

DEVELOPMENT NO.:	21027668
APPLICANT:	Planning Studio Pty Ltd Vinteloper Wines
ADDRESS:	589 CUDLEE CREEK RD CUDLEE CREEK SA 5232 CT 5946/767
NATURE OF DEVELOPMENT:	Convert former dwelling to shop for the sale and tasting of wine with associated building alterations & additions, associated car-parking and landscaping
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 - High Risk) • Hazards (Flooding - Evidence Required) • Limited Land Division • Mount Lofty Ranges Water Supply Catchment (Area 2) • Native Vegetation • Prescribed Water Resources Area • Traffic Generating Development • Urban Transport Routes • Water Resources
LODGEMENT DATE:	28 October 2021
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	2021.15
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes Notification period from 5 November 2021 to 25 November 2021
RECOMMENDING OFFICER:	Marie Molinaro Statutory Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Council Engineering Council Environmental Health

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DETAILED DESCRIPTION OF PROPOSAL:

The proposal is for the establishment of a shop for the sale and tasting of wine. The shop use is to be established partly within a former dwelling. The dwelling was mostly destroyed in the Cudlee Creek Bushfire of 2019 except for the slab and three brick walls. The proposal will use what is left of the dwelling to construct the shop, with an addition at the rear, which will require the demolition of a shed.

The proposal consists of the following:

- Shop building comprising:
 - 115 square metre tasting room with link to 75 square metre open outdoor area
 - 23 square metre wine storage area
 - Staff office area
 - Four toilets, including one universal access toilet.
 - The floor area of the building is approximately 212 square metres, plus the outdoor area.
- The walls of the shop building will be the existing/remaining brick walls and a mixture of pre-colour treated steel in Colorbond 'Monument' (black) colour and pre-cast concrete cladding.
- The roof of the shop building will be zinc cladding 'Pigmento Red' colour and Colorbond 'Monument'.
- The shop building will be single storey, with a maximum height of 6m to the peak of the roof above the remaining brick walls. The addition will have a flat roof pitch.
- The shop will sell and provide tasting of Vinteloper wines. The Vinteloper brand of wine sources grapes from the vineyard on the land, and other small vineyards across the Mount Lofty Ranges region.
- The shop will have a maximum capacity of 40 persons at any one time both inside the shop building and the associated outdoor area.
- The shop will be open 11:00am-5:00am Friday-Monday of each week, plus public holidays.
- The shop will serve light platters required to meet liquor licensing requirements, but it does not contain a commercial kitchen for restaurant use.
- Functions and entertainment are not proposed as part of this application. However, the applicant has indicated there may be a desire to participate in regional wine events such as Winter Reds etc.
- A 26 space compacted gravel car-park. The car-park is located on the southern side of the building and will be accessed from Berry Hill Road. The access point is existing, and is approximately 30m from the intersection of Cudlee Creek Road.
- Landscaping will be planted around the perimeter of the car-park and in front of the shop building. Landscaping will comprise a mix of non-native ground covers, small shrubs (maximum height 1m) and Chinese Elm trees (maximum height 6m).
- Stormwater will be managed on-site. Stormwater from the shop building will be captured in a detention tank and released to a soakage trench. Run-off from the car-park is to be discharged via a bioswale and then piped to a soakage trench.
- Wastewater will also be managed on-site. The existing wastewater system will be de-commissioned and replaced with a new Ozzi Kleen AWTS system with surface irrigation. The irrigation area will be on the northern side of the shop building, along the Cudlee Creek Road frontage.

- Signage is not forming part of this proposal.

The application documents are included as **Attachment 1 – Application Documents**.

BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
19 October 1998	473/970/98	Vineyard
3 August 2012	11/487/473	Change of land use to include horticulture (strawberry plantation – 10 hectares & cherry orchard 2 hectares) & conversion of dairy into shop (cellar door sales), verandah, decking (maximum height 900mm) & outdoor area & two advertising displays Stage 1 only – change of land use to include horticulture (strawberry plantation – 10 hectares & cherry orchard – 2 hectares)
6 May 2020	20/371/473	Replacement Farm Building

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 589 CUDLEE CREEK RD CUDLEE CREEK SA 5232

Title ref: CT 5946/767 **Plan Parcel:** F155936 AL21

The subject land is an irregular shaped allotment with an area of 29.38 hectares.

Built form on the land consists of the former dwelling building and a cluster of outbuildings. Buildings on the land are clustered in the south-western corner of the land. The former dwelling building is approximately 13m from the Cudlee Creek Road boundary.

The land has a primary frontage to Cudlee Creek Road, and secondary frontage to Berry Hill Road. The land is on the eastern side of Cudlee Creek Road and northern side of Berry Hill Road.

Access to the land is from Berry Hill Road. Cudlee Creek Road is a sealed arterial roadway, Berry Hill Road is only sealed to the access point to the subject land, but beyond this it is unsealed.

Most of the land is planted as a vineyard, with dam on the northern part of the land. The land is steeply sloping, and the buildings are located on the highest part of the land.

The land is approximately 2 kilometres north as the crow-flies from the Lobethal township.

There are no easements or other restrictions listed on the Certificate of Title.

Locality:

The locality predominantly consists of large allotments used for grazing and rural residential purposes. The proposed shop building is approximately 90m from the nearest dwelling not on the subject land. This is the dwelling on the opposite/western side of Cudlee Creek Road at 363 Neudorf Road, Cudlee Creek.

The subject land is identified on **Attachment 2 – Subject Land/Representation Map**. The zoning is shown on the map in **Attachment 3 – Zoning Map**.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Cellar Door: Code Assessed - Performance Assessed
Shop: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
The proposal is not listed as Accepted, Deemed to Satisfy or Restricted in the Planning & Design Code so it defaults to being a Performance Assessed type of development.

PUBLIC NOTIFICATION

- **REASON**
Shops are exempt from public notification per Table 5 procedural matters of the Productive Rural Landscape Zone provided DTS/DPF6.1 and DTS/DPF6.2 are met. The proposal fails to meet all of the criteria in DTS/DPF6.2 so public notification was required. Specifically, the shop building is less than 20m from all property boundaries and it is sited within 100m of a sensitive received in another ownership.

Public notification was undertaken from 5 November 2021 to 25 November 2021.

- **LIST OF REPRESENTATIONS**
Two (2) opposing representations from adjacent land owners/occupiers were received during the public notification period. Both of the representors wish to be heard in support of their written representation. The representors are detailed below:

Representor Name	Representor's Property Address	Wishes to be Heard (Yes/No)	Nominated Speaker (if relevant)
Annette Mason	10 Berry Hill Road, Lobethal	Yes	TBA
Jason Draper	632 Cudlee Creek Road, Lobethal	Yes	TBA

- **SUMMARY**
The issues contained in the representations can be briefly summarised as follows:
 - Amenity impacts relative to:
 - Dust nuisance through customer use of the unsealed section of Berry Hill roadway
 - Traffic impacts through customer use of the Berry Hill road verge for overflow parking and vehicle manoeuvring
 - Negative customer behaviour
 - Traffic safety concerns re entry and exit onto Cudlee Creek Road from Berry Hill Road
 - Concerns regarding future use of the shop for increased customer numbers, hours of operation and functions with resulting negative impact on residential amenity.

A copy of the representations are included as **Attachment 4 – Representations** and the applicant’s response is provided in **Attachment 5 – Response to Representations**.

AGENCY REFERRALS

No referrals to external agencies were required.

INTERNAL REFERRALS

- Council Engineering
Accepted the car-parking design and stormwater management design for the car-park and shop building. Council Engineering also advised on the representors’ concerns regarding traffic. This is discussed later in the report.
- Council Environmental Health
Approved the wastewater application.

PLANNING ASSESSMENT

Desired outcomes

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

Performance outcomes

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

Designated performance features

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

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in **Attachment 6 – Relevant P&D Code Policies**.

Productive Rural Landscape Zone

Desired Outcomes	
DO1	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 while also conserving the natural and rural character, identity, biodiversity and sensitive environmental areas and scenic qualities of the landscape.

DO2	A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the sale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes its regional identity.
DO3	The creation of local conditions that support new and continuing investment while seeking to promote co-existence with adjoining activities and mitigate land use conflicts.
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1 & DTS/DPF1.1, PO2.1 & DTS/DPF2.1, PO2.2 & DTS/DPF2.2, PO6.1 & DTS/DPF6.1, PO6.2 & DTS/DPF6.2, PO8.1 & DTS/DPF8.1 & PO11.1	

The proposal is for a value adding activity that will support the ongoing use of the land for primary production (viticulture) as desired in the Zone. A shop for the sale and tasting of wine is considered to be a form of tourist development as also desired in the Zone.

The built form aspect of the land is partly within an existing building frame so as to minimise disturbance to the land in the form of earthworks and vegetation removal and assist in maintaining the natural and rural character of the Zone. The shop building is located at the highest point of the land, but again this is to take advantage of an existing building and its infrastructure. The shop building will be constructed of contemporary materials of a high architectural standards as to assist in maintaining the scenic quality of the landscape. Council staff have a material sample available of the zinc ‘Pigmento Red’ cladding, the sample shows this material is non-reflective.

There will be no removal of vineyard plantings to accommodate the shop building and its associated car-park.

PO 6.1, DTS/DPF6.1 and PO6.2, DTS/DPF6.2 relate directly to shop development.

PO6.1 seeks for shops to be associated with an existing primary production activity to support diversification of employment, provide services to visitors and showcase local and regional products. Specifically DTS/DPF6.1 seeks shop development to achieve the following:

- a) *are ancillary to and located on the same allotment or adjoining allotment used for primary production or primary production related value adding industries*
- b) *offer for sale or consumption produce or goods that are primarily sourced, produced or manufactured on the same allotment or adjoining allotments*
- c) *have a gross leasable floor area not exceeding 100 square metres or 250 square metres in the case of a cellar door*
- d) *have an area for the display of produce or goods external to a building not exceeding 25 square metres*
- e) *does not result in more than 75 seats for customer dining purposes in a restaurant.*

The proposal complies with all criteria of DTS/DPF6.1. Recommended condition ten (10) re-enforces the use of the shop for the sale of wine only to ensure there is no possibility of it becoming a shop of a general nature in the future.

PO6.2 & DTS/DPF6.2 relate to the siting of shop buildings. Specifically DTS/DPF6.2 seeks shop development to achieve the following:

- a) *are setback from all property boundaries by at least 20m*
- b) *are not sited within 100m of a sensitive receiver in other ownership*
- c) *have a building height that does not exceed 9m above natural ground level.*

The proposal does not comply with criteria a or b. The shop building is approximately 13m from the Cudlee Creek Road boundary, but it is approximately 38m from the Berry Hill Road boundary.

The reduced setback to the Cudlee Creek Road boundary is considered to be acceptable noting the shop building takes advantage of an existing building frame and the new building work addition is at the rear of the existing building frame. PO8.1 & DTS/DPF8.1 encourages the adaptive re-use of buildings for small-scale commercial development including shops. It is considered unreasonable to encourage the construction of an entirely new building to meet the setback criteria.

The shop building will be approximately 90m from the nearest dwelling not on the subject land. The next nearest dwelling is in the ownership of representor Annette Mason and the shop building is approximately 150m from this dwelling.

A 10m variance is considered to be a minor departure from criteria b. Land use conflicts are discussed later in the report, noting a 100m buffer is desired to mitigate against land use conflicts.

The proposal is considered to be consistent with the relevant Desired Outcomes, Performance Outcomes and Designated Performance Features of the Zone.

Overlays

Hazards (Bushfire – High Risk) Overlay

Desired Outcomes	
DO2	Activities that increase the number of people living and working in the area or where evacuation would be difficult is sited away from area of unacceptable bushfire risk
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO3.2 & PO6.3	

It is acknowledged that the proposal will increase the number of visitors in the area, however the subject land is serviced by sealed roadways and is approximately 2 kilometres as the crow-flies from Lobethal township, which is designated on the CFS website as a Bushfire Safer Place.

In the planning report accompanying the application it is noted that the shop will be closed on designated Catastrophic Bushfire Risk days, or if there is a known bushfire within the local area.

The proposed shop use has a maximum capacity of 40 persons, which is considered to be on the smaller scale relative to similar type of facilities in the district. Shop, tourism and function centre uses are encouraged within the Productive Rural Landscape Zone, the majority of which falls within the Hazards (Bushfire – High Risk) Overlay.

Mainly habitable building/use types and educational facilities in the Hazards (Bushfire – High Risk) Overlay trigger a referral to the SA Country Fire Service. No referral was necessary for this proposal.

Hazards (Flooding – Evidence Required) Overlay

Desired Outcomes	
DO1	Development adopts a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment through the appropriate siting and design of development.

The development area is located at the highest point on the land and there are no nearby watercourses. The risk of flooding is considered low so no flood evidence was sought of the applicant.

Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay

Desired Outcomes	
DO1	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 the Mount Lofty Ranges.
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1, PO2.1 & DTS/DPF2.1, PO2.3, PO2.5 & DTS/DPF2.5, PO3.1, PO3.2, PO3.3 & PO4.1	

Wastewater and stormwater will be managed on-site.

In terms of wastewater, the proposed shop use is anticipated to generate 320L of wastewater per day. This is well below the threshold requiring a referral to the Environment Protection Authority.

Council Environmental Health approved the waste control system, so it complies with the Public Health Act and relevant standards relative to setbacks from watercourses and slope of the land.

Stormwater from both the shop building and parking area will be directed to a soakage pit on the northern side of the building. Run-off from the car-park will first filter through a bioswale to reduce pollutants. Council Engineering has accepted the stormwater design.

The proposal is consistent with the Desired Outcomes, Performance Outcomes and Designated Performance Features of the Overlay.

Native Vegetation Overlay

Desired Outcomes	
DO1	Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystems services, carbon storage and amenity values.

The development area including the shop building, car-park area and waste control and stormwater disposal areas are clear of native vegetation.

Prescribed Water Resources Area Overlay

Desired Outcomes	
DO1	Sustainable water use in prescribed surface water resources areas maintains the health and natural flow paths of watercourses.

This overlay is not considered to be directly relevant to the proposal as the DTS/DPF criteria relate to activities that require water allocation licences from Landscape South Australia such as horticulture, forestry and new dams or alterations to existing dams.

Traffic Generating Development Overlay

Desired Outcomes	
DO1	Safe and efficient operation of Urban Transport Routes and Major Urban Transport Routes for all road users.
DO2	Provision of safe and efficient access to and from urban transport routes and major urban transport routes.

This overlay is not considered to be directly relevant to the proposal as the DTS/DPF criteria relate to large scale land division, commercial and education facility type developments.

Urban Transport Routes Overlay

Desired Outcomes	
DO1	Safe and efficient operation of Urban Transport Routes for all road users.
DO2	Provision of safe and efficient access to and from Urban Transport Routes.
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO5.1 & DTS/DPF5.1	

Access will be via the existing access point from Berry Hill Road. The access point is approximately 36m from the intersection with Cudlee Creek Road – the State maintained road. Due to this separation distance a referral to the Commissioner of Highways is not required.

PO 5.1 & DTS/DPF5.1 relate to the creation of new access points directly from the State maintained road and driver sightlines. Whilst no access is proposed from Cudlee Creek Road the representors raised concern regarding driver sightlines at the Berry Hill Road and Cudlee Creek Road intersection.

In response, Council Engineering have advised that there is already a warning sign of the intersection on the Cudlee Creek road verge. Council’s data shows there has been only one accident at the intersection, being in 2015 involving a vehicle and an animal. It is Council Engineering’s position that there many roads with limited sightlines within the Council area, and it is the responsibility of road users to proceed with caution.

In regards to this matter, the applicant also sought the opinion of a Traffic Engineer from MFY Consulting. The Traffic Engineer notes that there are sight distance constraints towards the north of the intersection. However, it is their expert opinion that the increase to traffic volumes along Berry Hill Road as generated by the proposed development are of a level that would not trigger a requirement to upgrade the intersection.

Water Resources Overlay

Desired Outcomes	
DO2	Maintain the conveyance function and natural flow paths of watercourses to assist in the management of flood waters and stormwater runoff.

There are no watercourse impacts.

General Development Policies

Clearance from Overhead Powerlines

Desired Outcomes	
DO1	Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1 & DTS/DPF1.1	

The applicant has signed the building safety near powerlines declaration, which complies with DTS/DPF1.1.

Design

Desired Outcomes	
DO1	Development is: <ul 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) dural – 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 integrated 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 d) sustainable – by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water

	management, environmental performance, biodiversity and local amenity and to minimise energy consumption.
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.4 & DTS/DPF1.4, PO1.5, PO7.2, PO7.3, PO7.4, PO7.5, PO7.6 & PO7.7	

POs7.2-7.7 relate to car-parking appearance. The proposed on-site parking area is on the southern side of the proposed shop building to take advantage of the existing access-point. The car-parking area is linked to the shop building by a landscaped internal pathway. Additional landscaping is proposed between the edge of the car-park and the Cudlee Creek Road and the Berry Hill Road boundaries.

The landscaping consists of exotic plants with a combination of ground covers, small 1m high shrubs and a scattering of 6m high Chinese Elm trees.

Recommended condition eleven (11) sets out a timeframe for the landscaping to be planted, and on-going maintenance requirements.

The use of exotic plants is considered to be acceptable as the selected plant species blend with the English cottage look of the remaining structure of the former dwelling.

PO1.5 seeks for outdoor storage, waste storage and service areas to be screened from public view. This is considered to be important considering the zoning and location of the subject land adjacent to an arterial roadway. Recommended condition twelve (12) requires waste to be stored in a screened location not visible from Cudlee Creek Road to ensure compliance with PO 1.5. It is also considered to be in the operator's interests to comply with this condition to maintain an attractive shop front for visiting customers.

The proposal is consistent with the Design policies.

Infrastructure and Renewable Energy Facilities

Desired Outcomes	
DO1	Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO 11. & DTS/DPF 11.1, PO 12.1 & DTS/DPF 12.1 & PO 12.2 & DTS/DPF 12.2	

PO11. & DTS/DPF11.1 relate to water supply. The subject land is not connected to mains water, instead the proposed shop use will be reliant on on-site water storage.

PO12.1, DTS/DPF12.1 & PO12.2 & DTS/DPF12.2 relate to wastewater service.

PO 12.1 seeks for development to be connected to a common wastewater disposal service such as sewer or CWMS. This is not available to the subject land, so wastewater will be managed on-site. The waste system will be wholly contained within the boundaries of the subject land, and it will comply with the requirements of the Public Health Act 2011 as approval for the wastewater system has been granted by Council Environmental Health.

The shop building, car-park area and stormwater swales do not encroach upon the waste control system.

The proposal is consistent with the Infrastructure and Renewable Energy Facilities policies.

Interface Between Land Uses

Desired Outcomes	
DO1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO2.1 & DTS/DPF2.1, PO4.5 & PO6.1	

PO2.1 & DTS/DPF2.1 seeks for non-residential development to not unreasonably impact the amenity of sensitive receivers through its hours of operation.

The proposed shop use is encouraged in the Zone, and there is only a marginal shortfall in the desired setback to sensitive receivers.

In any event, hours of operation are considered to be unlikely to create an impact on nearby residences. The proposed shop is only to be open for six hours across four days of the week – Friday-Monday between 11am and 5pm.

Recommended conditions seven (7) and eight (8) re-enforce the operating hours and maximum capacity. If the operators wish to expand upon either the trading hours, or maximum capacity they will need to submit a fresh development application to vary the consent.

Recommended condition fourteen (14) also limits the provision of food to light snacks only, to re-enforce the use as a shop and not restaurant.

PO4.5 relates specifically to the proposal as it seeks outdoor areas associated with licensed premises to be designed and/or sited not to cause unreasonable noise impact on existing adjacent sensitive receivers.

The proposed shop use includes an outdoor area on the northern side of the building. The outdoor area is shielded on three sides by the shop building. As it is on the northern side of the building the open side faces away from the nearest sensitive receivers. The licensed area plan forming part of the proposal plans includes the outdoor area.

The representors raised concern regarding possible negative/anti-social customer behaviour associated with the proposed use. Unfortunately controlling/managing user behaviour is outside of the scope of the planning system to regulate. Shops specifically for the sale and tasting of wine sourced from produce grown within the local area are encouraged in the Zone.

PO6.1 seeks to control external lighting to ensure it does not cause unreasonable light spill. There is no lighting associated with the car-park area, and recommended condition two (2) restricts security lighting around the shop building.

The proposal is consistent with the Interface Between Land Uses policies.

Transport, Access and Parking

Desired Outcomes	
DO1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
Performance Outcomes & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.4 & DTS/DPF1.4, PO3.1 & DTS/DPF3.1, PO4.1 & PO5.1 & DTS/DPF5.1	

PO5.1 & DTS/DPF5.1 relate to the on-site vehicle parking rate requirements.

With regard to Table 1 of the Planning & Design Code - Transport, Access and Parking a shop use with no commercial kitchen should be provided with 5.5 on-site parking spaces per 100 square metres of gross leasable floor area. Gross leasable floor area does not include non-roofed areas, so on this basis 11.7 on-site parking spaces are required. As there is no available off-street parking it is considered necessary that all parking be provided on-site. A 26 space car-park is provided, which is well in excess of the Table 1 guide.

A universal access parking space is provided with direct access to the shop building, which complies with PO 4.1.

The Traffic Engineer from MFY recommended that the existing access point and internal driveway be slightly modified to comply with the relevant Australian Standard Off-Street Parking (AS/NZS2890.1:2004). Recommended condition four (4) requires the provision of an amended car-parking plan demonstrating compliance with AS/NZS2890.1:2004 prior to Building Consent. This condition also requires the car-parking to be completed prior to the shop use commencing.

The car-park surface treatment is to be compacted gravel. This is acceptable as a sealed car-park would not be fitting with the rural character of the area, and could lead to increased water quality impacts. Recommended condition five (5) requires the maintenance of the car-park area at all times. Again, it is also considered to be in the operator’s interests to maintain the car-park area to ensure an attractive shop front to visitors.

PO1.4 & DTS/DPF1.4 seek for all vehicle manoeuvring to occur within the subject land. The car-park is large enough to allow for passenger and mini-bus vehicles to enter and exit in a forward motion. Larger buses will not be allowed to enter the site.

Representor concern was noted regarding customers driving past/beyond the access point and causing dust nuisance, in addition to parking on and causing disturbance to the road verge.

Council Engineering is of the opinion that the existing no-through road and emergency vehicle only street signs along Berry Hill Road are enough to deter vehicles going past the subject land.

Recommended condition five (5) also requires the car-parking area to be sign-posted, which should also assist with directing customers where to park.

As there is an excess of on-site parking spaces it is not anticipated that customers will need to park on the road verge. If this however does become an issue Council Regulatory staff can monitor.

The proposal is consistent with the Transport, Access and Parking principles.

CONCLUSION

The proposal is to convert a former dwelling to a shop for the sale and tasting of wine in the Productive Rural Landscape Zone. Included in the proposal is a building addition, and construction of an on-site car-parking area with associated landscaping.

The proposed use is encouraged in the Zone, and amenity impacts are considered to be addressed and managed to acceptable levels.

On-site car-parking, stormwater and wastewater management arrangements are all adequate.

Representor concern re possible negative customer behaviour is noted, however this is outside the scope of the planning system to regulate.

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 21027668, by Planning Studio Pty Ltd and Vinteloper Wines for conversion of former dwelling to shop for the sale and tasting of wine with associated building alterations & additions, associated car-parking and landscaping 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) Commercial Lighting
Flood lighting shall be restricted to that necessary for security purposes only and shall be directed and shielded in such a manner as to not cause nuisance to adjacent properties.
- 3) External Finishes
The external finishes to the building herein approved shall be as follows:
WALLS: Mixture of existing brick walls, pre-cast concrete panels and pre-colour treated steel in Colorbond 'Monument' colour or similar.
ROOF: Zinc cladding in 'Pigmento Red' colour & Colorbond 'Monument' or similar.
- 4) Prior to Building Consent – Provision of Carparking Plan Designed In Accordance with Australian Standard AS 2890.1:2004
Prior to Building Consent being granted a final car-parking plan which complies with Australian Standard AS2890.1:2004 shall be provided and approved by Council.

5) **Construction & Maintenance of Car-Parking**

All car parking spaces, driveways and manoeuvring areas shall be constructed and line-marked in accordance with AS 2890.1:2004. Line marking and directional arrows shall be clearly visible and maintained in good condition at all times. Driveways, vehicle manoeuvring and parking areas shall be constructed of compacted gravel prior to the opening of the shop and thereafter be maintained in good condition at all times to the reasonable satisfaction of Council.

6) **Car Parking Directional Signage**

Directional signs indicating the location of car parking spaces shall be provided on the subject land and maintained in a clear and legible condition at all times.

7) **Unloading and Storage of Materials and Goods**

All materials and goods shall at all times be loaded and unloaded within the confines of the subject land. Materials and goods shall not be stored on the land in areas delineated for use as car parking.

8) **Opening Hours**

The opening hours of the shop shall be Friday-Monday and public holidays from 11:00am to 5:00pm.

9) **Overall Capacity**

At any one time, the overall capacity of the premises shall be limited to a maximum of 40 persons. This includes the associated outdoor areas.

10) **Entertainment**

Amplified music shall be limited to within the shop building.

11) **Sale & Tasting of Wine Restricted to Licensee's Own Product**

The sale and tasting of wine shall be limited to that which is the licensee's own product, and shall be primarily produced within the Mount Lofty Ranges Region.

12) **Timeframe for Landscaping to be Planted**

Landscaping detailed on the approved landscaping plan shall be planted in the next available planting season following the opening of the shop. Landscaping shall thereafter be maintained in good health and condition at all times. Any landscaping that dies or becomes seriously diseased shall be replaced in the next available planting season.

13) **Stormwater Roof Runoff & Car-Park Runoff to be Dealt With On-Site**

All roof runoff and runoff from the car-park shall be managed on-site in accordance with the approved stormwater plan to the satisfaction of Council.

14) **Removal & Storage of Solid Waste**

All solid waste of any kind shall be stored in a closed container having a closed fitting lid. The container shall be stored in a screened area so that it is not visible from Cudlee Creek Road.

15) **Ancillary Food**

Individual meals may not be offered to patrons, with the exception of light snacks such as platters.

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 DPC.

- 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.**
- 4) **A separate development application is required for any signs or advertisements (including flags and bunting) associated with the development herein approved.**
- 5) **This approval does not in any way imply compliance with the Food Act SA 2001 and/or Food Safety Standards. It is the responsibility of the owner or other person operating the food business from the building to ensure compliance with the relevant legislation before opening the food business on the site.**

OFFICER MAKING RECOMMENDATION

Name: Marie Molinaro
Title: Statutory Planner

DEVELOPMENT NO.:	21018753
APPLICANT:	Kate Bishop Bella Casa, Ashton
ADDRESS:	159 RIDGE RD ASHTON SA 5137 CT 5756/921 F130666 AL2
NATURE OF DEVELOPMENT:	Tourist Accommodation & associated free standing advertisement
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Hills Face <p>Overlays:</p> <ul style="list-style-type: none"> • Water Resources • Environment and Food Production Area • Hazards (Bushfire - High Risk) • Heritage Adjacency • Hazards (Flooding - Evidence Required) • Mount Lofty Ranges Water Supply Catchment (Area 1) • Native Vegetation • Prescribed Wells Area • Regulated and Significant Tree • State Significant Native Vegetation
LODGEMENT DATE:	9 Aug 2021
RELEVANT AUTHORITY:	Council 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:	Environment Protection Authority South Australian Country Fire Service
REFERRALS NON-STATUTORY:	Environmental Health Department

CONTENTS:

ATTACHMENT 1: Application Documents	ATTACHMENT 5: Response to Representations
ATTACHMENT 2: Subject Land Map/Representation Map	ATTACHMENT 6: Prescribed Body Responses
ATTACHMENT 3: Zoning Map	ATTACHMENT 7: Internal Referral Advice
ATTACHMENT 4: Representations	ATTACHMENT 8: Relevant P& D Code Policies

DETAILED DESCRIPTION OF PROPOSAL:

The proposal purports the establishment of a new small scale, single tourist accommodation ‘module’ comprising a ‘bedsit’ suite and free-standing advertising display signage at 159 Ridge Road Ashton.

The proposed tourist accommodation, in this form, commonly referred to in contemporary terms as a ‘pod’, is basic in its composition and compact, with 7.77 metres overall length, 4.68 metres width and a maximum height above ground of 3.77 metres to the top of its flat-skillion roofline, and comprising a ‘bedsit’ bedroom / living area along with a compact shower and toilet amenities and kitchenette.

The proposed tourist accommodation is to be situated upon the subject land, setback 50.0 metres from the Ridge Road frontage of the site, 160 metres from the south-western side property boundary and 65 metres from the eastern side property boundary. The proposed accommodation is situated approximately 40 metres from an existing implement shed which has been approved to be utilised as a cellar door facility and in excess of 90 metres from the existing dwelling. The rear property boundary lies in excess of 430 metres to the north-east.

The proposed building is to be finished in a composite of materials including colour-finished trimdeck profile metal roof sheeting and trims in ‘monument’ (dark grey colour), with composite wood panelling in a timber-look finish, feature timber battens and decking, and predominant glazing to the northern aspect to take advantage of the available views.

The proposed free-standing advertising display is to be comprised of a galvanised metal ‘square’ frame dimensioned 0.8 metres wide x 0.7 metres high, constructed to be fixed 0.3 metres above ground level. The proposed signage is to be situated at the Ridge Road property frontage immediately south-west of the proposed access to the tourist accommodation pod and approximately 40 metres south-west of the existing main driveway to the property’s dwelling and cellar door.

The proposed signage is to contain advertising for the ‘*Bella Casa Vineyard Accommodation*’ and contains email and website details and graphics. The signage does not purport to be illuminated in any way, or move or flash.

BACKGROUND:

The site has formerly been developed with a detached dwelling, garage and implement shed and approximately 4.3 Ha of vineyards established in 2003.

The implement shed was granted Development Plan Consent in 2017 to be converted to a cellar door facility in Development Application 473/262/17, for the *Change of use from horticulture building to cellar door sales outlet (shop), including ancillary functions (maximum of 3 per calendar year), associated building alterations, attached deck, car parking area & freestanding advertising sign (maximum height of 1m) (non-complying)*.

The cellar door approval permits a general capacity of 20 persons and a maximum event capacity of 50 persons for the nominated maximum 3 events per calendar year. Development Approval was granted on 13 October 2020.

The land also maintains approximately 10.6 Ha of native bushland in its northern extent which adjoins the Giles Conservation Park.

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
08 July 2020	20/321/473	WITHDRAWN- Variation to development Authorisation 17/262/473 to vary condition 5 & 8 pertaining to capacity, number of functions and hours of operation, to include toilet block addition onto the cellar door, increase to area of deck & car park alterations

13 October 2020	17/262/473	Change of use from horticulture building to cellar door sales outlet (shop), including ancillary functions (maximum of 3 per calendar year), associated building alterations, attached deck, car parking area & freestanding advertising sign (maximum height of 1m) (non-complying)
	05/223/473	Detached dwelling
	03/535/473	Change of land use- apple orchard to vineyard
13 January 1989	88/296/030	Water Tank

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

The land is situated within the Hills Face Zone and is elevated and undulating. The land falls from approximately 580 metres above sea level near the Ridge Road frontage, some 130 metres to its lowest point at approximately 450 metres above sea-level at its most north-westerly point, coinciding with the first order watercourse.

A substantial proportion of the subject land lies within this steeply sloping native landscape, which occupies approximately two-thirds of the subject land.

The vineyards are on the arable portion of the land adjacent to the buildings on the site. The existing dwelling and garage are well concealed from view from the public road.

Locality:

The locality is also undulating on both sides of Ridge Road, although generally not to the same degree as the west and south-west aspects.

Land in the locality demonstrates some similar characteristics shared by the subject land, including areas of compact, well-maintained vineyards and orchards and/or maintaining substantial areas of native bushland or garden landscapes about the existing dwellings on smaller scale rural allotments.

Roadside vegetation, including landscaping of property boundaries and dwelling frontages adds to the pleasant rural and natural environmental characteristics of the locality. The former Council Ashton Landfill and the Ashton Cooperative Coldstore sites are located to the east of the subject land.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Tourist accommodation: Code Assessed - Performance Assessed
Advertisement: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
The State Planning and Design Code does not prescribe any defined assessment pathways.

PUBLIC NOTIFICATION

Required

- **REASON**

The proposal is not is not considered to be minor by staff and is not identified as an exempt form of development under Table 5 in the Hills Face Zone, requiring notification.

Public notification occurred between 11 October and 29 October 2021 including direct notification to prescribed adjoining and adjacent land owners and occupiers and a notice placed on the subject land.

- **LIST OF REPRESENTATIONS**

During the prescribed notification period, two representations were received, one from an adjoining owner and one from a nearby land owner, and both were in opposition to the proposed development. One representor wishes to address the Assessment Panel in respect of their representation.

Representation	Name / Address	Property Affected	Objects / Supports	Desires to be Heard
1	Nick Ford	Lot 14 (No. 99D) Ridge Road, Ashton SA 5137	Objects	No
2	Kym and Sophie Nitschke	Lot 39 (No. 141) Ridge Road Ashton SA 5137	Objects	Yes – TBA

- **SUMMARY**

Summary of Representations	
Representation	Applicant’s Response
Nick Ford	
Opposes the development of tourist accommodation, citing increased traffic impacts and potential impact to the peaceful ambience of the locality.	<p>The Hills Face Zone seeks ‘Low intensity, low scale activities that complement the natural, rural and scenic qualities of the hills face landscape’ (PO 1.1) and Tourist facilities which ‘are of a low intensity and low scale and are sited unobtrusively.’ (PO 7.1).</p> <p>We also note the provisions seek that the natural character of the zone will be preserved, enhanced, and re-established.</p> <p>The proposal will result in an acceptable impact on the road network in terms of traffic movements. Additionally, the proposal will not impact on the existing fire road which runs through the site.</p> <p>Contrary to the assertions from the representors, the proposal will provide an additional small scale tourist facility in the form of tourist accommodation on the subject land which satisfies the intent of the relevant provisions of the Planning and Design Code as the proposal relates to the Hills Face Zone.</p>

	<i>(See also 'Amentiy Impacts' response Below)</i>
Kym and Sophie Nitschke c/- Sydney McDonald, Botton Levinson Lawyers	
<p>Opposes the development of tourist accommodation as an inappropriate land use in the Hills Face Zone.</p>	<p>Not a relevant planning consideration in the determination of the current application for the Tourist Accommodation & associated free standing advertisement.</p> <p>The application is assessed against the current Planning and Design Code provisions.</p> <p>Should the land owner be aggrieved with the policy of the Planning and Design Code, then they can contact State Government and Council in relation to any future suggested code amendments.</p>
<p>The development will have adverse amenity impacts.</p>	<p>The adjoining land owner(s) to the south are of the opinion that the proposal will result in an inappropriate visual impact from their land and from their dwelling. They also believe the proposal will result in inappropriate impacts in terms of noise from the proposal. The proposal seeks a modest building with an area of 36 square metres including the attached deck area. The proposal will have an overall height of 3.7 metres and will be constructed of lightweight materials. The natural, non-reflective neutral colours of the proposed building will not result in unacceptable visual impacts complementing the existing rural environment and sits comfortably on the existing site set amongst the vines with appropriate siting and landscaping in keeping with the intent of the Zone.</p> <p>The representors' house and distance to the proposed tourist accommodation facility (shown in the APDS Response document) indicates the neighbouring dwelling is 315 metres from the location of the small building and is separated by existing vegetation surrounding the neighbouring dwelling, mature trees along the common driveway, further vineyards in addition to the rolling topography of the land. In addition to the existing vegetation on the subject land and surrounding the neighbouring dwelling (the representors' dwelling), when the poplars trees along the boundary are in leaf the occupants won't be able to see the pod at all, and when they are not in leaf the pod will be barely visible.</p> <p>Given the small size and scale of the proposed tourist accommodation building and the distance from adjoining property (even when viewed from</p>

	<p>the boundary), the proposal will not result in an unreasonable visual impact on the adjoining property</p>
<p>The siting of the proposed development raises fire safety and potential health concerns.</p>	<p>The proposal seeks the use of the proposed building for tourist accommodation which has been reviewed and endorsed by the CFS subject to standard conditions.</p> <p>The proposed building will be located in a cleared area away from larger areas of vegetation which would pose an unacceptable fire risk. The building will be designed to meet the Building Code and will provide adequate water tanks for firefighting</p> <p>The proposal has been designed to allow for access for emergency service vehicles to aid the protection of lives and assets from bushfire danger. Further, the site provides safe access and egress from the site to the adjoining road network in the case of an emergency.</p> <p>The CFS have reviewed the proposal and provided comment in support of the application.</p> <p>The facility will have a bushfire management plan in place and will ensure that the site will operate in a manner to minimise any impacts relating to fire.</p> <p>The applicant has advised that occupants / guests will not be allowed to stay at the facility on catastrophic days.</p>

The matters raised within the representations relate to the material impacts of the development considered by the representor(s).

Statements of impact to amenity coincide with planning assessment matters, and in this respect, it can only be ascertained that a degree of additional activity proximate to the representors' land is considered generally unpalatable.

The visual prominence of the proposed accommodation will be less than has been stated in the representation. Specifically, the proposed building is situated between 1.5 and 2.0 metres below and to the north of the crown of the land (which represents approximately half of the building's height above ground). Additionally, vineyard rows exist just 30 metres west of the proposed development site, with vine trellises at a height of approximately 1.5 metres. Beyond the vines, some 160 metres west of the proposed development site a row of poplar trees with a height of approximately 10 metres exists upon the boundary to neighbouring lot 141. Although deciduous, the vines and the poplar trees provide a screen which reasonably mitigates clear and direct view to the neighbouring land and vice-versa.

The neighbouring land also is situated on a similar level in the landscape and itself exhibits substantial peripheral landscaping about the dwelling, and is orientated to capture views to the north. Overlooking and privacy concerns over the proposed separation distance and with the mitigating vegetation / screening, is not considered to be a substantial.

In respect of traffic concerns, the proposed development is foreseeably likely to create an average of two additional traffic movements per day, being guests departing the accommodation post stay, in the mornings, and guests arriving at the accommodation in the afternoon or evening for the night's stay. The level of traffic impact associated with the proposed development is not considered to exceed that associated with the existing uses of the land.

The subject land relative to the representations received (where applicable) is provided in **Attachment 2**. A copy of the representations is provided in **Attachment 4** and the applicant's response is provided in **Attachment 5**.

AGENCY REFERRALS

Procedural referrals were undertaken to the SA Environment Protection Authority (EPA) and SA Country Fire Service (SA CFS) in accordance with Schedule 9 of the (General) Regulations and the Procedural Matters (PM) of the relevant overlays.

EPA Referral & Response:

The EPA referral is prescribed in respect of environmental impacts to the surface and underground water resources and is triggered for development comprising *tourist accommodation where a habitable dwelling or tourist accommodation already exists on the same allotment (including where a valid planning authorisation exists to erect a habitable dwelling or tourist accommodation on the same allotment)* within the Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay.

It should be noted that the overlay boundaries do not necessarily correspond with land parcel cadastre and in this instance the relevant overlay affects only a small portion of the subject land, being a small margin of the land no more than 19 metres in length near its Ridge Road frontage.

Accordingly, the EPA referral response of 8 October 2021 concluded that *each component of the proposed development – the tourist accommodation building, the stormwater management system and the on-site wastewater system – would be located outside of the parts of the allotment that are within the Overlay, the EPA is satisfied that the proposal would have a neutral or beneficial effect on water quality within the Overlay*, and have not directed any conditions to be applied if consented to, however have requested that two standard advisory notes be applied as follows.

- *The applicant/owner/operator are reminded of its general environmental duty, as required by section 25 of the Environment Protection Act 1993, to take all reasonable and practicable measures to ensure that activities on the site and associated with the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm.*
- *More information about the Environment Protection Authority and the Environment Protection Act and policies can be found at: www.epa.sa.gov.au .*

Informal advice was sought from the EPA in relation to the development being within 500 meters of a landfill site. EPA have recommended that an advisory note be placed on the approval advising that the investigations are on-going but that the Council is not aware of any landfill gas migration outside the landfill site and that any further questions should be directed towards the EPA (refer recommended advisory note 6).

SA CFS Referral response:

The SA CFS referral undertaken in respect of development of habitable buildings within a High Bushfire Risk Overlay area, provided its BAL assessment and referral response on 8 October 2021.

SA CFS have determined the building site Bushfire Attack Level as BAL 12.5, which is at the lower end of the Medium Bushfire Risk spectrum. The SA CFS further provided a 'no objection' response to the proposal, subject to a series of directed conditions regarding *Access to Habitable Buildings, Water Supply & Access to the Dedicated Water Supply, Vegetation Management and Bushfire Management Plan / Manifest Box* associated with the proposed tourist accommodation.

Copies of the Agency referral responses are provided within the **Attachment 6**.

INTERNAL REFERRALS

- EHU: Council's Health department have approved the waste water application 20/W101/473 associated with the proposed development.

Copy of the approval documents are provided within **Attachment 7**.

PLANNING ASSESSMENT

Desired outcomes

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

Performance outcomes

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

Designated performance features

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

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

Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, it is recommended the Panel determine that the proposed development is not seriously at variance with the State Planning and Design Code. The following is provided in support of this determination:

- (a) The nature and proposed scale and intensity of the proposed development presents an appropriate form of development within the Hills Face Zone, and
- (b) Having regard to the small-scale, highly contained nature of the proposed development, and taking into account advice of the SA CFS and EPA, it is confirmed that the proposed activities do not present any obtuse environmental or bushfire safety risks, and
- (c) That the proposal will not substantially or adversely impact the local amenity or character of the locality.

Code Assessment:

A detailed assessment of the application has taken place against the most pertinent provisions of the State Planning and Design Code and is described below under headings.

The subject land is not influenced by any Sub-zones, however a series of policy overlays are relevant to the land, which are considered unlikely to adversely influence assessment of the proposal.

The proposal is not captured within any defined *assessment pathways* for this form of development and therefore is assessed against all relevant planning policies applicable to the land.

The Assessment Provisions (AP) provides Performance Outcomes (PO) and Designated Performance Features (DPF) which are accommodating of the proposed development, particularly citing that the proposal is of a small scale and substantially contained nature which will not adversely affect the amenity or character of the locality or unreasonably impact nearby sensitive receivers.

The proposed nature of the proposed land use is considered to be consistent with the Planning and Design Code as provided in the following assessment (*emphasis has been added by underlining*).

Desired Outcomes	
<p>Hills Face Zone</p> <ul style="list-style-type: none"> • DO 1 	<ul style="list-style-type: none"> • To maintain the western slopes of the South Mount Lofty Ranges as an important natural asset of Greater Adelaide by limiting development to low-intensity agricultural activities and public and private open space. The natural character of the zone will be preserved, enhanced and re-established to: <ol style="list-style-type: none"> a. provide a natural backdrop to the Adelaide Plain and a contrast to the urban area b. preserve biodiversity and restore locally indigenous vegetation and fauna habitats close to metropolitan Adelaide c. provide for passive recreation in an area of natural character close to the metropolitan area d. provide a part of the buffer area between metropolitan districts and prevent the urban area extending into the western slopes of the Mount Lofty Ranges. <p>‘Natural character’ refers to the natural topography, native vegetation and colours, such as greens and browns of non-reflective earthen tones, normally associated with a natural landscape. Additionally, natural character refers to the open character of the land in those areas of the zone where open grazing currently predominates.</p>
<p>Environment and Food Production Areas Overlay</p> <ul style="list-style-type: none"> • DO 1 	<ul style="list-style-type: none"> • Protection of valuable rural, landscape, environmental and food production areas from urban encroachment.
<p>State Significant Native Vegetation Areas Overlay</p> <ul style="list-style-type: none"> • DO 1 	<ul style="list-style-type: none"> • Protect, retain and restore significant areas of native vegetation.
<p>Hazards (Bushfire - High Risk) Overlay</p> <ul style="list-style-type: none"> • DO 1 • DO 2 	<ul style="list-style-type: none"> • Development, including land division is sited and designed to minimise the threat and impact of bushfires on life and property with regard to the following risks: <ol style="list-style-type: none"> a. potential for uncontrolled bushfire events taking into account the increased frequency and intensity of bushfires as a result of climate change b. high levels and exposure to ember attack c. impact from burning debris d. radiant heat e. likelihood and direct exposure to flames from a fire front.

	<ul style="list-style-type: none"> Activities that increase the number of people living and working in the area or where evacuation would be difficult is sited away from areas of unacceptable bushfire risk.
General Planning Policies (Advertisement) <ul style="list-style-type: none"> DO 1 	<ul style="list-style-type: none"> Advertisements and advertising hoardings are appropriate to context, efficient and effective in communicating with the public, limited in number to avoid clutter, and do not create hazard.
General Planning Policies (Design) <ul style="list-style-type: none"> DO 1 	<ul style="list-style-type: none"> Development is: <ol style="list-style-type: none"> contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate area durable - fit for purpose, adaptable and long lasting inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces integrated 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 sustainable - by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.
General Planning Policies (Tourism Development) <ul style="list-style-type: none"> DO 1 	<ul style="list-style-type: none"> Tourism development is built in locations that cater to the needs of visitors and positively contributes to South Australia's visitor economy.

Relevant Performance Outcomes/Designated Performance Features	
Hills Face Zone	Land Use and Intensity: PO 1.1 Tourist Development: PO 7.1 Built Form and Character: PO 2.1, PO and DTS/DPF 2.2, PO 2.3, PO 2.7 Advertisements: PO and DTS/DPF 13.1
Hazards (Bushfire - High Risk) Overlay	Built Form: PO 3.1 Habitable Buildings: PO 4.1, PO and DTS/DPF 4.2 Vehicle Access –Roads, Driveways and Fire Tracks: PO and DTS/DPF 6.1
General Planning Policies (Advertisement)	Appearance: Po and DTS/DPF 1.2, PO 1.5 Proliferation of Advertisements: Po and DTS/DPF 2.1 Safety: PO and DTS/DPF 5.2
General Planning Policies (Design)	External Appearance: PO 1.3 On-site Waste Treatment Systems: PO and DTS/DPF 6.1 Earthworks and sloping land: PO and DTS/DPF 8.1 Infrastructure and Renewable Energy Facilities Wastewater Services: PO and DTS/DPF 12.1
General Planning Policies (Tourism Development)	Vehicle Access: PO and DTS/DPF 3.1 Vehicle Parking Rates: PO and DTS/DPF: 5.1

Hills Face Zone

Desired Outcome

DO 1

To maintain the western slopes of the South Mount Lofty Ranges as an important natural asset of Greater Adelaide by limiting development to low-intensity agricultural activities and public and private open space. The natural character of the zone will be preserved, enhanced and re-established to:

- (a) provide a natural backdrop to the Adelaide Plain and a contrast to the urban area
- (b) preserve biodiversity and restore locally indigenous vegetation and fauna habitats close to metropolitan Adelaide
- (c) provide for passive recreation in an area of natural character close to the metropolitan area
- (d) provide a part of the buffer area between metropolitan districts and prevent the urban area extending into the western slopes of the Mount Lofty Ranges.

'Natural character' refers to the natural topography, native vegetation and colours, such as greens and browns of non-reflective earthen tones, normally associated with a natural landscape. Additionally, natural character refers to the open character of the land in those areas of the zone where open grazing currently predominates.

Land Use and Intensity

PO 1.1

Low-intensity, low-scale activities that complement the natural, rural and scenic qualities of the hills face landscape.

DTS/DPF 1.1

None are applicable.

Tourist Development

PO 7.1

Tourist facilities are of a low intensity and low-scale and are sited unobtrusively.

DTS/DPF 7.1

None are applicable.

The proposed form of development comprising a small-scale tourist accommodation building with associated car parking, water tank and the associated signage is considered to present a reasonable 'low intensity, low scale' land use. The proposed development does not impact upon any native environment in the locality or zone and does not open up additional land from its existing horticulture uses, which could be described as impacting the visual qualities of the land in the context of its performance as a 'backdrop to the Adelaide Plains and a contrast to the urban area' described in the Desired Outcomes.

The proposed building is sited in a location which is considered to be reasonably unobtrusive and this is supported by its small scale. The proposed building will not be *invisible* to public view, with a large proportion of its built form situated below the ridge of the land or disguised by the existing vines and boundary landscape screening of the site.

The building will not 'skyline', due in part to the topography and existing boundary/roadside vegetation between Ridge Road and the proposed building. The building is considered unlikely to be prominent to view from any areas of public outlook within the Giles or Horsnell Gully Conservation Park areas approximately half-a-kilometre to the north of the site. Therefore it is considered the proposal accords with the Desired Outcomes for the zone and satisfies the Performance Outcome sought in PO 7.1 by avoiding clear and direct view of the development from Ridge Road, nearby land and dwellings, and points of public outlook.

Built Form and Character

PO 2.1

Buildings are unobtrusive and sited and designed in such a way as to:

- (a) preserve and enhance or assist in the re-establishment of the natural character of the zone
- (b) limit the visual intrusion of development in the Zone particularly when viewed from roads within the zone or from the Adelaide Plains.

DTS/DPF 2.1
None are applicable.

PO 2.2

Buildings are limited in height and scale to minimise the amount of building mass visible from the Adelaide Plains.

DTS/DPF 2.2 Buildings meet the following:

- (a) are of single building level*
- (b) building height does not exceed 5m*
- (c) wall height does not exceed 3m (not including gable ends).*

PO 2.3

Where possible and without compromising the desired outcomes of the Zone, buildings are grouped together (but not attached) to limit the spread of built development that can be viewed from the Adelaide Plains.

DTS/DPF 2.3 None are applicable.

PO 2.7

Buildings are designed and sited to keep roof lines below the lowest point of the abutting road when the allotment is on the low side of the road.

DTS/DPF 2.7
None are applicable.

The proposed development is considered to generally accord with the *Built Form and Character* provisions of the Hills Face Zone. The proposed building's design is of a low-profile single-storey format and is to be constructed 'close to the natural ground level', rather than artificially or excessively elevated, and exhibits building heights which closely accord with the provisions in PO/DPF 2.2. Whilst the proposal marginally exceeds the wall height of 3m as prescribed by DPF 2.2, the overall height of the structure is well below the maximum height of 5m and as such it is considered that the proposal still achieves the intent of PO 2.2 and ensures that the height is limited so as to minimise the building mass visible from Adelaide Plains.

With respect to the proposal's avoidance of impacts to the *natural* or existing *rural* environment in the zone (as referenced above in respect of DO 1) it is recognised as having no *actual* adverse impact upon the existing and established *natural character of the zone* and is considered to sufficiently accord with the Performance Outcome of PO 2.1 (a). The building itself is of a small scale that it is considered unlikely to contribute to the degradation of the view of the Hills Face as a backdrop to the urban areas of the Adelaide Plains, sufficiently according with PO/DPF's 2.1 (b) and 2.3.

The position and relative height of the building in relation to Ridge Road does not conceal the entirety of the upper wall and roofline from view in respect of PO 2.7, however views will be substantially concealed for the lower half of the building and moderately obscured from view by the boundary/roadside vegetation.

Advertisements

PO 13.1

Advertisements identify the associated business activity, and do not detract from the residential character of the locality.

DTS/DPF 13.1

Advertisements relating to a lawful business activity associated with a residential use do not exceed 0.3m² and are mounted flush with a wall or fence.

The proposal seeks to establish a small sign which is 0.3m² for the purpose of the proposed accommodation, which is consistent with the prescribed maximum size as identified by DPF 13.1. The signage is considered to be somewhat prominent at the roadside boundary, however given that it is proposed in darker tone colours and is in association with approval and therefore lawful activity of the operation of the tourist accommodation, would be permissible at the boundary line fence.

It is considered reasonable to present a sign for the proper identification of the accommodation and the position of the sign, flush with the boundary line / fence, and it is considered unlikely to be an unreasonable distraction for road users and should not create risks in terms of reflectivity for approaching vehicles. The sign has been designed to be in non-reflective materials and finishes and this has also been further enforced by way of a condition (refer recommended condition 6).

Overlay Planning Policies:

The proposal is not considered to have any impact or relevance to a number of the overlay policies in respect of Flooding Risk, Native Vegetation, Prescribed Wells or Regulated and Significant Trees, with these elements either not existing or not interfacing with the proposed development.

A local heritage place exists some 500 metres to the south-east, which triggers the Heritage Adjacency Overlay to be applied, however the proposed development is not considered to affect the heritage value of that site, or its context in the locality.

It is also noted that the proposal avoids interface with the *Mount Lofty Ranges Water Supply Catchment (Area 1) Overlay* and does not purport any impacts or interface with water resources identified in the Water Resources Overlay, and in respect of these Overlay Policies, the proposal is considered to have no impact on the Desired Outcomes (DO) provisions.

The following are considered to be the relevant Overlay matters, in assessment of the proposal as explained below:

Environment and Food Production Areas Overlay

Desired Outcome

DO 1

Protection of valuable rural, landscape, environmental and food production areas from urban encroachment.

State Significant Native Vegetation Areas Overlay

Desired Outcome,

DO 1

Protect, retain and restore significant areas of native vegetation.

The proposed development is not considered to prejudice the Desired Outcomes (DO) of the *Environment and Food Production Areas* (EFPA) Overlay, insofar that it does not detract from, or compromise the existing established horticultural activities upon the land and that it can ostensibly support some minor increase in the horticulture activity, without undermining the development sought in this application.

Similarly, the proposal lies distant to the State Significant Native Vegetation areas which are approximately 400 metres north within the Giles and Horsnell Gully Conservation Parks and adjacent to the Heysen Trail. In this respect the proposal is considered not to have any adverse effect within these areas.

Hazards (Bushfire - High Risk) Overlay

Desired Outcome,

DO 1

Development, including land division is sited and designed to minimise the threat and impact of bushfires on life and property with regard to the following risks:

(a) potential for uncontrolled bushfire events taking into account the increased frequency and intensity of bushfires as a result of climate change

ITEM 9.2

- (b) high levels and exposure to ember attack
- (c) impact from burning debris
- (d) radiant heat
- (e) likelihood and direct exposure to flames from a fire front.

DO 2

Activities that increase the number of people living and working in the area or where evacuation would be difficult is sited away from areas of unacceptable bushfire risk.

Built Form

PO 3.1

Buildings and structures are designed and configured to reduce the impact of bushfire through using designs that reduce the potential for trapping burning debris against or underneath the building or structure, or between the ground and building floor level in the case of transportable buildings and buildings on stilts.

DTS/DPF 3.1

None are applicable.

Habitable Buildings

To minimise the threat, impact and potential exposure to bushfires on life and property, residential and tourist accommodation and habitable buildings for vulnerable communities (including boarding houses, hostels, dormitory style accommodation, student accommodation and workers' accommodation) is sited on the flatter portion of allotments away from steep slopes.

DTS/DPF 4.1

None are applicable.

PO 4.2

Residential and tourist accommodation and habitable buildings for vulnerable communities (including boarding houses, hostels, dormitory style accommodation, student accommodation and workers' accommodation) is sited away from vegetated areas that pose an unacceptable bushfire risk.

DTS/DPF 4.2

Residential and tourist accommodation and habitable buildings for vulnerable communities are provided with asset protection zone(s) in accordance with (a) and (b):

- (a) the asset protection zone has a minimum width of at least:
 - (i) 50 metres to unmanaged grasslands
 - (ii) 100 metres to hazardous bushland vegetation
- (b) the asset protection zone is contained wholly within the allotment of the development.

Vehicle Access –Roads, Driveways and Fire Tracks

PO 6.1

Roads are designed and constructed to facilitate the safe and effective:

- (a) access, operation and evacuation of fire-fighting vehicles and emergency personnel
- (b) evacuation of residents, occupants and visitors.

DTS/DPF 6.1

Roads:

- (a) are constructed with a formed, all-weather surface
- (b) have a gradient of not more than 16 degrees (1-in-3.5) at any point along the road
- (c) have a cross fall of not more than 6 degrees (1-in-9.5) at any point along the road
- (d) have a minimum formed road width of 6m
- (e) provide overhead clearance of not less than 4.0m between the road surface and overhanging branches or other obstructions including buildings and/or structures (Figure 1)

- (f) allow fire-fighting services (personnel and vehicles) to travel in a continuous forward movement around road curves by constructing the curves with a minimum external radius of 12.5m (Figure 2)
- (g) incorporating cul-de-sac endings or dead end roads are provided within an alternative evacuation route and do not exceed 200m in length and the end of the road has either
 - (i) a turning area with a minimum formed surface radius of 12.5m (Figure 3)
or
 - (ii) a 'T' or 'Y' shaped turning area with a minimum formed surface length of 11m and minimum internal radii of 9.5m (Figure 4)
- (h) incorporate solid, all-weather crossings over any watercourse that support fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes.

The proposed development is generally considered to accord with the Hazards (Bushfire – High Risk) Overlay provisions insofar that it is situated in relatively close proximity to Ridge Road and obtains clear and uninhibited access to the local road network and is sufficiently distant from hazardous and unmanaged environments which present an increased risk to occupants of the tourist accommodation. The relatively low fire risk at the development site has been corroborated by the SA CFS BAL (Bushfire Attack Level) assessment.

Notwithstanding the relatively low BAL assessment, the CFS directed vegetation management / asset protection zone is entirely contained upon the site and is not impacted upon by vegetation. Accordingly the level of management is considered appropriate and the site considered suitable for its intended use

The proposed building exhibits simple designs including a single pitched skillion roof and narrow decking area which minimises the potential for capture and accumulation of organic debris and reduces the likelihood of holding burning material or embers in the event of approaching bushfire. Additionally, buildings utilised for tourist accommodation generally achieve a high level of attention to maintenance and site management for the benefit of guest experience and in this respect, it is less likely that the building or site will go un-managed.

The driveway and parking area provides readily acceptable access for fire appliances, with adequate un-obstructed turn-around area and access to water supplies on the site. There are no elements of gradient, vegetation encroachment or obstruction which would not accord with PO/DPF 6.1 requirements for safe access, egress and fire appliance operation. The driveway system also provides appropriate access and egress for the proposed development.

General Planning Policies:

Advertisements

Desired Outcome

DO 1

Advertisements and advertising hoardings are appropriate to context, efficient and effective in communicating with the public, limited in number to avoid clutter, and do not create hazard.

Appearance

PO 1.2

Advertising hoardings do not disfigure the appearance of the land upon which they are situated or the character of the locality.

DTS/DPF 1.2

Where development comprises an advertising hoarding, the supporting structure is:

- (a) concealed by the associated advertisement and decorative detailing
or
- (b) not visible from an adjacent public street or thoroughfare, other than a support structure in the form of a single or dual post design.

PO 1.5

Advertisements and/or advertising hoardings are of a scale and size appropriate to the character of the locality.

DTS/DPF 1.5
None are applicable.

Proliferation of Advertisements

PO 2.1

Proliferation of advertisements is minimised to avoid visual clutter and untidiness.

DTS/DPF 2.1
No more than one freestanding advertisement is displayed per occupancy.

Safety

PO 5.2

Advertisements and/or advertising hoardings do not distract or create a hazard to drivers through excessive illumination.

DTS/DPF 5.2
No advertisement illumination is proposed.

As foreshadowed in the Hills Face Zone provisions' assessment, it is considered reasonable that the sign be reduced in its total size / area to accord with the prescribed maximum of 0.3m² and to be comprised of non-reflective materials.

In other respects, the signage is considered to generally accord with the Advertising General Provisions of the Code. The proposed signage does not feature any illumination and does not contribute to the proliferation of signage in the locality. It is considered the sign in its amended form is appropriately sized and will be suitably constructed of non-reflective materials to not have an unreasonable impact on the locality nor present any undue distraction or risk to road users.

Design

Desired Outcome

Development is:

- (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 integrated 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
- (d) sustainable - by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.

All development

External Appearance

PO 1.3

Building elevations facing the primary street (other than ancillary buildings) are designed and detailed to convey purpose, identify main access points and complement the streetscape.

DTS/DPF 1.3
None are applicable.

On-site Waste Treatment Systems

PO 6.1

Dedicated on-site effluent disposal areas do not include any areas to be used for, or could be reasonably foreseen to be used for, private open space, driveways or car parking.

DTS/DPF 6.1

Effluent disposal drainage areas do not:

- (a) encroach within an area used as private open space or result in less private open space than that specified in Design Table 1 - Private Open Space
- (b) use an area also used as a driveway
- (c) encroach within an area used for on-site car parking or result in less on-site car parking than that specified in Transport, Access and Parking Table 1 - General Off-Street Car Parking Requirements or Table 2 - Off-Street Car Parking Requirements in Designated Areas.

Earthworks and sloping land

PO 8.1

Development, including any associated driveways and access tracks, minimises the need for earthworks to limit disturbance to natural topography.

DTS/DPF 8.1

Development does not involve any of the following:

- (a) excavation exceeding a vertical height of 1m
- (b) filling exceeding a vertical height of 1m
- (c) a total combined excavation and filling vertical height of 2m or more.

Infrastructure and Renewable Energy Facilities

Wastewater Services,

PO 12.1

Development is connected to an approved common wastewater disposal service with the capacity to meet the requirements of the intended use. Where this is not available an appropriate on-site service is provided to meet the ongoing requirements of the intended use in accordance with the following:

- (a) it is wholly located and contained within the allotment of the development it will service
- (b) in areas where there is a high risk of contamination of surface, ground, or marine water resources from on-site disposal of liquid wastes, disposal systems are included to minimise the risk of pollution to those water resources
- (c) septic tank effluent drainage fields and other wastewater disposal areas are located away from watercourses and flood prone, sloping, saline or poorly drained land to minimise environmental harm.

DTS/DPF 12.1

Development is connected, or will be connected, to an approved common wastewater disposal service with the capacity to meet the requirements of the development. Where this is not available it is instead capable of being serviced by an on-site waste water treatment system in accordance with the following:

- (a) the system is wholly located and contained within the allotment of development it will service; and
- (b) the system will comply with the requirements of the South Australian Public Health Act 2011.

The proposed development is considered to generally accord with the design and Infrastructure requirements of the Code, acknowledging that generally the built form, scale and design of the proposed accommodation building is acceptably compact and concealed. The proposed building is orientated to the northern view with sufficient distance to boundaries combined with the screening afforded by the vines, topography and boundary line vegetation to not create any unreasonable overlooking or privacy concerns for neighbouring properties.

The blank rear (southern) aspect of the proposed accommodation building and the siting of the 10,000-litre water tank at the eastern end of the building are considered to be less sensitive to the aesthetic qualities sought by the Design provisions of the Code even though the building will only be partially visible. Augmentation of the roadside / boundary vegetation and the north-western side of the main property driveway with attractive native landscaping species would achieve appropriate results and improve the aesthetics of the site frontage generally and as such this has been recommended by way of a condition (refer recommended condition 7).

The development requires a minimal amount of earthworks to prepare the building site. Low levels of excavation are indicated in the submitted plans and details to prepare the site for footings. There is no filling proposed and the level of preparation is likely to be within the range of 300mm in depth.

Onsite wastewater system details for the waste treatment and disposal system have been lodged and approved by Council's Health Department. The system is designed to comply with the SA Public Health Act requirements and to be contained appropriately on the site without any encroachments or interaction with public or private open spaces.

Tourism Development

Desired Outcome

DO 1

Tourism development is built in locations that cater to the needs of visitors and positively contributes to South Australia's visitor economy.

General

PO 1.1

Tourism development complements and contributes to local, natural, cultural or historical context where:

- (a) it supports immersive natural experiences
- (b) it showcases South Australia's landscapes and produce
- (c) its events and functions are connected to local food, wine and nature.

DTS/DPF 1.1

None are applicable.

Transport, Access and Parking

Vehicle Access,

PO 3.1

Safe and convenient access minimises impact or interruption on the operation of public roads.

DTS/DPF

3.1The access is:

- (a) *provided via a lawfully existing or authorised driveway or access point or an access point for which consent has been granted as part of an application for the division of land or*
- (b) *not located within 6m of an intersection of 2 or more roads or a pedestrian activated crossing.*

Vehicle Parking Rates

PO 5.1

Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as:

- (a) *availability of on-street car parking*
- (b) *shared use of other parking areas*
- (c) *in relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site, the provision of vehicle parking may be shared*
- (d) *the adaptive reuse of a State or Local Heritage Place.*

DTS/DPF 5.1

Development provides a number of car parking spaces on-site at a rate no less than the amount calculated using one of the following, whichever is relevant:

- (a) Transport, Access and Parking Table 1 - General Off-Street Car Parking Requirements
- (b) Transport, Access and Parking Table 2 - Off-Street Vehicle Parking Requirements in Designated Areas
- (c) *if located in an area where a lawfully established car parking fund operates, the number of spaces calculated under (a) or (b) less the number of spaces offset by contribution to the fund.*

<i>Class of Development</i>	<i>Car Parking Rate (unless varied by Table 2 onwards)</i>
	<i>Where a development comprises more than one development type, then the overall car parking rate will be taken to be the sum of the car parking rates for each development type.</i>
<i>Tourist</i>	
<i>Tourist Accommodation</i>	<i>1 car parking space per accommodation unit / quest room.</i>

The land and locality offer a broad range of tourist and visitor experiences accessible from the site and within the Adelaide Hills region, including wine and food ‘farmgate and cellar door’ tourism and natural environmental experiences which include trails connected to the nearby Giles and Horsnell Gully Conservation Parks and the Heysen Trail amongst others.

The proposal has also contemplated the cellar door and functions activities approved in 473/262/17 and the context of diversification and value adding to the vineyard activity both in terms of produce and capitalising upon the sites pleasant landscape amenity and context. The proposal in respect of the locality and the site is considered to pursue the *General - Tourism Development* Desired Outcomes in DO 1 and Performance Outcomes PO 1.1 (a), (b) and (c).

The layout of the site and its interaction with the existing horticulture and prospective development of the cellar door and functions is set out with appropriate access, internal driveways and parking for each component, noting the extent of car parking shown on the application site plan in support of the cellar door and functions’ prospective development. The segregation of the accommodation’s access and the main access to the property is considered to be contextually appropriate for the separate activities.

Car parking rates appurtenant to the proposed tourist accommodation satisfies the requirements of DPF 5.1 and Table 1, providing one car park for the unit and which can satisfactorily accommodate a parking layout and manoeuvring area to comply with Australian Standard AS 2890.1 for on-site vehicle parking and is considered to satisfy the Code requirements and intended Performance Outcome.

CONCLUSION

The assessment has contemplated the statutory requirements of the Code and the legislation in processing the application.

The proposed scale and nature of the tourist accommodation presents a reasonably appropriate form of development within the Hills Face Zone. Whilst there were concerns raised by the representors about the appropriateness of the use in the zone, safety and amenity impacts, the proposal is considered to be of low scale compact building design and site layout, including car parking suitable to cater for the intended land use without any obtuse impacts upon the visual character or pleasant amenity of the locality.

The signage associated with the proposed tourist accommodation is considered to be of appropriate size and scale consistent with the requirements of the Hills Face Zone. Whilst the sign is proposed along the front property boundary it is considered to be appropriate and low impact given that the external finishes, size and the fact that the sign would be advertising lawful use of land.

Accordingly, it is recommended that Planning Consent be granted, subject to conditions of consent.

RECOMMENDATION

It is recommended that the Council Assessment Panel/SCAP 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 21018753 by Kate Bishop and Bella Casa Ashton for Tourist Accommodation & associated free standing advertisement at 159 Ridge Road Ashton 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) Flood Lighting

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

3) External Finishes

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

WALLS: Vertical wood panelling in a timber-look finish or similar
ROOF: Colorbond Monument or similar

4) Use of Building

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

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

5) Stormwater Overflow

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

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

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

6) **External Colours of Signage**

The external colours of the sign herein approved shall be comprised of non-reflective materials and finishes.

Any lighting associated with the sign shall be switched off at midnight on each day and shall not be switched back on before sunrise the following day.

7) **Landscaping**

The southern and south-eastern aspects of the tourist accommodation herein approved, including the associated rainwater tank and car parking shall be landscaped either:

- with an appropriate landscaped margin peripheral to the development site,
- or
- Augmented landscape screening along the southern (Ridge Road) boundary and north-west aspect of the main (existing) driveway

Utilising appropriate locally suitable and indigenous landscaping species, to attenuate clear and direct view of the building from public outlook directly from the south and from the south-east approach on Ridge Road.

Conditions imposed by South Australian Country Fire Service under Section 122 of the Act:

1) **Siting**

'The Planning and Design Code' Hazards (Bushfire – High Risk) Overlay (Performance Objective 2.1, 4.2, 4.3) details the mandatory requirements for buildings and structures to be located away from areas that pose an unacceptable bushfire risk in order to provide sufficient defendable space for occupants and fire fighters; ensure radiant heat levels at the buildings are minimised in line with the assessed bushfire attack level & construction level; whilst maintaining reduced fuel loads and ensuring it can be maintained in perpetuity by the occupants:

- Outbuildings and other ancillary structures shall be sited no closer than 6m from the habitable building, unless built to building code requirements for associated structures in Bushfire Prone Areas.

2) **Access to Habitable Building**

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

- A clear and unobstructed vehicle or pedestrian pathway shall be provided; no greater than 60 metres in length between the most distant part of the habitable building and the nearest part of the formed public access way.
- The driveway shall be connected to a formed, all-weather public road with the transition area between the road and driveway having a gradient of not more than 7 degrees (1-in-8).
- Access to the building site shall be of all-weather construction, with a minimum formed road surface width of 3 metres and must allow forward entry and exit for large fire-fighting vehicles, to within 60m of the furthest point of the building. or
- (4m where the gradient of the driveway is steeper than 12 degrees (1-in-4.5))
- The all-weather road shall allow fire-fighting vehicles to safely enter and exit the allotment in a forward direction by incorporating either:
 1. A loop road around the building, OR
 2. A turning area with a minimum radius of 12.5 metres, OR
 3. A 'T' or 'Y' shaped turning area with a minimum formed length of 11 metres and minimum internal radii of 9.5 metres OR
 4. A 'U' shaped 'drive-through' option.
- Private access shall have minimum internal radii of 9.5 metres on all bends.
- Private access shall provide overhead clearance of not less than 4.0m horizontally and vertically between the driveway surface and overhanging branches or other obstructions, including buildings and/or structures.

- Private access shall provide overhead clearances of not less than 4.0m horizontally and vertically between the driveway surface and overhanging branches or other obstructions, including buildings and/or structures.
- The all-weather road shall incorporate passing bays. The combined width of the passing bay & access track shall be 6m, and a minimum formed length of 17 metres. The passing bays should be constructed at 200 metre intervals along the road or driveway. Where it is necessary to provide adequate visibility, such as the nearest point to the public road or other passing bay, passing bays may be required at intervals of less than 200 metres.
- The gradient of the access road shall not exceed 16 degrees (1-in-3.5) at any point along the driveway. In steep terrain exceeding 10 degrees the surface should be sealed.
- The cross fall of of the driveway shall be not more than 6 degrees (1-in-9.5) at any point along the driveway. In steep terrain roads shall be widened and appropriate guard rails and visibility markers should be installed on sides where a steep downslope is present.
- Solid crossings over waterways shall be provided to withstand the weight of large bushfire appliances (GVM 21 tonnes).

3) Water Supply & Access (to dedicated water supply)

Ministerial Building Standard MBS008 “Designated bushfire prone areas – additional requirements” July 2020, as published under the *Planning, Development and Infrastructure Act 2016*, provides the technical details of the dedicated water supply for bushfire fighting for the bushfire zone.

‘The Planning and Design Code’ Hazards (Bushfire – High Risk) Overlay (Performance Objective 4.3) details the mandatory requirements for the site to provide a dedicated hardstand area in a location that allows fire fighting vehicles to safely access the dedicated water supply.

Where a water storage facility is required to have a fire authority fitting, the following will apply:

- The water supply outlet shall be easily accessible and clearly identifiable from the access way and at a distance of no greater than 60 metres from the proposed dwelling.
- The dedicated water supply and its location should be identified with suitable signage (i.e. blue sign with white lettering “FIRE WATER”).
- Access to the dedicated water supply shall be of all-weather construction, with a minimum formed road surface width of 3 metres.
- Provision shall be made adjacent the water supply for a nominally level hardstand area (capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes) that is a distance equal to or less than 6 metres from the water supply outlet .
- SA CFS appliance’s inlet is rear mounted; therefore the outlet/water storage shall be positioned so that the SA CFS appliance can easily connect to it rear facing.
- A gravity fed water supply outlet may be remotely located from the tank to provide adequate access.
- All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.
- All water supply pipes for draughting purposes shall be capable of withstanding the required pressure for draughting.
- Ideally a remote water supply outlet should be gravity fed, where this is not possible the following dimensions shall be considered as the maximum capability in any hydraulic design for draughting purposes:
 1. The dedicated water supply outlet for draughting purposes shall not exceed 5 metres maximum vertical lift (calculated on the height of the hardstand surface to the lowest point of the storage) and no greater than 6 metres horizontal distance.
 2. The suction outlet pipework from the tank shall be fitted with an inline non return valve of nominal internal diameter not less than that of the suction pipe and be located from the lowest point of extract from the tank. All fittings shall be installed to allow for easy maintenance.

Pools are permissible as the dedicated firefighting water supply, if the following can be achieved:

- Provision shall be made adjacent to the water supply for a nominally level hardstand area (capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes), that is a distance equal to or less than 3m to edge of water source; or
- a gravity fed outlet can be incorporated into the design of the plumbing; and
- is unobstructed by associated landscaping and barriers.

Access via a removable inspection opening is permissible if the following can be achieved:

- Provision shall be made adjacent to the water supply for a nominally level hardstand area (capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes), that is a distance equal to or less than 3m to edge of the tank and
- the opening is a minimum of 200mm wide and is not more than 1.5m above ground level and no lower than 5m to the lowest point of the water source.
- is unobstructed by associated landscaping and barriers.

4) Vegetation Management

'The Planning and Design Code' Hazards (Bushfire – High Risk) Overlay (Performance Objective 4.2) details the mandatory requirements to establish and maintain an asset protection zone. As such, landscaping shall include bushfire protection features that will prevent or inhibit the spread of bushfires and minimise the risk to life and/or damage to buildings and property and maintain a fuel reduced zone for safe movement of occupants and fire fighters.

A vegetation management zone (VMZ) shall be established and maintained within 20 metres of the habitable building (or to the property boundaries – whichever comes first) as follows:

- The number of trees and understorey plants existing and to be established within the VMZ shall be reduced and maintained such that when considered overall a maximum coverage of 30% is attained, and so that the leaf area of shrubs is not continuous. Careful selection of the vegetation will permit the 'clumping' of shrubs where desirable, for diversity, and privacy and yet achieve the 'overall maximum coverage of 30%'.
- Reduction of vegetation shall be in accordance with SA Native Vegetation Act 1991 and SA Native Vegetation Regulations 2017.
- Trees and shrubs shall not be planted closer to the building(s) than the distance equivalent to their mature height.
- Trees and shrubs must not overhang the roofline of the building, touch walls, windows or other elements of the building.
- Shrubs must not be planted under trees and must be separated by at least 1.5 times their mature height from the trees' lowest branches.
- Grasses within the zone shall be reduced to a maximum height of 10cm during the Fire Danger Season.
- No understorey vegetation shall be established within 1 metre of the habitable building (understorey is defined as plants and bushes up to 2 metres in height).
- Flammable objects such as plants, mulches and fences must not be located adjacent to vulnerable parts of the building such as windows, decks and eaves
- The VMZ shall be maintained to be free of accumulated dead vegetation

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 fully determined (other than any question as to costs).

Planning Consent

- 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 DPC.

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

Advisory Notes imposed by Environment Protection Authority under Section 122 of the Act

- 3) The applicant/owner/operator are reminded of its general environmental duty, as required by section 25 of the *Environment Protection Act 1993*, to take all reasonable and practicable measures to ensure that activities on the site and associated with the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm.
- 4) More information about the Environment Protection Authority and the Environment Protection Act and policies can be found at: www.epa.sa.gov.au .

Advisory Notes imposed by South Australian Country Fire Service under Section 122 of the Act

- 5) Building Considerations
Ministerial Building Standard MBS008 “Designated bushfire prone areas - additional requirements” 2020, as published under the Planning, Development and Infrastructure Act 2016 applies to this site.

Please refer to the National Construction Code (NCC), relevant standards and state provisions for construction requirements and performance provisions.

A site Bushfire Attack Level (BAL) assessment is a requirement in accordance with the NCC and Australian Standard™3959 (AS3959) “Construction of Buildings in Bushfire Prone Areas”.

- 6) The subject land is known to be within 500m of a former landfill site where there is a site contamination audit being undertaken on behalf of the Adelaide Hills Council (Council). Landfill gas has been detected on the former landfill site. However, the source (anthropogenic or natural) and extent of this gas is subject to ongoing monitoring and further analysis. At this stage, it is unknown whether or not landfill gas is migrating offsite, noting that testing for landfill gas has so far only occurred within the site of the former landfill. While the Environment Protection Authority (EPA) has not issued any formal advice or direction to the Council in relation to the proposed development, its general advice suggests that in the absence of site-specific risk information, an effective control measure is a 500m buffer between new development and a landfill, measured from the outer boundary of the area containing waste: see EPA Information Sheet 'Landfill gas and development near landfills – advice for planning authorities and developers' issued February 2021.

The applicant is reminded that if they elect to proceed with the development in the absence of site-specific risk information:

1. They do so entirely at their own risk.
2. Under the Environment Protection Act 1993, a developer may be considered to have caused site contamination if the development creates a risk to future residents or occupiers from landfill gas.
3. The Council accepts no responsibility for any harm to persons, or any harm or damage to, or loss of property, or any other detriment resulting from the applicant's actions.

It is the applicant's responsibility to ensure that all appropriate steps are undertaken to minimise the potential harm or damage to property or persons arising from this situation.

Any queries in regards to landfill gas migration or site contamination should be directed to the EPA Hotline on 1800-729-175.

OFFICER MAKING RECOMMENDATION

Name: Doug Samardzija

Title: Statutory Planner