensions and internal floor plan of winery building
14/03/18	17/674/473	Winery , horticultural & office building
15/01/18	16/930/473	Vary location of overflow car park for special events
5/08/17	16/536/473	Signage
5/05/17	16/906/473	Toilet block
22/07/17	16/392/473	Increase outdoor concert capacity from 3000 to 3500 persons
21/3/17	15/361/473	Dwelling additions and alterations
2/05/16	15/214/473	Additions and alterations to winery building to relocation bottling line
21/03/16	15/871/473	Freestanding advertising sign and sculpture
4/11/15	14/724/473	Increase in outdoor concert capacity to 3000
27/08/15	14/717/473	In ground swimming pool and barriers
29/10/14	14/649/473	Relocation and addition to water storage tank
1/05/14	14/178/473	Variation to 10/56/473 to allow two indoor concerts with a capacity of 2100 over two nights
12/4/13	12/750/473	Change of use and alteration addition to existing buildings, offices and boardroom
12/04/13	12/718/473	Alteration and addition to barrel store- additional cellar door sales area and storage
22/03/13	12/688/473	Variation to the development authorisation 473/931/10- a reduction in size of cellar door in barrel store building and change of location
22/03/13	10/931/473	Change of use of the existing barrel store to include cellar door sales
27/03/13	10/65/473	Periodic special events (up to 2 times per calendar year) and increase in capacity of dining/function centre - 110 for seated & 150 for non- seated, & increase capacity of indoor and outdoor functions area for a maximum of 400 persons
27/03/13	12/734/473	Variation to development authorisation 473/65/10 to vary condition 3 to permit use of the barrel store for functions in addition to the existing restaurant.

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27/08/12	10/189/473	Alterations and addition to dwelling including two storey additions & carport, associated earthworks
3/05/2010	09/873/473	Winery waste water effluent dam
30/01/09	08/1087/473	Advertising display (Sign B)- Directional signage location on the intersection of Pfeiffer and Bird in Hand Roads
16/03/09	08/758/473	winery building (barrel store) associated with existing winery
3/11/08	08/757/473	Additional cellar door sales area and advertising sign (1.8m x 0.9m) associated with existing winery, restaurant and cellar door and amendment to the operating hours of the restaurant (9am to midnight 7 days per week)
2/03/07	06/979/473	Staged alterations and additions to the existing winery. Stage 1: Construction of new winery shed, increase in the winery crush from 500 to 2000 tonnes per annum, new grape receiveal and crushing facility, alterations to the existing waste treatment plant with conversion of the existing dam to spill detention basin and installation of new water storage tank (181KL) Stage 2: Alteration to the existing winery building to establish a 75 seat restaurant and cellar door sales facility with associated parking, and new toilet facilities
21/10/02	00/1173/473	Winery and olive bottling plant

The original development application 18/828/473 was considered by CAP on the 14 August 2019 and a recommendation by the staff to seek concurrence from State Commission Assessment Panel to grant planning consent was supported by the CAP. A copy of the original plans and the DNF are included as **Attachment 6**.

Following the State Commission Assessment Panel's concurrence and the issuing of the Development Plan Consent the decision was appealed to the ERD Court by representor Terramin Exploration Pty Ltd. The ERD Court proceedings resulted in the Court Order to vary the approved plans (only in relation to the car park layout, pedestrian access and stormwater management) and the conditions attached to the Development Plan Consent, including an increase to the number of conditions and removal of the reserve matter. A copy of the Court Order and amended plans are included as **Attachment 7**.

Following the Court Order there was a minor variation to the proposal under Regulation 47A of the *Development Regulations 2008* to stage the application with stage one (1) being construction of site works, stormwater infrastructure, footings and cellar. Stage one (1) was granted full development approval on 02 October 2020, and in accordance with the PDI Regulation Variation to Regulation 67, the applicant has two years to commence the development.

SUBJECT LAND & LOCALITY:**Subject Land:**

The subject site is 29.74 hectares and irregular in shape with frontages to three roads, namely Pfeiffer Road (primary frontage of 681 metres), Drummond and Bird In Hand Roads. Access to the property is via a main entry (eastern most access point) on Pfeiffer Road as well as two private and/or staff access points.

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The subject site contains the Bird in Hand winery buildings, including restaurant and cellar door, function centre use within the combined restaurant, former barrel hall and a licenced outdoor area to the north of these buildings. There is also a new winery, horticulture and office building to the south of the existing winery buildings. Portion of the existing offices presently used as meeting room and office related storage rooms (in building to the north of the existing restaurant) is approved as a temporary cellar door (as currently approved/conditioned in Development Approval 17/674 and 18/827).

With the exception of the built form mentioned above and multiple uses currently occurring on site, the predominant use of the site is as a vineyard which surround the winery buildings on southern, western and eastern sides of the site. Furthermore, the site also includes a dam, winery wastewater dam, dwelling (in the front middle portion of the site), a watercourse, two silo structures 15-18 metres in height and a 300,000-litre water storage tank and on-site car parking. Furthermore, there is an area on the adjacent allotment utilised as a Woodside airstrip which is approved to be used as an overflow parking area for outdoor concerts.

Locality:

The locality is predominantly characterised by large rural allotments. To the north-west is the Woodside airstrip which also includes a dwelling located approximately 320 metres from the proposed development. To the north-east is a large allotment which is used for livestock grazing and is also the Adelaide Polo Club grounds. It currently features two playing fields, car parking, a shed, horse holding yards and a dwelling (caretaker's residence). The dwelling on the Polo Club is the closest dwelling to the proposed development site located approximately 300 metres away.

To the east is a large rural residential and livestock grazing allotment which features a State Heritage listed chimney and flue of the former Lone Hand Gold Mine. The dwelling and rural buildings are grouped in the north-west portion of the site. This dwelling is some 420 metres from the cellar door and function centre building on the site. There is a current mining application by Terramin Exploration Pty Ltd for this land. Further to the east is the Petaluma Winery. To the south east is another State Heritage listed property in the form of the Former Inverbrackie Caledonian Church (Ruin), Manse & Graveyard.

The dwellings to the south are located 330 to 400 metres away from the expansion area. These allotments are used for rural residential combined with livestock grazing or viticulture. The nearby Art Wine vineyard also features a cellar door.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Function centre: Code Assessed - Performance Assessed
Internal building work: Code Assessed - Performance Assessed
Shop: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed

PUBLIC NOTIFICATION

- **REASON**
Table 5 lists function centres as not requiring notification except a function centre which fails to satisfy DTS/DPF 6.6 in the Productive Rural Landscape Zone. The proposal fails to satisfy DPF 6.6(d) in that the height of the building exceeds 9m from natural ground level.

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- **LIST OF REPRESENTATIONS**

One (1) representation was received from the adjoining property opposing the proposal. The representor did not indicate they wished to be heard in support of their representation.

The CAP were the original decision authority for the development and as this proposal is a variation to that, the matter is being remitted to CAP for determination.

Representor Name	Representor's Property Address	Wishes to be Heard (Y/N)	Nominated Speaker (if relevant)
Tom Mehrstens- Terramin Exploration Pty Ltd	PO Box 1168 Strathalbyn SA 5255	No	N/A

The following is a summary of the issues in the representation:

- The reason for the increase to the height of the development is unclear and does not include assessment of the impacts on the nearby neighbours
- The increase in the height will increase the line of sight of the proposed mine on the adjoining allotment
- Conditions imposed by the ERD court on the original application seeks assurance that none of those will be overturned or alerted as a result of that planning consent being granted.

AGENCY REFERRALS

None

INTERNAL REFERRALS

None

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.

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The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in **Attachment 8**.

Desired Outcomes	
Productive Rural Landscape Zone <ul style="list-style-type: none"> • DO 1 • DO 2 • DO 3 	<ul style="list-style-type: none"> • A diverse range of land uses at an appropriate scale and intensity that capitalise on the region's proximity to the metropolitan area and the tourist and lifestyle opportunities this presents whilst also conserving the natural and rural character, identity, biodiversity and sensitive environmental areas and scenic qualities of the landscape. • A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the scale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes its regional identity • Create local conditions that support new and continuing investment whilst seeking to promote co-existence with adjoining activities and mitigate land use conflicts.
Hazards (Bushfire-Medium Risk) Overlay <ul style="list-style-type: none"> • DO 1 • DO 2 	<ul style="list-style-type: none"> • Development, including land division responds to the medium level of bushfire risk and potential for ember attack and radiant heat by sitting and designing buildings in a manner that mitigates the treat and impact of bushfires on life and property taking into account the increased frequency and intensity of bushfire as a result of climate change. • To facilitate access for emergency services vehicles to aid the protection of lives and assets from bushfires danger.
Heritage Adjacency Overlay <ul style="list-style-type: none"> • DO 1 	<ul style="list-style-type: none"> • Development adjacent to State and Local Heritage Places maintains the heritage and cultural values of those Places.
Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay <ul style="list-style-type: none"> • DO 1 	<ul style="list-style-type: none"> • Safeguard Greater Adelaide's public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from secondary reservoirs or diversion weir catchments from Mount Lofty Ranges.
Native Vegetation Overlay <ul style="list-style-type: none"> • DO 1 	<ul style="list-style-type: none"> • Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystem services, carbon storage and amenity values.
General Development Policies (Design): <ul style="list-style-type: none"> • DO 1 (a-c) 	<ul style="list-style-type: none"> • Development is: <ol style="list-style-type: none"> a) Contextual- by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate area. b) Durable- fit for purpose, adaptable and long lasting c) Inclusive- by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors
General Development Policies (Design in Urban Areas) <ul style="list-style-type: none"> • DO 1 (a-c) 	<ul style="list-style-type: none"> • Development is: <ol style="list-style-type: none"> (a) Contextual- by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate area. (b) Durable- fit for purpose, adaptable and long lasting (c) Inclusive- by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of

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	quality spaces with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors
Interface between Land Uses <ul style="list-style-type: none"> DO 1 	<ul style="list-style-type: none"> Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses

Relevant Performance Outcomes/Designated Performance Features	
Productive Rural Landscape Zone	Sitting and Design: PO 2.2 and DPF 2.2 Shops, Tourism and Function Centre: POs 6.1 6.2 and 6.6, DPFs 6.1, 6.2 and 6.6 Built Form and Character: PO and DPF 11.1
Heritage Adjacency Overlay	Built Form: PO 1.1
Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay	Water Quality: PO 1.1 Wastewater: POs 2.1 and 2.4 and DPFs 2.1 and 2.4 Stormwater: POs 3.1, 3.2 and 3.6, DPFs: 3.6 Landscape and Natural Features: PO 4.1
Native Vegetation Overlay	Environmental Protections: PO and DPF 1.1
General Development Policies (Design)	External Appearance: POs 1.1, 1.4, 1.5 and DPF 1.4 Landscaping: POs 3.1, 3.2 Earthworks: PO and DPF 8.1
General Development Policies (Design in Urban Areas)	External Appearance: POs 1.1, 1.4, 1.5 and DPF 1.4 Landscaping: PO 3.1 All development- Medium and High Rise- External Appearance: POs 12.2, 12.3, 12.5 and DPF 12.5
Interface Between Land Uses	General Land Use Compatibility: POs 1.1 and 1.2 Activities Generating Noise or Vibration: POs 4.1, 4.5, 4.6 and DPFs 4.1, 4.6 Light Spill: POs 6.1 and 6.2

Building Height, Setbacks, Design & Appearance:

The main components of the proposed variation in terms of planning impacts are to do with the increase in the overall height and floor area of the buildings. PO 6.2 in the Productive Rural Landscape Zone seeks that shops proposed in the new building are sited, designed and of a scale that maintains a pleasant rural character and amenity. DPF 6.2 outlines that a way to achieve this is to have a setback of at least 20m from property boundaries and the building height does not exceed 9m, with shops not sited within 100m of a sensitive receiver. Similar outcomes are also sought by PO and DPF 6.6 which are more specific to functions centres with the only difference being the recommended setback from property boundaries is 40m. Whilst the proposal fails to satisfy the quantitative height requirements by exceeding the height requirements by 9m, the proposal is still considered to be consistent with the intent of POs 6.2 and 6.6. The setback from the closest boundary is 127m whilst the closest sensitive receiver is 300m away and thus the setback proposed is well in excess of what is sought by the Code. The building is also proposed centrally to the site and clustered together with existing buildings including the two silo structures. These structures are above the height of the proposed building, with one silo being 1.2m and the other 2.7m above the height of the proposed building. It is also important to consider the overall design of the building when assessing the impacts of the height. At its highest point the building is 18m at the western end next to the two silos, from this point the building height tapers off to 12m which is a difference of 6m between the highest point of the building and the lowest point of the building. This variation in the roof height and the general articulation of the design will break up the mass of the proposed building.

In the representation received the neighbour has outlined some concerns in relation to the proposed increase in height, the lack of reasoning behind the increase as well as an increased ability for overlooking into the neighbouring property and the proposed mining operations on the site. Whilst overlooking is considered during the assessment

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process, the Code only affords this assessment to overlooking into adjacent residential properties and views into private open spaces and living areas of dwellings. In this instance the view from the upper level of the building would not be classified as overlooking, firstly because the adjoining property is not residential in nature and as such the Code is silent on overlooking into non-residential properties. Secondly any views from the upper levels of this building would be classified as distant and as such would not be considered as direct overlooking.

PO 6.2 seeks that the shops are associated with existing primary production or primary production related value adding industry and DPF 6.1(c) states that one way of achieving this outcome is to ensure that the gross leasable floor area does not exceed 100m² or 250m² in case of a cellar door. As mentioned above, this application does not have any implications on the already approved use of the building as part of Development Application 18/828/473 and as such this aspect is not being considered with this application. In saying that however, some consideration needs to be given to the changes being proposed and these would have any impacts on the primary production use. As mentioned above, apart from the increase to the height of the building the works will also result in the increase in the total floor area of the building by 150m². The floor area expansion is calculated factoring in the changes to the ground and first floor level. Given the location of the proposed building it is considered that the expansion of the floor area by 150m² is not going to have any impacts on the primary production use of the land. Whilst the floor area of the cellar door is above the 250m² this in itself does not mean that the proposal fails to satisfy the intent of PO 6.2. The variation does not result in the loss of primary production land.

PO 11.1 in Productive Rural Landscape Zone seeks that the buildings are designed and sited to reduce impacts on scenic and rural vistas by having substantial setbacks, using low reflective materials and finishes and being located below ridgelines. The proposal is considered to be consistent with the intent of PO 11.1. The setbacks from boundaries as mentioned above are substantial with the building is located centrally on site and clustered together with other built form. Whilst the design of the building is contemporary in nature and not consistent with existing buildings on site as well as other built form in the locality, it is still considered to be of a high standard and well considered, utilising a mixture of different colours and materials whilst minimising the bulk and scale through a clever use of transparent materials at the upper levels.

Heritage:

PO 1.1 in the Heritage Adjacency Overlay seeks that development adjacent to a state or local heritage place does not dominate, encroach on or, unduly impact on the setting of the place. The closest heritage property is approximately 1600m south/west of the subject site and the proposed increase in height of 2.76m and the increase in the floor area of 150m² is not going to impact on the setting of the heritage place.

CONCLUSION

The proposed changes to the building which include the increase in height and floor area as well as internal alterations are not detrimental to the locality. Whilst the proposal fails to satisfy some of the designated performance features in terms of the building height and the size, it is noted that these departures are not considered detrimental given that the proposal is able to achieve the relevant performance outcomes through other means. The performance outcomes have been met by the building having a significant setback from property boundaries and also from the sensitive receivers. Furthermore, the articulation in the design and the use of mixture of materials and finishes especially in relation to the upper levels has further ensured that the overall bulk and scale of the building on the locality is minimised.

As such it is considered that the increase in height by 2.76m and the increase in the floor area by 150m² are considered to have no detrimental impact on the character and the amenity of the locality.

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 21019844, by Bird in Hand Winery for Variation to 18/828/473 to increase the floor area and the height of the cellar door, restaurant & function facility and internal alteration at 150 Pfeiffer Rd Woodside is granted Planning Consent subject to the following conditions:

CONDITIONS

Planning Consent

Condition 1:

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

Condition 2:

Except where varied by this authorisation, all other conditions, plans and details relating to Development Authorisation 18/828/473 (as amended by ERD Court Order dated 21 August 2020) continue to apply to this amended authorisation.

ADVISORY NOTES

General Notes

- 1) 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.
- 2) 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.
- 3) A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - b. if an appeal is commenced—
 - i. until the appeal is dismissed, struck out or withdrawn; or
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).

Planning Consent

This Planning Consent is valid for a period of twenty four (24) months commencing from the date of the decision.

Building Consent must be applied for prior to the expiry of the DPC.

CAP MEETING – 10 NOVEMBER 2021
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OFFICER MAKING RECOMMENDATION

Name: Doug Samardzija

Title: Statutory Planner

CAP MEETING – 10 NOVEMBER 2021
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DEVELOPMENT NO.:	21019844
APPLICANT:	Bird in Hand Winery
ADDRESS:	150 PFEIFFER RD WOODSIDE SA 5244
NATURE OF DEVELOPMENT:	Variation to 18/828/473 to increase the floor area and the height of the cellar door, restaurant & function facility and internal alteration
ZONING INFORMATION:	Zones: <ul style="list-style-type: none"> • Productive Rural Landscape Overlays: <ul style="list-style-type: none"> • Environment and Food Production Area • Hazards (Bushfire - Medium Risk) • Heritage Adjacency • Hazards (Flooding - Evidence Required) • Limited Land Division • Mount Lofty Ranges Water Supply Catchment (Area 2) • Native Vegetation • Prescribed Water Resources Area • Water Resources
LODGEMENT DATE:	29 Jul 2021
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	2021.10
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Doug Samardzija Statutory Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil

CONTENTS:

ATTACHMENT 1: Application Documents	ATTACHMENT 5: Response to Representations
ATTACHMENT 2: Subject Land Map/ Representation Map	ATTACHMENT 6: Original DNF and approved plans
ATTACHMENT 3: Zoning Map	ATTACHMENT 7: ERD Court Order and amended plans
ATTACHMENT 4: Representations	ATTACHMENT 8: Relevant P&D Code Policies

DETAILED DESCRIPTION OF PROPOSAL:

The proposal is for a variation to Development Application 18/828/473 which was for the expansion to the existing mixed use development. The proposal comprises a cellar door, restaurant & function facility (400 person capacity), including building alterations & 4 storey additions with an additional restaurant, ancillary bars, viewing deck and underground cellar. The proposal also included the construction of sewer pumping main, associated car parking, combined fence and retaining walls & earthworks and was a non-complying form of development. Additionally there

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was a proposed Variation to Development Authorisation 473/65/10 to vary Conditions 2 & 3 relating to hours of operation & overall capacity of the premises (excluding outdoor concerts) and to delete Conditions 9 & 10 relating to other operational restrictions.

This application now seeks to vary elements of Development Application 18/828/473 which are summarised below:

- Increase the height of the building from 15.24m to 18m, an increase in height by 2.76m
- Increase the floor area by 150m², which includes a combined increase in the ground floor and first floor areas
- Internal alterations which are all detailed in the report submitted by Heynen Planning Consultants. The reasons behind the changes as identified by the planning consultant are:
 - a) Review of the technical requirements associated the preparation of working drawings
 - b) The need for a more versatile day to day operational spaces and functions
 - c) Compliance with fire safety regulated regulations
 - d) The need to provide improved access for people with mobility impairment
 - e) The need to improve the safety of occupants associated with the roof garden; and
 - f) The desire for enhanced architectural expression of the building (internal and external).
- The proposal does not seek to alter any operational aspects of the original approval in terms of the capacity, the hours of operation, car parking arrangements, access or waste management. In addition, the amendments proposed will not alter any conditions imposed on the original consent.

BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
22 January 2021	20/1062/473	Two storey domestic outbuilding
9 November 2020	20/853/473	Change of use from outbuilding to worker accommodation building & associated building alterations (non-complying)
22 February 2021	20/839/473	Masonry wall- pool safety barrier (maximum height 1.2m)
13 November 2021	20/308/473	Change of use from office to tourist accommodation (maximum of 6 guests) & associated building alterations & additions (non-complying)
20 August 2021	20/178/473	Masonry fence (maximum height 2.2m) & pillars (maximum height 4m)
2 December 2019	19/593/473	Retaining walls (maximum height 1.6m), masonry walls & chimney (maximum height 3.9m), & associated earthworks
16 August 2019	19/527/473	Retaining walls (maximum height 2.6m)
4 March 2021	19/175/473	Temporary change of use of office (storage and meeting rooms only) to include relocated cellar door for a period of two years and a temporary variation to condition 13 of Development Authorisation 473/674/17 & associated building alterations and car parking
2 October 2020	18/828/473	Expansion to existing mixed use development comprising cellar door, restaurant & function facility (400 person capacity), including

		building alterations & 4 storey additions with an additional restaurant, ancillary bars, viewing deck and underground cellar, construction of sewer pumping main, associated car parking, combined fence and retaining walls & earthworks and Variation to Development Authorisation 473/65/10 to vary Conditions 2 & 3 relating to hours of operation & overall capacity of the premises (excluding outdoor concerts) and to delete Conditions 9 & 10 relating to other operational restrictions (non-complying)
17 July 2019	18/827/473	Variation to 17/674/473- to vary building dimensions and internal floor plan of winery building
14/03/18	17/674/473	Winery , horticultural & office building
15/01/18	16/930/473	Vary location of overflow car park for special events
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5/05/17	16/906/473	Toilet block
22/07/17	16/392/473	Increase outdoor concert capacity from 3000 to 3500 persons
21/3/17	15/361/473	Dwelling additions and alterations
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27/08/15	14/717/473	In ground swimming pool and barriers
29/10/14	14/649/473	Relocation and addition to water storage tank
1/05/14	14/178/473	Variation to 10/56/473 to allow two indoor concerts with a capacity of 2100 over two nights
12/4/13	12/750/473	Change of use and alteration addition to existing buildings, offices and boardroom
12/04/13	12/718/473	Alteration and addition to barrel store- additional cellar door sales area and storage
22/03/13	12/688/473	Variation to the development authorisation 473/931/10- a reduction in size of cellar door in barrel store building and change of location
22/03/13	10/931/473	Change of use of the existing barrel store to include cellar door sales
27/03/13	10/65/473	Periodic special events (up to 2 times per calendar year) and increase in capacity of dining/function centre - 110 for seated & 150 for non- seated, & increase capacity of indoor and outdoor functions area for a maximum of 400 persons
27/03/13	12/734/473	Variation to development authorisation 473/65/10 to vary condition 3 to permit use of the barrel store for functions in addition to the existing restaurant.

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27/08/12	10/189/473	Alterations and addition to dwelling including two storey additions & carport, associated earthworks
3/05/2010	09/873/473	Winery waste water effluent dam
30/01/09	08/1087/473	Advertising display (Sign B)- Directional signage location on the intersection of Pfeiffer and Bird in Hand Roads
16/03/09	08/758/473	winery building (barrel store) associated with existing winery
3/11/08	08/757/473	Additional cellar door sales area and advertising sign (1.8m x 0.9m) associated with existing winery, restaurant and cellar door and amendment to the operating hours of the restaurant (9am to midnight 7 days per week)
2/03/07	06/979/473	Staged alterations and additions to the existing winery. Stage 1: Construction of new winery shed, increase in the winery crush from 500 to 2000 tonnes per annum, new grape receiveal and crushing facility, alterations to the existing waste treatment plant with conversion of the existing dam to spill detention basin and installation of new water storage tank (181KL) Stage 2: Alteration to the existing winery building to establish a 75 seat restaurant and cellar door sales facility with associated parking, and new toilet facilities
21/10/02	00/1173/473	Winery and olive bottling plant

The original development application 18/828/473 was considered by CAP on the 14 August 2019 and a recommendation by the staff to seek concurrence from State Commission Assessment Panel to grant planning consent was supported by the CAP. A copy of the original plans and the DNF are included as **Attachment 6**.

Following the State Commission Assessment Panel's concurrence and the issuing of the Development Plan Consent the decision was appealed to the ERD Court by representor Terramin Exploration Pty Ltd. The ERD Court proceedings resulted in the Court Order to vary the approved plans (only in relation to the car park layout, pedestrian access and stormwater management) and the conditions attached to the Development Plan Consent, including an increase to the number of conditions and removal of the reserve matter. A copy of the Court Order and amended plans are included as **Attachment 7**.

Following the Court Order there was a minor variation to the proposal under Regulation 47A of the *Development Regulations 2008* to stage the application with stage one (1) being construction of site works, stormwater infrastructure, footings and cellar. Stage one (1) was granted full development approval on 02 October 2020, and in accordance with the PDI Regulation Variation to Regulation 67, the applicant has two years to commence the development.

SUBJECT LAND & LOCALITY:

Subject Land:

The subject site is 29.74 hectares and irregular in shape with frontages to three roads, namely Pfeiffer Road (primary frontage of 681 metres), Drummond and Bird In Hand Roads. Access to the property is via a main entry (eastern most access point) on Pfeiffer Road as well as two private and/or staff access points.

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The subject site contains the Bird in Hand winery buildings, including restaurant and cellar door, function centre use within the combined restaurant, former barrel hall and a licenced outdoor area to the north of these buildings. There is also a new winery, horticulture and office building to the south of the existing winery buildings. Portion of the existing offices presently used as meeting room and office related storage rooms (in building to the north of the existing restaurant) is approved as a temporary cellar door (as currently approved/conditioned in Development Approval 17/674 and 18/827).

With the exception of the built form mentioned above and multiple uses currently occurring on site, the predominant use of the site is as a vineyard which surround the winery buildings on southern, western and eastern sides of the site. Furthermore, the site also includes a dam, winery wastewater dam, dwelling (in the front middle portion of the site), a watercourse, two silo structures 15-18 metres in height and a 300,000-litre water storage tank and on-site car parking. Furthermore, there is an area on the adjacent allotment utilised as a Woodside airstrip which is approved to be used as an overflow parking area for outdoor concerts.

Locality:

The locality is predominantly characterised by large rural allotments. To the north-west is the Woodside airstrip which also includes a dwelling located approximately 320 metres from the proposed development. To the north-east is a large allotment which is used for livestock grazing and is also the Adelaide Polo Club grounds. It currently features two playing fields, car parking, a shed, horse holding yards and a dwelling (caretaker's residence). The dwelling on the Polo Club is the closest dwelling to the proposed development site located approximately 300 metres away.

To the east is a large rural residential and livestock grazing allotment which features a State Heritage listed chimney and flue of the former Lone Hand Gold Mine. The dwelling and rural buildings are grouped in the north-west portion of the site. This dwelling is some 420 metres from the cellar door and function centre building on the site. There is a current mining application by Terramin Exploration Pty Ltd for this land. Further to the east is the Petaluma Winery. To the south east is another State Heritage listed property in the form of the Former Inverbrackie Caledonian Church (Ruin), Manse & Graveyard.

The dwellings to the south are located 330 to 400 metres away from the expansion area. These allotments are used for rural residential combined with livestock grazing or viticulture. The nearby Art Wine vineyard also features a cellar door.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Function centre: Code Assessed - Performance Assessed
Internal building work: Code Assessed - Performance Assessed
Shop: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed

PUBLIC NOTIFICATION

- **REASON**
Table 5 lists function centres as not requiring notification except a function centre which fails to satisfy DTS/DPF 6.6 in the Productive Rural Landscape Zone. The proposal fails to satisfy DPF 6.6(d) in that the height of the building exceeds 9m from natural ground level.

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- **LIST OF REPRESENTATIONS**

One (1) representation was received from the adjoining property opposing the proposal. The representor did not indicate they wished to be heard in support of their representation.

The CAP were the original decision authority for the development and as this proposal is a variation to that, the matter is being remitted to CAP for determination.

Representor Name	Representor's Property Address	Wishes to be Heard (Y/N)	Nominated Speaker (if relevant)
Tom Mehrstens- Terramin Exploration Pty Ltd	PO Box 1168 Strathalbyn SA 5255	No	N/A

The following is a summary of the issues in the representation:

- The reason for the increase to the height of the development is unclear and does not include assessment of the impacts on the nearby neighbours
- The increase in the height will increase the line of sight of the proposed mine on the adjoining allotment
- Conditions imposed by the ERD court on the original application seeks assurance that none of those will be overturned or alerted as a result of that planning consent being granted.

AGENCY REFERRALS

None

INTERNAL REFERRALS

None

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.

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The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in **Attachment 8**.

Desired Outcomes	
Productive Rural Landscape Zone <ul style="list-style-type: none"> • DO 1 • DO 2 • DO 3 	<ul style="list-style-type: none"> • A diverse range of land uses at an appropriate scale and intensity that capitalise on the region's proximity to the metropolitan area and the tourist and lifestyle opportunities this presents whilst also conserving the natural and rural character, identity, biodiversity and sensitive environmental areas and scenic qualities of the landscape. • A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the scale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes its regional identity • Create local conditions that support new and continuing investment whilst seeking to promote co-existence with adjoining activities and mitigate land use conflicts.
Hazards (Bushfire-Medium Risk) Overlay <ul style="list-style-type: none"> • DO 1 • DO 2 	<ul style="list-style-type: none"> • Development, including land division responds to the medium level of bushfire risk and potential for ember attack and radiant heat by sitting and designing buildings in a manner that mitigates the treat and impact of bushfires on life and property taking into account the increased frequency and intensity of bushfire as a result of climate change. • To facilitate access for emergency services vehicles to aid the protection of lives and assets from bushfires danger.
Heritage Adjacency Overlay <ul style="list-style-type: none"> • DO 1 	<ul style="list-style-type: none"> • Development adjacent to State and Local Heritage Places maintains the heritage and cultural values of those Places.
Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay <ul style="list-style-type: none"> • DO 1 	<ul style="list-style-type: none"> • Safeguard Greater Adelaide's public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from secondary reservoirs or diversion weir catchments from Mount Lofty Ranges.
Native Vegetation Overlay <ul style="list-style-type: none"> • DO 1 	<ul style="list-style-type: none"> • Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystem services, carbon storage and amenity values.
General Development Policies (Design): <ul style="list-style-type: none"> • DO 1 (a-c) 	<ul style="list-style-type: none"> • Development is: <ol style="list-style-type: none"> a) Contextual- by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate area. b) Durable- fit for purpose, adaptable and long lasting c) Inclusive- by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors
General Development Policies (Design in Urban Areas) <ul style="list-style-type: none"> • DO 1 (a-c) 	<ul style="list-style-type: none"> • Development is: <ol style="list-style-type: none"> (a) Contextual- by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate area. (b) Durable- fit for purpose, adaptable and long lasting (c) Inclusive- by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of

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	quality spaces with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors
Interface between Land Uses <ul style="list-style-type: none"> DO 1 	<ul style="list-style-type: none"> Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses

Relevant Performance Outcomes/Designated Performance Features	
Productive Rural Landscape Zone	Sitting and Design: PO 2.2 and DPF 2.2 Shops, Tourism and Function Centre: POs 6.1 6.2 and 6.6, DPFs 6.1, 6.2 and 6.6 Built Form and Character: PO and DPF 11.1
Heritage Adjacency Overlay	Built Form: PO 1.1
Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay	Water Quality: PO 1.1 Wastewater: POs 2.1 and 2.4 and DPFs 2.1 and 2.4 Stormwater: POs 3.1, 3.2 and 3.6, DPFs: 3.6 Landscape and Natural Features: PO 4.1
Native Vegetation Overlay	Environmental Protections: PO and DPF 1.1
General Development Policies (Design)	External Appearance: POs 1.1, 1.4, 1.5 and DPF 1.4 Landscaping: POs 3.1, 3.2 Earthworks: PO and DPF 8.1
General Development Policies (Design in Urban Areas)	External Appearance: POs 1.1, 1.4, 1.5 and DPF 1.4 Landscaping: PO 3.1 All development- Medium and High Rise- External Appearance: POs 12.2, 12.3, 12.5 and DPF 12.5
Interface Between Land Uses	General Land Use Compatibility: POs 1.1 and 1.2 Activities Generating Noise or Vibration: POs 4.1, 4.5, 4.6 and DPFs 4.1, 4.6 Light Spill: POs 6.1 and 6.2

Building Height, Setbacks, Design & Appearance:

The main components of the proposed variation in terms of planning impacts are to do with the increase in the overall height and floor area of the buildings. PO 6.2 in the Productive Rural Landscape Zone seeks that shops proposed in the new building are sited, designed and of a scale that maintains a pleasant rural character and amenity. DPF 6.2 outlines that a way to achieve this is to have a setback of at least 20m from property boundaries and the building height does not exceed 9m, with shops not sited within 100m of a sensitive receiver. Similar outcomes are also sought by PO and DPF 6.6 which are more specific to functions centres with the only difference being the recommended setback from property boundaries is 40m. Whilst the proposal fails to satisfy the quantitative height requirements by exceeding the height requirements by 9m, the proposal is still considered to be consistent with the intent of POs 6.2 and 6.6. The setback from the closest boundary is 127m whilst the closest sensitive receiver is 300m away and thus the setback proposed is well in excess of what is sought by the Code. The building is also proposed centrally to the site and clustered together with existing buildings including the two silo structures. These structures are above the height of the proposed building, with one silo being 1.2m and the other 2.7m above the height of the proposed building. It is also important to consider the overall design of the building when assessing the impacts of the height. At its highest point the building is 18m at the western end next to the two silos, from this point the building height tapers off to 12m which is a difference of 6m between the highest point of the building and the lowest point of the building. This variation in the roof height and the general articulation of the design will break up the mass of the proposed building.

In the representation received the neighbour has outlined some concerns in relation to the proposed increase in height, the lack of reasoning behind the increase as well as an increased ability for overlooking into the neighbouring property and the proposed mining operations on the site. Whilst overlooking is considered during the assessment

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process, the Code only affords this assessment to overlooking into adjacent residential properties and views into private open spaces and living areas of dwellings. In this instance the view from the upper level of the building would not be classified as overlooking, firstly because the adjoining property is not residential in nature and as such the Code is silent on overlooking into non-residential properties. Secondly any views from the upper levels of this building would be classified as distant and as such would not be considered as direct overlooking.

PO 6.2 seeks that the shops are associated with existing primary production or primary production related value adding industry and DPF 6.1(c) states that one way of achieving this outcome is to ensure that the gross leasable floor area does not exceed 100m² or 250m² in case of a cellar door. As mentioned above, this application does not have any implications on the already approved use of the building as part of Development Application 18/828/473 and as such this aspect is not being considered with this application. In saying that however, some consideration needs to be given to the changes being proposed and these would have any impacts on the primary production use. As mentioned above, apart from the increase to the height of the building the works will also result in the increase in the total floor area of the building by 150m². The floor area expansion is calculated factoring in the changes to the ground and first floor level. Given the location of the proposed building it is considered that the expansion of the floor area by 150m² is not going to have any impacts on the primary production use of the land. Whilst the floor area of the cellar door is above the 250m² this in itself does not mean that the proposal fails to satisfy the intent of PO 6.2. The variation does not result in the loss of primary production land.

PO 11.1 in Productive Rural Landscape Zone seeks that the buildings are designed and sited to reduce impacts on scenic and rural vistas by having substantial setbacks, using low reflective materials and finishes and being located below ridgelines. The proposal is considered to be consistent with the intent of PO 11.1. The setbacks from boundaries as mentioned above are substantial with the building is located centrally on site and clustered together with other built form. Whilst the design of the building is contemporary in nature and not consistent with existing buildings on site as well as other built form in the locality, it is still considered to be of a high standard and well considered, utilising a mixture of different colours and materials whilst minimising the bulk and scale through a clever use of transparent materials at the upper levels.

Heritage:

PO 1.1 in the Heritage Adjacency Overlay seeks that development adjacent to a state or local heritage place does not dominate, encroach on or, unduly impact on the setting of the place. The closest heritage property is approximately 1600m south/west of the subject site and the proposed increase in height of 2.76m and the increase in the floor area of 150m² is not going to impact on the setting of the heritage place.

CONCLUSION

The proposed changes to the building which include the increase in height and floor area as well as internal alterations are not detrimental to the locality. Whilst the proposal fails to satisfy some of the designated performance features in terms of the building height and the size, it is noted that these departures are not considered detrimental given that the proposal is able to achieve the relevant performance outcomes through other means. The performance outcomes have been met by the building having a significant setback from property boundaries and also from the sensitive receivers. Furthermore, the articulation in the design and the use of mixture of materials and finishes especially in relation to the upper levels has further ensured that the overall bulk and scale of the building on the locality is minimised.

As such it is considered that the increase in height by 2.76m and the increase in the floor area by 150m² are considered to have no detrimental impact on the character and the amenity of the locality.

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 21019844, by Bird in Hand Winery for Variation to 18/828/473 to increase the floor area and the height of the cellar door, restaurant & function facility and internal alteration at 150 Pfeiffer Rd Woodside is granted Planning Consent subject to the following conditions:

CONDITIONS

Planning Consent

Condition 1:

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

Condition 2:

Except where varied by this authorisation, all other conditions, plans and details relating to Development Authorisation 18/828/473 (as amended by ERD Court Order dated 21 August 2020) continue to apply to this amended authorisation.

ADVISORY NOTES

General Notes

- 1) 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.
- 2) 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.
- 3) A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - b. if an appeal is commenced—
 - i. until the appeal is dismissed, struck out or withdrawn; or
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).

Planning Consent

This Planning Consent is valid for a period of twenty four (24) months commencing from the date of the decision.

Building Consent must be applied for prior to the expiry of the DPC.

CAP MEETING – 10 NOVEMBER 2021
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OFFICER MAKING RECOMMENDATION

Name: Doug Samardzija

Title: Statutory Planner