

CAP MEETING – 14 SEPTEMBER 2022
ITEM 8.1

DEVELOPMENT NO.:	21008654
APPLICANT:	Phillips/Pilkington Architects
ADDRESS:	1377 LOWER NORTH EAST RD HOUGHTON SA 5131
NATURE OF DEVELOPMENT:	Two storey community facility, including function hall (200 person capacity), verandah, associated car parking, landscaping & earthworks
ZONING INFORMATION:	Zones: <ul style="list-style-type: none"> • Township Overlays: <ul style="list-style-type: none"> • Hazards (Bushfire - Medium Risk) • Hazards (Flooding - Evidence Required) • Mount Lofty Ranges Water Supply Catchment (Area 1) • Native Vegetation • Prescribed Water Resources Area • Regulated and Significant Tree • Traffic Generating Development • Urban Transport Routes • Water Resources Technical Numeric Variations (TNVs): <ul style="list-style-type: none"> • Minimum Site Area
LODGEMENT DATE:	14 May 2021
RELEVANT AUTHORITY:	Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	2021.5
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	23 Representations 6 Representations to be heard
RECOMMENDING OFFICER:	Doug Samardzija <i>Acting Team Leader Statutory Planning</i>
REFERRALS STATUTORY:	EPA
REFERRALS NON-STATUTORY:	Engineering Department

CONTENTS:

ATTACHMENT 1: **Applicant Response to CAP Further Information Request**

ATTACHMENT 2: **Previous CAP Report and Attachments**

DETAILED DESCRIPTION OF PROPOSAL:

The proposal is for a two-storey community facility to be used in association with the Houghton, Inglewood & Hermitage Memorial Park. The use of the facility will be predominantly by a range of sporting groups including football and cricket but also by the general public for community gatherings. The additional use proposed for the facility is for functions at times when the building is not being utilised for sporting or community purposes.

CAP MEETING – 14 SEPTEMBER 2022
ITEM 8.1

The key features of the proposal are:

- Ground level containing home-team and away-team change rooms, wet areas, medical room, umpires room, a canteen and a large mechanical plant and services room.
- First level containing the large multipurpose/function room of approximately 265m², a foyer, large kitchen area, office, store room and male and female toilets. The building also has a verandah that wraps around the northern and eastern sides of the building.
- Other physical elements of the proposal include a small lift proposed along the eastern end of the building, associated landscaping, car parking and earthworks.

The additional Acoustic Report requested by CAP at the last meeting has been included as ***Attachment 1- Applicant's Response to CAP Further Information Request***. All other information including the plans forming the application documentation is provided in ***Attachment 2 – Previous Report and Attachments***.

BACKGROUND:

At its meeting on 10 August 2022, the Council Assessment Panel considered the merits of the proposed development. A total of six (6) representations were received from nearby adjoining and adjacent landowners and occupiers of land during the notification period. Representations were heard at the meeting on 10 August 2022.

On 10 August 2022 the Panel determined to defer its consideration of the proposed development to enable the applicant to provide further information on matters considered necessary for the Assessment Panel to complete its assessment of the application.

The following information was sought by the Panel:

- 1) Further acoustic professional advice to confirm modelling of patron noise includes both patrons on the terrace (balcony) and patrons within the building with doors and windows open, when music is not played.
- 2) And validate that the modelling of background noise has considered noise readings taken as close as practicable to the elevation of the sensitive receiver premises.

The matters sought by the Assessment Panel have been responded to by the applicant with details provided as follows:

Amended Acoustic Report has been provided by BESTC with respect to the modelling of patron noise. The modelling now includes both patrons on the terrace (balcony) and patrons within the building with doors and windows open, when music is not played and further noise level reading have been undertaken. The additional noise level readings were taken at the elevation of sensitive receivers, more specifically at 74 and 82 Amberdale Road, Houghton as illustrated on Figure 1 in the BESTEC report.

Accordingly the applicant's response to these outstanding matters is presented to the Assessment Panel for its further consideration.

The previous CAP Agenda Report for this proposal from the 10 August 2022 Council Assessment Panel Agenda is contained in Attachment 2.

CAP MEETING – 14 SEPTEMBER 2022
ITEM 8.1

SUBJECT LAND & LOCALITY:

Location reference: 1377 Lower North East Road, Houghton

Title ref: CT 5276/671 **Plan Parcel:** F147597 AL 1, 2 & 4

Council: ADELAIDE HILLS COUNCIL

Site Description:

The subject land is made up of three allotments totalling approximately 39,980m² on the north-western side of Lower North East Road. The land is predominantly used for community purposes and events as well as sporting purposes associated with the existing football and cricket clubs. There is an existing access to the site along the southern end of the property and existing built form is located at the south-eastern portion of the land, closer to the road. The existing buildings include clubrooms/change rooms, storage buildings and there is a car parking area in this location. The remainder of the site is taken up by the oval and areas of native vegetation. The area immediately surrounding the oval is also utilised for overflow car parking during sporting events.

Locality

The locality is generally characterised by regular shaped allotments predominantly used for residential purposes which range in size from 850m² to 1 hectare. Allotments to the north and south of the subject land are all residential properties, whilst immediately to the west is an allotment used predominantly as open space for picnics and as gardens. To the west the subject land adjoins the Productive Rural Landscape Zone with the allotments being much greater in size and ranging in use from residential to primary production purposes.

CONSENT TYPE REQUIRED:

Planning Consent

DEFERRED ASSESSMENT - ITEMS TO BE DETERMINED

The applicant has provided an amended Acoustic Report (amended report) prepared by BESTEC Acoustic Engineers with additional noise level readings as requested by CAP at the August meeting. The original report included measurements from two (2) locations within the subject land whilst the amended report has also included measurements from two adjacent sensitive receiver sites or, more specifically at 74 and 82 Amberdale Rd, Houghton. These two sites are properties owned by two of the representors opposing the proposed development.

Based on the zoning of the site being a Township Zone, which includes a mixture of commercial and residential uses, the Environment Protection (Noise) Policy 2007 environmental noise criteria are based on the average of the indicative noise factors for each land category. In this instance the average indicative noise factor takes into account the fact that the proposed development and the adjacent residential developments fall within different land use categories with 5dBA deducted for planning purposes. The environmental noise criteria become:

- Day-time (07:00 to 20:00): 57dBA
- Night-time (20:00 to 07:00): 50dBA

Based on the above established criteria, additional noise assessment was done relating to noise associated with functions. The assessment was broken down into two different areas, music noise and patron noise. The two areas of assessment are summarised below:

CAP MEETING – 14 SEPTEMBER 2022
ITEM 8.1

Music Noise:

Additional noise assessment at the two sensitive receiver sites was based on the original recommended condition requiring the music to be played inside the function area with the door and windows closed. The assessment revealed that the music noise will achieve the EPA noise criterion. In saying that it is important to point out a few differences from the original assessment which necessitate amendment to the conditions from the original recommendation. The following are the key differences:

- Original assessment was based on the assumption that the function area will have 2 speakers whilst the amended reading was done on the assumption it will have 4 speakers.
- Original recommendation was for the operator or duty manager to measure sound pressures of speakers before each function and to have all openable glazing closed during functions. The amended report includes further requirements by stating that:
 - external performers should only use the sound system provided by the function centre and
 - the sound system should be tuned and commissioned by an acoustic engineer and once the system is correctly tuned that it should be locked by the engineer to prevent the settings being adjusted by staff and performers.

The above changes and additional recommendations have been reinforced by amended and additional recommended conditions 8, 9 and 10.

Patron Noise:

Additional patron noise assessment was undertaken as per the request of CAP at the last meeting. Specifically it was requested that assessment take into account noise including both patrons on the terrace (balcony) and patrons within the building with doors and windows open, when music is not played. Based on the additional assessment including the two sensitive receiver sites it was concluded that patron noise levels at the sensitive receiver sites will achieve both day time and night time noise criterion. Similar to the music noise assessment there were a few differences with patron noise assessment from the original assessment, as summarised below:

- The original report only took into account patron noise from the terrace with a total of 90 persons of which 46 were assumed to be talking. This assessment considered 12 male and 12 female talking at a raised voice level and 11 male and 11 female talking at a normal voice level. The amended report took into account the terrace area and function area at full capacity with 100 patrons being on the terrace and 100 patrons being indoor, with doors and windows open, and with the half of the total number of people assumed to be talking. This was then further broken up into the number of people talking at raised voice level and at normal voice level.

The revised assessment established that the patron noise levels are within the EPA noise criterion and no changes to the recommended conditions are necessary in the regard.

The amended report does however provide further recommendations in relation to building elements and acoustic sealants that need to be incorporated within the building design in order to meet the required acoustic levels external to the building and also internally between different rooms. Additional conditions 11 and 12 have been recommended to address these requirements of the amended report.

All other assessment of noise generating activities to the nearest sensitive receiver which would be associated with the proposed development such as, mechanical services, rubbish collection, delivery trucks and noise associated with car park, has been deemed to be accordance with the day time and night time criterion by the acoustic engineer.

CONCLUSION

The additional acoustic assessment of the matters requested as part of the deferral decision of CAP have confirmed that the proposed development adequately satisfies the relevant assessment provisions of the Planning and Design Code, more specifically that:

- The additional noise assessment was done as close as practicable to the elevation of the sensitive receiver premises. In particular the two additional measurements were taken at 74 and 82 Amberdale Road, Houghton.
- Music noise levels were deemed to be in accordance with the day time and night time EPA Noise Policy criterion with openable glazing closed during functions.
- Additional measures such as restricting external performers to use of the sound system provided by the function centre only and requiring the music system to be tuned and commissioned by the acoustic engineer and then locked to prevent the settings from being adjusted by staff and performers.
- Patron noise levels were assessed taking into account the terrace and indoor area when music is not played. Patron noise assessment was based on the full capacity and deemed to be within the day time and night time EPA Noise Policy criterion.

The proposal is for a two-storey community facility to be used predominantly in association with community and sporting activities currently occurring on site whilst also incorporating a secondary use for functions at times when the building is not being used for its primary use. As detailed in the previous staff report, the main concerns with the proposal were in relation to the bulk and scale, noise impacts associated with the use and from traffic. Impacts on native vegetation and regulated and significant trees have been managed with the arborist report confirming that proposed development is not going to require removal of the trees. Impacts on the water catchment area have also been addressed through proper treatment of stormwater. The proposal will result in an increase in traffic movements through an existing access point but this increase is not going to be significant in nature. Car parking can be achieved on-site using both the formal car park and areas around the oval.

Council staff are satisfied the proposed development is sufficiently in accord with the Planning and Design Code to warrant consent.

Accordingly, it is recommended that The Assessment Panel can proceed to grant Planning Consent.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and**
- 2) Development Application Number 21008654, by Phillips/Pilkington Architects for Two storey community facility, including function hall (200 person capacity), verandah, associated car parking, landscaping & earthworks at 1377 Lower North East Road Houghton is GRANTED Planning Consent subject to the following conditions:**

CAP MEETING – 14 SEPTEMBER 2022
ITEM 8.1

PLANNING CONSENT

CONDITIONS

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).
- 2) All external lighting shall be directed away from residential development and, shielded if necessary to prevent light spill causing nuisance to the occupiers of those residential properties.
- 3) All external materials and finishes shall be of subdued colours which blend with the natural features of the landscape and are of a low-light reflective nature

NOTE: browns, greys, greens and beige are suitable and galvanised iron and zincalume are not suitable

- 4) All car parking spaces, driveways and manoeuvring areas shall be designed, constructed, and delineated in accordance with Australian Standard AS 2890.1:2004. Delineation 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 occupation and maintained in good condition at all times to the reasonable satisfaction of the Council

- 5) 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.
- 6) At any one time, the overall capacity of the community facility shall be limited to a maximum of 200 persons. This includes any associated outdoor areas for liquor licensing purposes.
- 7) The opening hours of the community facility shall be the following:
Monday to Thursday: 11:00am to 10:00pm
Friday and Saturday: 10:00am to 12:00am
Sunday: 9:00am to 3:00pm
- 8) Entertainment in the form of a range of music shall be contained within the building during the operating hours of the community facility. Windows and doors of the building shall be kept closed during times when music is played.
- 9) Prior to occupation, the sound system shall be tuned and commissioned by an acoustic engineer in accordance with the recommendations from the Bestec Acoustic Services 100% Design Report dated 31 August 2022. When the nominated noise levels are achieved, the sound limiter and main amplifier should be locked by the acoustic engineer to prevent the settings being adjusted by staff of performers.
- 10) Prior to music being played and during the music amplification, sound pressure levels from all speakers shall be measured to ensure that amplification does not exceed the permitted levels. Records of the readings shall be maintained and available for inspection by the Council upon request.

CAP MEETING – 14 SEPTEMBER 2022
ITEM 8.1

- 11) All external performers shall only use the sound system and amplifier provided by the function centre. No external sound systems and amplifiers are permitted to be used unless tuned and commissioned by an acoustic engineer prior to comply with the recommendations from Bestec Acoustic Services 100% Design Report dated 31 August 2022.
- 12) A maximum of four (4) speakers shall be used at any one time.
- 13) Prior to Building Consent being issued, all noise management construction recommendations from the Bestec Acoustic Services 100% Design Report dated 31 August 2022 shall be included in the final building design plans, submitted for Building Consent.
- 14) Prior to occupation of the approved building, the noise management construction recommendations from the Bestec Acoustic Services 100% Design Report dated 31 August 2022 shall be implemented to the reasonable satisfaction of Council staff.
- 15) Prior to construction of the approved development straw bales (or other soil erosion control methods as approved by Council) shall be placed and secured below areas of excavation and fill to prevent soil moving off the site during periods of rainfall.
- 16) Landscaping, detailed in plans prepared by Outer Space and stamped as part of this planning consent shall be planted in the planting season following occupation of the approved building and maintained in good health and condition at all times. Any such vegetation shall be replaced in the next planting season if and when it dies or becomes seriously diseased.
- 17) The works in relation to the protection of trees outlined in the Arborist's Report prepared by Project Green and submitted as part of this application as a strategy for management of the trees are to be undertaken simultaneously with the commencement of building works on the site.
- 18) Prior to occupation of the approved building, all surface water from carparking or hardstand areas shall be directed to a proprietary pollutant treatment device capable of removing oils, silts, greases, and gross pollutants prior to discharge to Council's and the EPA's reasonable satisfaction.
- 19) All stormwater from the building is to be directed into the existing underground stormwater infrastructure within one month of roof cladding being installed.
- 20) All waste shall be removed from the subject land at least once weekly. Collection of waste shall be carried out only between the hours of 7.00am and 5.00pm on any day.
- 21) The number of functions in a calendar year not associated with community or sporting events shall not exceed 12 per year. A record of all events shall be maintained and available for inspection by the Council on request.

Such functions shall have a maximum capacity of 200. Any increase in the number of functions/capacity will require separate development approval.

Conditions imposed by Environment Protection Authority under Section 122 of the Act

- 22) No irrigation of the oval with treated wastewater is to occur.
- 23) All bores located on site must be decommissioned prior to the commissioning of the wastewater system.
- 24) The wastewater system must be fitted with an audible and visual alarm to alert a person of responsibility of any and all faults.
- 25) The detailed design of the stormwater management system must incorporate the outcomes modelled in the concept design outlined in the 'Houghton Memorial Oval Stormwater Management Plan' prepared by Tonkin Consulting and dated 17 April 2018.

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) This consent or approval will lapse at the expiration of 2 years from its operative date, subject to the below or subject to an extension having been granted by the relevant authority.
- 4) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).
- 5) The applicant is advised that any proposal to clear, remove limbs or trim native vegetation on the land, unless the proposed clearance is subject to an exemption under the Regulations of the Native Vegetation Act 1991, requires the approval of the Native Vegetation Council. For further information visit:

www.environment.sa.gov.au/Conservation/Native_Vegetation/Managing_native_vegetation

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

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

- 6) 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.
- 7) The EPA recommends that management processes and responsibilities for the operation and management of the wastewater treatment system and irrigation area are documented in an operational management plan.
- 8) Further information and resources on managing construction activities to minimise impacts to waste quality can be found on the EPA website Building & construction | EPA. In particular, the Code of practice for the building and construction industry lists the circumstances in which a soil erosion drainage management plan should be prepared.
- 9) More information about the Environment Protection Authority and the Environment Protection Act and policies can be found at: www.epa.sa.gov.au

OFFICER MAKING RECOMMENDATION

Name: Doug Samardzija
Title: Senior Statutory Planner

ITEM 8.2

DEVELOPMENT NO.:	22006231
APPLICANT:	Beyond Ink
ADDRESS:	41 AVENUE RD STIRLING SA 5152
NATURE OF DEVELOPMENT:	Change in use from shop to indoor recreation facility
ZONING INFORMATION:	Zones: <ul style="list-style-type: none"> • Rural Neighbourhood Subzones: <ul style="list-style-type: none"> • Adelaide Hills Overlays: <ul style="list-style-type: none"> • Regulated and Significant Tree • Hazards (Bushfire - Medium Risk) • Local Heritage Place • Mount Lofty Ranges Water Supply Catchment (Area 2) • Native Vegetation • Prescribed Water Resources Area Technical Numeric Variations (TNVs): <ul style="list-style-type: none"> • Minimum Site Area
LODGEMENT DATE:	2 Mar 2022
RELEVANT AUTHORITY:	Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	2022.3 - 17 February 2022
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Melanie Scott Senior Statutory Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Local Heritage Council Engineering Council Property

CONTENTS:

ATTACHMENT 1: Locality Map
ATTACHMENT 2: Zoning Map
ATTACHMENT 3: Application documents
ATTACHMENT 4: Representations

ATTACHMENT 5: Response to Representations
ATTACHMENT 6: Internal Referral Advice
ATTACHMENT 7: P & D Code Rules

DETAILED DESCRIPTION OF PROPOSAL:

The proposal is for a change of use for an existing Local Heritage listed building from shop to indoor recreation facility, and in particular a pilates studio. The key features of the proposal are:

- Use of the upper level of the building for a pilates studio. The remainder of the building is used for storage and offices by the same tenant.
- A maximum of 12 participants and 2 instructors at any one time.
- Limited hours of operation, Monday to Friday 6.00am - 11.30am and 4.30pm – 8.30pm, and Saturdays and Sundays 9.00am to noon. It is also proposed there will be no overlap in classes so client arrival and departure can be staggered.
- Any music in association with the classes will not be heard outside the building.
- There is no proposal for any signage or change to the exterior of the building.

CAP MEETING – 14 SEPTEMBER 2022

ITEM 8.2

- Car parking – utilises an existing on street parking arrangement for which there is an encroachment permit under Section 221 and 222 of the Local Government Act (issued to the building owner) which expires 30 June 2023. This has been in place since September 2018 and covers the parking on Avenue and Madeline Roads, with a total of 10 car spaces.

The plans and information forming the application documentation is provided in **Attachment 3 – Application documents**.

BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
29 June 2016	15/436	Change of use for portion of existing shop to dog grooming
20 July 20019	09/402	Removal of a significant tree (Acacia delbata) on the Madeline Road frontage
11 May 2009	09/362	Building fire safety upgrade to a Local Heritage Place associated with community title Land Division 473/C88/06
3 February 2009	06/C88	Community Title Land Division to create one (1) additional allotment – non-complying
2 December 2004	04/1187	Internal Alterations / Loading Canopy

SUBJECT LAND & LOCALITY:

Location reference: 41 AVENUE RD STIRLING SA 5152

Title ref.: CT 6056/983

Plan Parcel: C25663 FL741

Council: ADELAIDE HILLS COUNCIL

Site Description:

The land is a corner lot at the intersection of Avenue Road and Madeline Road, with a lease agreement in place for part of the Madeline Road reserve to be used for car park spaces for the subject land. The building is Local Heritage listed for its contribution to the community through a long history of commercial use including as a post office, general store, bottle shop and cafe. The building presents as single storey to Avenue Road and has an undercroft portion to the rear which is not intended to be used as part of this proposal.

Locality

The land is located in the Rural Neighbourhood zone on a busy local road and is surrounded by residential uses. The residential parcels to the south tend to be larger land holdings and those to the north and east are smaller. The land is undulating in the area and the railway line is less than 100 metres to the south of the subject land.

The subject land and that relating to neighbouring representations is provided in **Attachment 1 – Locality Map/Representation Map**. The zoning is shown on the map in **Attachment 2 – Zoning Map**.

CONSENT TYPE REQUIRED:

Planning Consent

ITEM 8.2

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Change of use: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
Development not classified as accepted, deemed-to-satisfy, restricted nor impact assessed and will be performance assessed on its merits against the Code.

PUBLIC NOTIFICATION

- **REASON**
Deemed not to be minor development to change the use from shop to indoor recreation facility by Council staff.

Public Notification was undertaken between 22 March 2022 and 11 April 2022. There were there (3) representations received during the public notification period and one (1) representation outside the public notification period. The applicant sought an extension of time to properly respond to representations and that response was provided 21 July 2022. All representations were opposing the development and two people has requested to be heard in support of their representation.

- **LIST OF REPRESENTATIONS**

Name	Address	Position	Wishes to be Heard
Caitlin Nicholas	60 Birch Road Stirling	Oppose	No
Nicholas Stephenson	PO Box 93 Stirling	Oppose	Yes
Joan O'Callaghan	50 Avenue Road Stirling	Oppose	Yes
Richard Wundke	6 Madeline Road Stirling	Oppose	Late Representation

- **SUMMARY**
The representors are generally concerned with the amount of the parking available and the safety of the parking. One representor is concerned with the hours of operation and associated noise issues.

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

Nil

INTERNAL REFERRALS

- Local Heritage - no issues
- Council Property – current encroachment agreement for the 10 car spaces provided, expires 30 June 2023
- Council Engineering – acknowledges the current parking arrangement and notes little to no on-street parking nearby.

The internal referral responses are included as **Attachment 6 – Internal Referral Responses**.

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

ITEM 8.2

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 7**.

Rural Neighbourhood Zone

Desired Outcomes	
DO1	Housing on large allotments in a spacious rural setting, often together with large outbuildings. Easy access and parking for cars. Considerable space for trees and other vegetation around buildings, as well as on-site wastewater treatment where necessary. Limited goods, services and facilities that enhance rather than compromise rural residential amenity.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs 1.1, 1.2, 1.4, 1.4, POs 2.1, 3.1, 4.1, 5.1, 6.1 and 10.1	

PO 1.1 envisages primarily residential development however the associated DPF includes a shop and recreation area as envisaged development. The proposed indoor recreation facility could be considered a hybrid of a shop and a recreation area. The scale with the proposed class size limit of 12 is considered appropriate for use of an existing building of this size.

PO 1.2 does envisage commercial activities which are of a scale and type which maintain residential amenity. Given the long standing use of the local heritage listed building for commercial purposes, the scale and hours of operation, the proposal is considered to meet this performance outcome and the associated POs 1.3 and 1.4.

Adaptive reuse of the existing building means POs 2.1, 3.1, 4.1, 5.1 and 6.1 have no measurable contribution to the assessment of the proposal, as it is not for a new construction of a new building or additions to the existing building.

No signage is proposed so PO 10.1 has no measurable contribution to the assessment of the proposal.

Adelaide Hills Subzone

No relevant provisions.

Hazards (Bushfire – Medium Risk) Overlay

One representor raised the issue of emergency vehicle access to Madeline Road however the parking is in the road reserve leaving the carriageway of Madeline Road trafficable. There are no relevant provisions to the proposal in this overlay.

ITEM 8.2

Local Heritage Place Overlay

Desired Outcomes	
DO1	Development maintains the heritage and cultural values of Local Heritage Places through conservation, ongoing use and adaptive reuse.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO 2.2	

Desired outcome 1 requires development maintains the heritage and cultural values of Local Heritage Places through conservation, ongoing use and adaptive reuse. As no change is proposed to the building structure and no advertising is proposed the proposal is considered to meet this desired outcome.

PO 2.2 seeks retention and reuse of Local Heritage places. Council's Local Heritage advisor commented there were no issues from a heritage perspective as the proposal is for a change of use only. There is also an argument the building will be at risk of falling into disrepair if it remains vacant

Mount Lofty Ranges Water Supply Catchment (Area 1) and (Area 2) & Prescribed Water Resources Overlays

No relevant provisions given the proposal is a change of use for an existing building with connection to existing stormwater and sewer infrastructure.

Native Vegetation Overlay

No relevant provisions.

Regulated and Significant Tree Overlay

No relevant provisions.

General Development Policies

Advertisements

No advertisement is proposed with this application.

Design In Urban Areas

Desired Outcomes	
DO1	Development is: <ol style="list-style-type: none">1. contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributing to the character of the locality2. durable - fit for purpose, adaptable and long lasting3. 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 visitors4. 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 (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs 2.1, 2.2, 2.3, 2.4 and 2.5	

CAP MEETING – 14 SEPTEMBER 2022

ITEM 8.2

Safety POs 2.1, 2.2, 2.3, 2.4 and 2.5 are considered the relevant design in urban areas provisions for the proposal. There is direct access to the building from the associated car parking. There are three (3) entry points all of which exist and are easily identifiable. Being on a corner with no fencing passive surveillance is easily achieved in accordance with PO 2.1.

Car parking is existing so there are no changes proposed to the existing appearance and operation of the parking. Further discussion on the parking arrangements is provided in the report under the section titled Transport Access and Parking.

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 (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs 2.1, 4.1	

DO 1 seeks development be located and designed to mitigate adverse effect on or, from neighbouring and proximate land uses. The building and commercial uses are well established in the locality. The proposed hours of operation being Monday to Friday 6am to 11.30am and 4.30pm to 7.30pm and Saturday and Sunday 9am to noon are considered to minimise the impact on adjacent residential premises. Noting the 6am start is earlier than envisaged in PO 2.1, the impact of the early start is balanced against a possible maximum of 14 vehicle movements on a busy road (Avenue Road). The impact of the 6am start on weekdays is considered negligible. The class instructor will not have a microphone and music during classes will be at a level to ensure the instructor can be heard. Further the doors for the building will be closed during classes and staggering the classes to minimise overlaps are other steps being taken to minimise the impact of the proposal on adjacent residential properties with regards to class arrival and departure not overlapping, ensuring the proposal accords with PO 4.1.

Out of Activity Centre Development

Desired Outcomes	
DO1	The role of Activity Centres in contributing to the form and pattern of development and enabling equitable and convenient access to a range of shopping, administrative, cultural, entertainment and other facilities in a single trip is maintained and reinforced.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs 1.1, 1.2	

The commercial premises the subject of this application currently exist outside the activity centre. The proposal is considered to be of a scale that it does not detract from the activity centre (Stirling) and to be of a type that is complimenting the surrounding residential premises with the provision of service that can meet the needs of local residents in accordance with PO 1.1 and 1.2.

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 (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
POs 1.1, 1.4, 3.1, 3.4, 3.5, 3.6, 3.8, 4.1, 5.1	

ITEM 8.2

PO 1.1, 1.4 & 3.1 are considered met as the parking arrangements for the site are existing, and the subject of a current encroachment permit. Council has limited reporting of traffic issues related to the existing parking arrangement. It is acknowledged that the design of the car parking spaces does not meet the DPFs associated with PO 3.1 by virtue of the location within 6 metres of the intersection of two roads. Despite this, as an existing approved arrangement the current parking is considered to minimise impact and interruption on the operation of public roads. Furthermore in assessing the application consideration could be made of PO 3.4, 3.5, 3.6 & 3.8 in relation to access however as an existing approved arrangement there is little merit in undertaking an assessment against these provisions given the proposal is considered to be of minimal scale.

With regards to access for people with a disability as required by PO 4.1 there is an existing access ramp and accessible car space provided in the existing car parking arrangements.

Follows a discussion regarding the sufficiency or otherwise of the parking on site, noting the Parking table in the Planning and Design code and as required by PO 5.1 and noting the proposal is an adaptive reuse of a Local Heritage place.

There is an existing short fall of car parks for the site associated with previous uses as a shop. Under past policy and current Planning and Design Code requirements in PO 5.1 a shop should have 17.5 spaces based on 5.5 spaces per 100m² of gross leasable area. There being 10 spaces provided in total for the site it is acknowledged that a shortfall of parking on the site of 7.5 spaces exists should the site continue as a shop. As an adaptive reuse of a Local Heritage Place this was previously considered accessible in this location.

There are different ways of considering parking for the indoor recreation facility (pilates studio) in the Planning and Design Code. Importantly the Planning and Design Code defines a pilates studio as an indoor recreation facility and Table 1 General Off Street Parking determines there should be 4.5 car spaces per 100m² of total floor area of the indoor recreation facilities other than fitness centres. If you said the total floor area of the proposed use included the store and toilets you would require 14 car spaces which reduces the known short fall from the previous shop use to 4, as opposed to 7.5. Alternatively, despite the definition of total floor area, you could say the total floor area for the pilates studio is 216m² which would require 9 car spaces and the remainder of the site could be described as a store which would require .5 car spaces for its 92m². There is then an argument 10 spaces is adequate. The applicant supplied a parking assessment from a transport engineer which concurs that the shortfall of parking on site for the proposal is less than what existed for its previous use as a shop. In terms of the impact of that parking shortfall, assuming everyone including staff drove to the venue 13-14 spaces would be required. It is noted 2 staff will not always be on site hence 13 spaces in the previous sentence and one can deduce a theoretical shortfall of 3 car spaces. Council has no record of parking complaints in the area and notes there is a footpath and bus stop opposite which links to Stirling and surrounding residential properties which can facilitate active travel. On balance the proposal is considered an improvement to the existing approved parking shortfall for the use of the site as a shop.

CONCLUSION

On balance as the proposal reduces the known parking shortfall on the subject site and reduces the hours of use for the site with proposed restricted hours. The proposal is considered to present an adaptive reuse for a local heritage listed building that is periodically vacant. The scale of the proposal is modest and noise will be confined to within the building when classes are being conducted. Avenue Road is a busy road and noise associated with the movement of vehicles for the pilates studio is considered to be negligible in context of the traffic movements along Avenue Road. The proposal is a reduction in the hours of operation and parking requirements currently authorised for the approved shop use. Whilst acknowledging the representors' concerns with regard to noise and parking, the arguments in support of the proposal are considered to outweigh representors' concerns with the application and appropriate conditions of approval.

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 22006231, by Beyond Ink for change of use from shop to indoor recreation facility at 41 Avenue Road Stirling is granted Planning Consent subject to the following conditions:

PLANNING CONSENT

CONDITIONS

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.
- 2) The opening hours of the indoor recreation facility shall be:
Monday to Friday 6.00am – 11.30am and 4.30pm – 8.30pm
Saturday and Sunday 9.00am to Noon
- 3) At any one time, the overall capacity of the indoor recreation facility shall be limited to a maximum of 12 participants and 2 staff and class times must have a minimum separation of 15 minutes between finishing time and commencement of the next class.
- 4) Music shall only be played within the indoor recreation facility when classes are operating and doors and windows are closed. The noise from the music shall not exceed:
 - Day-time (07:00 to 20:00): 57dBA
 - Night-time (20:00 to 07:00): 50dBAWhen assessed externally at the nearest existing noise sensitive location.

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) This consent or approval will lapse at the expiration of 2 years from its operative date, subject to the below or subject to an extension having been granted by the relevant authority.

CAP MEETING – 14 SEPTEMBER 2022

ITEM 8.2

- 4) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).

OFFICER MAKING RECOMMENDATION

Name: Melanie Scott
Title: Senior Statutory Planner

CAP MEETING – 14 SEPTEMBER 2022
ITEM 8.3

DEVELOPMENT NO.:	22011328
APPLICANT:	Simon Winter
ADDRESS:	11 RUGBY RD ALDGATE SA 5154
NATURE OF DEVELOPMENT:	Change of use from residential to include service trade premises (plant sales in an outdoor setting)
ZONING INFORMATION:	Zones: <ul style="list-style-type: none">• Rural Neighbourhood Subzones: <ul style="list-style-type: none">• Adelaide Hills Overlays: <ul style="list-style-type: none">• Hazards (Flooding)• Hazards (Bushfire - Medium Risk)• Mount Lofty Ranges Water Supply Catchment (Area 2)• Native Vegetation• Prescribed Water Resources Area• Regulated and Significant Tree• Traffic Generating Development• Urban Transport Routes• Water Resources Technical Numeric Variations (TNVs): <ul style="list-style-type: none">• Minimum Site Area
LODGEMENT DATE:	8 Apr 2022
RELEVANT AUTHORITY:	Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	Operative Version 2022.6 - (31 March to 27 April 2022)
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Melanie Scott – Senior Statutory Planner
REFERRALS STATUTORY:	Nil.
REFERRALS NON-STATUTORY:	Nil

CONTENTS:

ATTACHMENT 1: Location Map
ATTACHMENT 2: Zone Map
ATTACHMENT 3: Application documentation
ATTACHMENT 4: Representations

ATTACHMENT 5: Response to Representations
ATTACHMENT 6: P & D Code Rules

DETAILED DESCRIPTION OF PROPOSAL:

The proposal is to formalise an additional land use activity and small outbuilding at 11 Rugby Road, Aldgate, in addition to the existing residential use of the land. The use is a small scale 'tree nursery', occupying approximately 500m² of the subject land using the secondary street access to Strathalbyn Road. This access is pedestrian only via a small footbridge. There is a freestanding verandah structure (approximately 3m x 2.6m) which acts as a point of sale and is described as portable. There is a small outbuilding which is used as an office (approximately 3.6m x 3.6m) associated with the service trade premises which sits outside the land identified for the plant sales. This building is only accessed by the property owner, is not subject to a building assessment by virtue of its size but as it is used in association with the business is included in the proposal.

ITEM 8.3

The site is generally well landscaped and contains numerous larger non-native trees, consistent with the immediate locality of the site, with areas set-out in the allocated portion of the land for display of stock trees for sale and preparation for pick up / delivery.

The proposal seeks to formalise 'short business hours' generally avoiding peak traffic / rush hours, and conducting low-intensity trade, including the following opening hours and staffing rates:

- 10:00am to 3:00pm Tuesday to Friday (Staffed by one person).
- 10:00am to 4:00pm Saturday and 11:00am to 4:00pm on Sunday (staffed by one person / supplemented in peak periods by a second person).
- Closed on Mondays (operates six days per week).
- Typically, with reduced opening hours during seasonally off-peak times.

The nature of the land use does not accord with the provisions for a *home activity*, provided in Regulation 3 (interpretation) of the PDI regulations 2017, as follows:

home activity - means a use of a site by a person resident on the site—

(a) that does not detrimentally affect the amenity of the locality or any part of the locality; and

(b) that does not require or involve any of the following:

(i) assistance by more than 1 person who is not a resident in the dwelling;

(ii) use (whether temporarily or permanently) of a floor area exceeding 30 m² ;

(iii) the imposition on the services provided by a public utility organisation of any demand or load greater than that which is ordinarily imposed by other users of the services in the locality;

(iv) the display of goods in a window or about the dwelling or its curtilage;

(v) the use of a vehicle exceeding 3 tonne tare in weight;

The proposal identifies, (b)(i) 'assistance by more than one person who is not a resident in the dwelling', utilises more than 30m² and the display of trees will be (iv) 'about the dwelling or its curtilage', or more correctly about the property's northern one-third. For this reason the proposal is not considered a home activity. The area utilised is contained within the property and does not comprise displays or trade tables for instance at the secondary frontage.

The proposed tree nursery's *advertised address* is at 18 Strathalbyn Rd, being the rear or secondary frontage of the dual frontage site, and does not encourage any 'business related traffic' into the neighbourhood streets of its Rugby Road frontage.

The proposed activity relies upon 18 to 20 'on-street' car parks on the northern side of Strathalbyn Road providing 2 Hour parking, and a further 5 car parking spaces on the south side of Strathalbyn Road marginally west of the property's frontage and access point. The latter parking area provides ¼ hour parking at its westernmost two-car park spaces and 1 hour parking for the remaining 3 car park spaces at its eastern extent. The easternmost three parking spaces also function as a Loading Zone on all days between 7:00am and 11:00am, in support of the businesses adjacent, and potentially also for the proposed development. Three disabled / universal access car park spaces exist within the road reserve also in front of the Aldgate Pump Hotel which are public access parks.

Trade deliveries to the proposed tree nursery are anticipated once every 3 to 4 weeks based upon current demand, and this is not expected to alter. Deliveries utilising the established Loading Zone typically occur on weekdays and within the specified times, with deliveries via small Medium rigid delivery truck, consistent with delivery to the adjacent café-restaurants and salon/store.

Customer deliveries from the proposed tree nursery are offered to customers as an optional service. The applicant identifies that *most tree sizes preclude loading into private motor vehicles without risk of damage*, and that up to 60% of customers take advantage of the delivery service. Deliveries are undertaken with a vehicle and 6x4 caged trailer, loaded from Strathalbyn Rd, during off- peak traffic times, with 2-3 delivery runs per week.

The Aldgate Pump Hotel likely augments their own on-site parking at times with the on-street car parking.

ITEM 8.3

The car parking spaces on the northern side of Strathalbyn Road require people to cross the arterial road. Formal pedestrian crossing provisions (kerb ramps *with tactile indicators*) exist on either side of the road immediately on the eastern side of the Mt Barker Rd / Strathalbyn Rd / Kingsland Rd roundabout, with a pedestrian refuge between lanes.

The plans and information forming the application documentation is provided in **Attachment 3 – Application documents**.

BACKGROUND:

The proposal seeks a retrospective consent for the proposed operation of the tree nursery activities which have been occurring since approximately 2018, operating through online / telephone orders / sales and seeks to formally expand the home-based business.

The applicants sought to establish the proposed tree nursery previously under the former Development Plan as a non-complying form of development. Council did resolve to proceed with assessment of the application but it has now been withdrawn in favour of the current application.

SUBJECT LAND & LOCALITY:

Location reference: 11 RUGBY RD ALDGATE SA 5154

Title ref.: CT 5156/852 **Plan Parcel:** D1379 AL63 **Council:** ADELAIDE HILLS COUNCIL

Site Description:

The subject land is a large regularly shaped parcel of approximately 1650m² and contains an existing detached dwelling, garaging and swimming pool with extensive landscaped garden, yard areas and a small garden shed. The site obtains its primary road frontage and its domestic access from Rugby Road, which is a relatively narrow local road, formally terminating just south of the subject land and connecting as a laneway to a number of allotment rear boundaries, before re-connecting with Suffolk Road and Beverley Road.

The subject land has its secondary frontage as discussed above, to Strathalbyn Road, accessed by a pedestrian footbridge over the Aldgate Creek. The creek is flood mapped in this location. This dual access arrangement is found in a number of the adjacent dwellings.

The land is gently sloping with approximately 2 – 3 metres cross-fall near the Rugby Road frontage (in the area generally occupied by the dwelling) and approximately 4 to 5 metres fall from the middle of the allotment towards its northern boundary with Strathalbyn Road. There is a relatively flat 'lower tier' consistent with the level of the secondary frontage. This lower tier is the location of the proposed development.

Locality

The locality is identified as being a 'mixed use' locality, exhibiting an interface between established neighbourhood type areas. South of Strathalbyn Road and east of Kingsland Road there is commercial development consisting of two café / restaurants and one salon / beauty premises at the intersection of Kingsland Road and Strathalbyn Road. There are higher density retail and food shops and other commercial services west of Kingsland Road / south of Mt Barker Road. On the north of Strathalbyn Road there is the Aldgate Pump Hotel and the Township Mainstreet Zone extends to opposite the subject land on the northern side of Strathalbyn Road.

The locality is overlaid with Township Main Street (TMS) and Rural Neighbourhood (RN) Zones, which generally supports transition from neighbourhood type activity to more commercially orientated activity to the north and west of the subject land.

Land in the locality is moderately undulating with localised 'flatter' topography near Strathalbyn Road and Aldgate Valley Road as well as throughout the commercial centre to the north-west of the Mt Barker Rd / Strathalbyn Rd /

ITEM 8.3

Kingsland Rd roundabout. The streets and land in the area have a high degree of tree coverage, adding to its character, which is described as that of a mixed township and neighbourhood characteristics.

The subject land and that relating to neighbouring representations is provided in **Attachment 1 – Locality Map/Representation Map**. The zoning is shown on the map in **Attachment 2 – Zoning Map**.

CONSENT TYPE REQUIRED:

Planning Consent and Development Approval sought for the proposed additional land use noting both structures proposed are not subject to a building assessment.

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**

Change of use: Code Assessed - Performance Assessed

Service trade premises: Code Assessed - Performance Assessed – All-Other Code Assessed

- **OVERALL APPLICATION CATEGORY:**

Code Assessed - Performance Assessed – All-Other Code Assessed

- **REASON**

The P&D Code does not assign a prescribed *Accepted, Deemed-to-Satisfy, Performance Assessed* or *Restricted Assessment Pathway* or provisions for the assessment of a 'service trade premises' for this site within the Rural Neighbourhood Zone, and accordingly, the proposal 'defaults' to a *Performance Assessed - All-Other Code Assessed* application.

PUBLIC NOTIFICATION

Required

- **REASON**

A 'service trade premises' is not identified in any of the available exemptions in Rural Neighbourhood Zone table 5 and not deemed to be 'minor' development.

Public notification occurred between the dates of 26 May and 16 June 2022, with two (2) representations received during the notification period. – One representor in opposition to the proposed development and one representor in support of the proposal however raising some elements of concern to be addressed. One representor expressed a desire to be heard by the Assessment Panel.

- **LIST OF REPRESENTATIONS**

Name	Address / Affected Land	Supports / Objects	Desires to be heard?
B. Young	2 Aldgate Valley Road ALDGATE	Objects	No
R. Harper	20 Rugby Road ALDGATE	Supports - with some concerns	Yes

- SUMMARY

The matters raised in the representations are summarised below:

Matter represented:	Response / Comments:
<i>The term service trade (premises) is ambiguous</i>	<p>The term 'service trade premises' is defined by Part 7 of the State Planning and Design Code, and is determined by the planning authority for assessment purposes – <i>service trade premises</i> specifically identifies amongst other uses as being:</p> <p><i>...premises used primarily for the sale, rental or display of any of the following:</i></p> <p>(l) landscaping materials; or (m) garden plants (primarily in an outdoor setting);</p> <p>The intensity of the use and elements such as vehicles used & deliveries are specified within the applicants 'Additional Information' document.</p>
<i>Seeking Confirmation of Delivery Times</i>	<p>The anticipated frequency of deliveries (to and from the site) and vehicles used for deliveries are specified within the applicants 'Additional Information' document.</p> <p>Deliveries are identified as using the existing Loading Zone established 65 metres north-west of the site on Strathalbyn Road, not Rugby Road and the applicant has indicated acceptance of a condition to reinforce this.</p>
<i>Flooding Risk & Impacts</i>	<p>The portion of the site to be utilised for the proposed tree nursery is within the defined extent of the Onkaparinga 1:10 ARI /10-year AEP for reoccurrence of flooding (with the 1:100 ARI / 100-year AEP flood area only marginally beyond the 10-year extent due to topography. The area to be utilised contains no substantial infrastructure in support of the use - i.e. the small outbuilding for administering the nursery, and is otherwise low risk in respect of flooding events.</p> <p>The use would exhibit comparable 'flooding issues' as any domestic site would. The proposal is not considered to alter the flood risk for upstream or downstream properties. The applicant has identified enhanced forecasting will enable them to remove plants from potential flood risk when necessary and this is commercially in their interest.</p>
<i>Maintenance of country lifestyle amenity</i>	<p>The development is in close accord to the envisaged uses within the Rural Neighbourhood Zone, i.e. a retail shop would be considered as envisaged in Zone PO/DPF 1.1 - The definition of a Service trade premises is broad and encompasses bulk supplies, materials, buildings and vehicles – it would not normally be an envisaged definition for development within Neighbourhood environments, hence the classification within the <i>Performance Assessed – All-Other Code Assessed</i> assessment and the specific development description, service trade premises (plant sales in an outdoor setting).</p>

	<p>The proposal is required to demonstrate its merits against <i>all relevant assessment provisions of the Code</i> (rather than a prescribed selection of assessment provisions) and in this instance the additional land use of a small-scale tree nursery with modest opening hours and low-intensity operation is considered to be compatible with / non prejudicial to the surrounding neighbourhood land uses.</p> <p>Further the proposed use is limited by the description being specific – “service trade premises (plant sales in an outdoor setting)”.</p>
<i>Amenity views (across the subject land)</i>	<p>Views across the subject land (where landscaping on the subject land formerly blocked those views) and where those views are not desirable by adjoining or adjacent land owners is a matter that the representor can address themselves with landscaping or screening on their own land to preserve their own visual amenity and outlooks – The representor does not appreciate the views to the adjacent hotel as a result of the applicants’ landscaping being removed and re-planted.</p> <p>The applicant has undertaken some landscaping and is offering further landscaping and replacement fencing. This offer is by negotiation and is not to be considered a part of the application and is considered acceptable by Council staff as the applicant is entitled to change their landscaping without consultation with the neighbours. The concern is not about the activity as such, it is more about the long view over the subject land to further distant properties.</p>
<i>Loss of Privacy (due to removal and replanting of landscaping on the subject land)</i>	<p>As above – acknowledging the landscaping which has been acknowledged by the representor as being ‘<i>removed and replaced with new plantings</i>’, occurs within the northern 20 to 25 metres of the rear of the dwelling, mainly on the high-side of the land (north-western side boundary) affects the outlooks across the land.</p> <p>The applicant is offering to replace the south eastern fence and undertake further landscaping in this area however this is not to be conditioned as part of the proposal as it is hoped there will be a sensible approach to the new fencing considering the Fencing Act. Council staff do not consider the impact of the proposal in this portion of the site detrimental to the proposal noting existing dense vegetation on the representor land and the orientation of the representor’s dwelling in a more north easterly direction with a tennis court on their own eastern boundary.</p>
<i>Establishment of Commercial Activity and potential for increase of intensity of use</i>	<p>The proposal would, if approved establish the identified land use (tree nursery) within the constraints of the activities proposed, including area of the land utilised, hours of operation, deliveries (within the use of the regulated Loading Zone and the lack of vehicular access from Strathalbyn Road to the property), and any conditions of consent which may be imposed. Expansion or intensification of such uses is speculative and would require further application and assessment of such expansion or intensification. Council staff consider the conditions of proposed approval along with the specificity of the development</p>

ITEM 8.3

	description offers adequate protection against over development of the site.
<i>Diminished property value</i>	Property valuation is identified as not being a relevant matter of planning assessment and is not referenced in any part of the Planning and Design Codes Assessment Provisions. The proposition of diminished property values is at best speculative.

The representations received as a result of public notification processes and the applicant's response to representations are contained for reference in **Attachment 4** and **Attachment 5** respectively.

AGENCY REFERRALS

- Nil, noting the proposed activity did not activate any referral triggers to DIT per the Traffic Generating Development Overlay.

INTERNAL REFERRALS

- Nil

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**.

Zone & Sub Zone:

Rural Neighbourhood Zone

Desired Outcomes	
DO1	<u>Housing on large allotments in a spacious rural setting</u> , often together with large outbuildings. Easy access and parking for cars. <u>Considerable space for trees and other vegetation around buildings</u> , as well as on-site wastewater treatment where necessary. <u>Limited goods, services and facilities that enhance rather than compromise rural residential amenity</u> .
Performance Outcomes & Designated Performance Feature (DPF) criteria	
PO/DPF 1.1(Reference made to (h) in respect of retail activity), PO/DPF 1.2, PO 1.3, PO 1.4(Reference made to (d)), PO/DPF 7.1 & PO/DPF 7.2(ancillary outbuilding), PO/DPF 10.1(noted and N/A for moveable sign under LG Act).	

The proposed development pursues and accords with the Desired Outcome (DO 1) and Performance Outcome sought in PO 1.1 and closely aligns with the DPF 1.1 insofar as the proposal seeks to establish low intensity, small-scale services and facilities that enhance rather than compromise rural residential amenity and in doing so would maintain considerable space for trees and other vegetation around buildings, enhancing and contextually supporting both aspects sought by the zone, whilst continuing to support housing on large allotments in a spacious rural setting.

The proposed activity as foreshadowed previously in the summary of representation matters is substantially consistent with a 'shop' in terms of its retail activity. However the use is specifically captured within the definition of a 'service trade premises', which encompasses a broad range of *bulk supplies, materials, buildings and vehicles* for viewing and sale, and landscaping and garden plants. Service trade premises are not an envisaged form of development within a Neighbourhood Zone due to the breadth of activities supported *hence the classification within the Performance Assessed – All-Other Code Assessment*, which is required to demonstrate its merits against all relevant assessment provisions of the Code. Furthermore the proposed use is limited by the description being specific – "service trade premises (plant sales in an outdoor setting)"

In this instance the additional land use of a small-scale tree nursery with modest opening hours and low-intensity operation is considered to be a reasonably restrained land use which can be compatible with / non prejudicial to the surrounding Neighbourhood Zone and residential land uses with the careful application of conditions. Therefore the proposal is considered to accord with Performance Outcomes PO 1.2, 1.3 and 1.4 insofar that the only proposed building (the 'office') is accessory to the existing dwelling and is of suitably small scale to have virtually no material impact on the locality from outside of the land and accords with PO/DPF 7.1 and 7.2 without any adverse effect.

In respect of PO 1.4, the development is considered to be perceptibly linked to (d) open space and recreation in the sense that plant nurseries reflect low-intensity and passive recreation and promotes an appreciation of outdoors and the environment.

Although PO/DPF 10.1 is identified (due to the use of the small 'A' frame sign, the provisions are not specifically relevant to the use of 'moveable signs', under the Local Government Act 1999, notwithstanding the Performance value of PO 10.1 is considered to be appropriately satisfied by the moveable sign being utilised. The moveable sign is subject to a separate Council by-law.

Adelaide Hills Subzone

The Adelaide Hills Subzone expresses additional assessment provisions which emphasise the opportunities for Tourist Accommodation, additional residential development and maintenance of mature vegetation in support of its landscape characteristics. The subzone provisions do not present any matters relevant to the assessment of the proposed development and the proposal is not prejudicial to achievement of the Desired Outcomes of the Subzone.

Overlay Provisions:

The proposed development is considered to be relevant to relatively few Overlay's Assessment Provisions, due to the nature of the development, which fundamentally reflects the use of a 'yard area' stocked with trees for sale to the public.

The proposal is not considered to be relevant to any provisions under the *Native Vegetation Overlay*, or Regulated and Significant Tree Overlay, with no native vegetation, Regulated or Significant trees affected by the proposal. The subject land also obtains access to a reticulated mains water supply and does not propose any water use from natural resources, nor any impact to the water quality, quantity or conveyance of water resources within the local catchment (noting plant propagation is not proposed) and is therefore not considered to be relevant to The *Prescribed Water Resources Area Overlay*, or *Water Resources Overlay*.

The proposal is assessed against the following Overlay provisions which are considered to be most relevant.

Hazards (Bushfire – Medium Risk) Overlay

Desired Outcomes	
DO 1	<u>Development, including land division responds to the medium level of bushfire risk and potential for ember attack and radiant heat by siting and designing buildings in a manner that mitigates the threat and impact of bushfires on life and property taking into account the increased frequency and intensity of bushfires as a result of climate change.</u>
Performance Outcomes & Designated Performance Feature (DPF) criteria	
PO 3.1	

The proposal is considered against DO 1 and PO 3.1 in respect of its affect upon bushfire safety on adjoining and adjacent land and buildings. The proposal is for 'additional vegetation' by way of introduction of the stock of trees within the tree nursery. It is also considered to be a type of land use which is highly managed – and unlikely to contribute to increased fuel load or risk of combustion and spread of fire in the locality. The proposed nursery is approximately 20 metres from the dwelling on the subject land and the dwellings on both the eastern and western neighbours land.

Hazards (Flooding) Overlay

Desired Outcomes	
DO 1	<u>Impacts on people, property, infrastructure and the environment from high flood risk are minimised by retaining areas free from development, and minimising intensification where development has occurred.</u>
Performance Outcomes & Designated Performance Feature (DPF) criteria	
PO 2.1, PO 3.2, PO 3.3, PO 4.2,	

The matter of flooding was raised in one of the Public Notification representations and the portion of the land being utilised is identified as lying within the 1:10 year flood reoccurrence extent on spatial mapping.

ITEM 8.3

The proposed development is however of very low intensity and commits very little permanency to the site, i.e. the small office / administration building, is neither substantial nor critical in terms of impact or recovery from flooding. The extent of the development, which largely revolves around the use of the identified portion of the land for display of stock plants for sale, is also minimal in its risk to flooding / damage – to the extent that in the event of extreme weather build up, or sustained high intensity rainfall, the owners / operators of the tree nursery could ostensibly move stock and prepare (to a degree) to minimise flood impacts.

Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay

Desired Outcomes	
DO 1	<u>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.</u>
Performance Outcomes & Designated Performance Feature (DPF) criteria	
PO 1.1, PO 1.2, PO 2.5	

The proposal is assessed against the Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay provisions in respect of its potential for impact upon water resources within the catchment resulting from water infiltration or run-off from the site.

The proposed activity is considered unlikely to present any issues of water quality in respect of POs 1.1 and 1.2 as a result of maintaining a stock of trees on the site. The likely watering requirements for the stock trees in tubed, bagged or potted form is unlikely to present any matters of harm or concern for infiltration or run-off, i.e. watering requirements are conservative.

Notwithstanding the proposal does not include or require any wastewater systems (DPF 4.1), the Performance Outcome in PO 2.5 seeks that, *surface and groundwater protected from wastewater discharge pollution*, including from 'irrigation run-off'. Watering requirements is considered to be satisfactorily accord with these provisions.

Traffic Generating Development Overlay

Desired Outcomes	
DO 1	<u>Safe and efficient operation of Urban Transport Routes and Major Urban Transport Routes for all road users.</u>
DO 2	<u>Provision of safe and efficient access to and from urban transport routes and major urban transport routes.</u>
Performance Outcomes & Designated Performance Feature (DPF) criteria	
PO 1.1	

Urban Transport Routes Overlay

Desired Outcomes	
DO 1	<u>Safe and efficient operation of Urban Transport Routes for all road users.</u>
DO 2	<u>Provision of safe and efficient access to and from Urban Transport Routes.</u>
Performance Outcomes & Designated Performance Feature (DPF) criteria	
Nil	

Both the *Traffic Generating Development Overlay* and the *Urban Transport Routes Overlay* are relevant to the State maintained Strathalbyn Road and the operation of Strathalbyn Road and Mount Barker Road, as identified on the SAPP spatial Overlay mapping.

ITEM 8.3

The *Traffic Generating Development Overlay* and the *Urban Transport Routes Overlay* seek consistent desired outcomes, in DO 1 and DO 2 respectively and is appropriately summed up by PO 1.1 which seeks that development will *minimise its potential impact on the safety, efficiency and functional performance of the State Maintained Road network* in terms of the performance of the road network and the interface with parking and access to and from the road network.

Given that the proposal does not include any vehicular access or parking within the subject land for the development, the proposal does not in itself create any new or additional vehicular access or egress impact to the operation of the State maintained roads. The proposal instead utilises existing public parking infrastructure, which currently supports other existing businesses accessed from and fronting Strathalbyn Road.

The 25 public car parking spaces offer shared parking for different adjacent land uses, and are unlikely to substantially conflict with one another, i.e. peak parking demands for the proposed development may coincide somewhat with morning to midday customer parking for the nearby café / restaurants adjacent to the west but would have different peak parking requirements to the Aldgate Pump Hotel, which is more likely to experience peak parking demands typically later in the afternoons and evenings.

Access across Strathalbyn Road from the opposite (northern side) car parks is available at the nearby roundabout to the west, where pedestrian ramps and a refuge island exist.

The proposal makes use of the existing public infrastructure in an appropriate fashion, which is considered acceptable and unlikely to create conflict or unreasonable competition for parking in those public car parks. Additionally, as recognised in *General, Transport, Access and Parking* provisions, shared parking opportunities also exist where customers may utilise other local parks while accessing more than one commercial premises or service in a single trip.

General Development Policies:

The following are considered to be the most relevant of the Assessment Provisions (AP) from the General Development Policies of the Code

Advertisements

Desired Outcomes	
DO1	<u>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.</u>
Performance Outcomes & Designated Performance Feature (DPF) criteria	
PO/DPF1.3, 1.4, 1.5, 3.1	

The proposed development incorporates a subtle, double-sided 'A' frame moveable sign.

The signage, which exhibits the name 'Aldgate Tree Farm', with a tree emblem, and the word 'OPEN' in bold text, is considered to be minimalistic, delivering two essential messages, being the identification of the business and identification that it is open.

Whilst the signage is considered to be compliant with Moveable Signs under *Section 226 of the Local Government Act 1999 (and Council's By-law No. 2 for Moveable Signs)*, and therefore exempt from the ambit of development pursuant to Schedule 4, Part 1 (h) of the *Planning, Development and Infrastructure (General) Regulations 2017*, the signage is considered to suitably accord with DO 1 and PO/DPF values.

Clearance from Overhead Powerlines

Desired Outcomes	
DO1	<u>Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.</u>

Performance Outcomes & Designated Performance Feature (DPF) criteria
PO/DPF1.1

The applicant has signed the building safety near powerlines declaration, which complies with DTS/DPF1.1. Overhead powerlines exist outside of the northern property boundary, within the Strathalbyn Road (reserve) areas however there is no direct interface with the proposed development including the 'office' administration outbuilding.

Design

Desired Outcomes	
DO1	<p>Development is:</p> <p>(a) <u>contextual – by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate area</u></p> <p>(b) durable – fit for purpose, adaptable and long lasting</p> <p>(c) <u>inclusive – by integrating landscape design</u> to optimise pedestrian and cyclist usability, privacy and equitable access, <u>and promoting the provision of quality spaces integrated with the public realm</u> 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</p> <p>(d) <u>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.</u></p>
Performance Outcomes & Designated Performance Feature (DPF) criteria	
PO 3.1(a)(b)(c) & (d), PO 31.1, PO 31.2	

The proposed development presents a land use and appearance which is complimentary to the neighbourhood characteristics, as foreshadowed previously in this report. The zone encourages low-intensity trading which is akin to the envisaged development of a 'shop' within the zone (Neighbourhood Zone PO/DPF 1.1).

The small outbuilding and site features are considered to present environmentally inclusive and sustainable use and activity in respect of DO 1 (c) & (d), and generally pursues and exhibits favourable design and environmental attributes in respect of PO/ DPF 3.1.

The proposal purports an environmentally sensitive use of the land in terms of avoiding any inorganic export of pollutants from the site in accord with POs 31.1 and 31.2.

Infrastructure and Renewable Energy Facilities

Desired Outcomes	
DO1	<u>Efficient provision of infrastructure networks and services</u> , 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 & Designated Performance Feature (DPF) criteria	
PO 1.1, PO/DPF 11.1, 12.1,	

The subject land is connected to reticulated mains water, and sewer services which is compliant with, and satisfies PO/DPF 11.1 and 12.2.

Interface between Land Uses

Desired Outcomes	
DO1	Development is located and designed to mitigate adverse effects on or from <u>neighbouring and proximate land uses</u>
Performance Outcomes & Designated Performance Feature (DPF) criteria	
PO 1.2, PO/DPF 2.1(reference to 'shop' in respect of retail / trade')	

The Neighbourhood Zone contemplates a number of 'non-residential' activities which includes 'shop' retail / trade type activity. It is considered that a low intensity tree nursery would be considered amongst the more harmonious types of retail activity which could occur within a neighbourhood zone, notwithstanding public notification raised a representation from an adjoining land owner / occupier concerned with amenity impacts, including the increased activity on the land.

In respect of amenity impacts and the Performance values in PO 1.2, many of the amenity impacts identified for the neighbouring land at 20 Rugby Road can be improved by the establishment of new landscaping, which when established will create appropriate screening between the residential properties, and minimise any potential for overlooking each other's land, private open space and in the case of 11 Rugby Road, the nursery activity.

PO/DPF 2.1 seeks that non-residential development will not unreasonably impact the amenity of sensitive receivers through its hours of operation. The operation of the proposed tree nursery is considered against the provisions for a 'shop', citing the parity between a shop and the proposed activity, sharing the fundamental nature of 'retail activity', albeit under the definition of 'service trade premises', under which retail sales of 'landscaping materials', or 'garden plants (predominantly within an outdoor setting)', is specifically identified.

The proposal is for short business hours within the operating hours identified in DPF 2.1 (shop) being:

- 10:00am to 3:00pm Tuesday to Friday
- 10:00am to 4:00pm Saturday
- 11:00am to 4:00pm Sunday; and
- Closed on Mondays

Deliveries to the site are also identified within the application detail as falling within the prescribed operating hours on weekdays between 7:00am and 7:30am.

The proposal is considered carefully, in respect of the interface and conflict potentials, and the activities envisaged within the *Neighbourhood Zone*, to be reasonably consistent with and appropriate under the *Interface between Land Uses* provisions.

Transport, Access and Parking

Desired Outcomes	
DO1	A comprehensive, integrated and connected transport system that is <u>safe, sustainable, efficient, convenient and accessible to all users</u> .
Performance Outcomes & Designated Performance Feature (DPF) criteria	
PO 1.1, PO 1.2, PO 1.3, PO 1.4, PO/DPF 5.1(a), Table 1,	

In respect of DO 1 and PO1.1, the proposed development utilises existing, established public infrastructure for its car parking requirements.

The proposal also utilises existing established traffic control measures (allocated Loading Zone west of the site's frontage on Strathalbyn Road) for lawful deliveries / loading and unloading of plants for the tree nursery, which is considered to accord with Performance Outcomes in PO 1.2, 1.3 and 1.4. It is acknowledged that DPF 1.4 is not

ITEM 8.3

accorded with by the proposal as all vehicle manoeuvring does not occur on site but Performance Outcome 1.4 is suitably satisfied.

In respect of PO 5.1(a) / DPF 5.1(a) and *Table 1 - General Off-Street Car Parking Requirements*, the proposed tree nursery (under the provisions for *service trade premises*), is identified as creating a demand for 1 space per 100m² of *outdoor area used for display purposes*, or a total of 5 car parks for the proposed development.

The anticipated demand for 5 car parking spaces out of the existing 25 (plus three universal access / disabled) public car parks adjacent to the site, across the proposed hours of operation, is not considered detrimental to the proper function of those parking spaces, noting that the two food premises and salon collectively also create an estimated demand of less than 15 car parking spaces based on activity / estimated floor areas and compositions – and therefore the collective demand, including the proposed tree nursery would remain at approximately 60% of the public parking (excluding the universal access car parks).

It is further identified in accordance with PO 5.1(b) that *shared use of other parking areas* is a valid consideration. Customers of the tree nursery may utilise other parking areas to the west of the Mount Barker Road roundabout in conjunction with other food, retail or services being used within the shopping district of the Township Main Street Zone.

The parking impacts of the proposal (and the cumulative requirements of other adjacent businesses in the locality) are considered to be acceptable. Adelaide Hills Council does not operate a Car Parking Fund and therefore the application could not provide an offset for its car-parking requirements not contained within its own site.

CONCLUSION

The proposal to develop the subject land with an additional commercial land use, accessory to the existing residential use, in the form of a 500m² 'open-air' tree nursery, within the proposed operating hours including the small outbuilding for administering the nursery activities, and utilising public car parking areas, *represents* a form of commercial development which reasonably aligned with envisaged uses (shop) within the Zone and is a scale and nature under the definition of 'service trade premises' which is considered appropriate within the *Rural Neighbourhood Zone*.

The proposal exhibits some departures from the Code provisions such as not according with Transport, Access and Parking DPF 1.4 by not containing all movement of vehicles, *i.e. loading and unloading*, within the site, and DPF 5.1 in respect of providing 'on-site' parking.

Part 1 – *Rules of Interpretation* of the Planning and Design Code identifies the DPF as a 'standard outcome' and one which provides a guide to the relevant authority as to what is generally considered to satisfy the corresponding performance outcome. Further the Code says the DPF does not need to necessarily be satisfied to meet the performance outcome. The Code enables discretion to determine that the outcome is met in another way, or by assessing development on its merits against all relevant policies. Notwithstanding the departures from the standard outcomes presented in the DPF's, the relevant Performance Outcomes are considered to be suitably accorded.

Contextual matters raised in the public notification representations including the definition of the development and amenity impacts have been carefully considered in this assessment. Although they can not necessarily (all) be resolved by this application, the proposal is considered to appropriately address flooding and bushfire hazards.

The proposed development's nature of land use, scale and intensity are not considered to be incompatible or obtuse within the locality, but instead, is considered to exhibit characteristics which are compatible with and complimentary to the Neighbourhood Zone, particularly given its proximity to the Township Activity Centre.

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 22011328, by Simon Winter for Change of use from residential to include service trade premises (plant sales in an outdoor setting) at 11 Rugby Road Aldgate is GRANTED Planning Consent subject to the following conditions:

PLANNING CONSENT

CONDITIONS

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.
- 2) The opening hours of the facility shall be (as proposed):
 - 10:00am to 3:00pm Tuesday to Friday
 - 10:00am to 4:00pm Saturday
 - 11:00am to 4:00pm Sunday; and
 - Closed on Mondays

- 3) Deliveries to / from the site shall occur within the existing, adjacent Loading Zone on Strathalbyn Road during the prescribed hours established for the Loading Zone. No deliveries shall occur to the Rugby Street access.

Note: this consent does not include the commercial movement of vehicles to / from the site via the Strathalbyn Road site frontage or contemplate the use of the crossover for commercial deliveries.

Alteration of such use would require further application to Council and referral to the Office of the Minister for Highways in respect of vehicular access to State-maintained Strathalbyn Road.

- 4) Landscaping detailed in site plan by Planning Studio (*Magnolia grandiflora* 'sweet and neat' as the evergreen screen shown on plan) shall be planted in the planting season following Development Approval and maintained in good health and condition at all times. Any such vegetation shall be replaced in the next planting season if and when it dies or becomes seriously diseased.
- 5) All materials stored within the site in the areas marked for display and sale shall be kept in a tidy manner at all times. No materials related to the plant sales in an outdoor setting shall be stored outside the area delineated for the activity on the approved site plan.

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.

CAP MEETING – 14 SEPTEMBER 2022

ITEM 8.3

- 3) This consent or approval will lapse at the expiration of 2 years from its operative date, subject to the below or subject to an extension having been granted by the relevant authority.
- 4) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).

OFFICER MAKING RECOMMENDATION

Name: Melanie Scott

Title: Senior Statutory Planner

COUNCIL ASSESSMENT PANEL MEETING

14 September 2022

AGENDA – 9.1

Applicant: GE Hughes Construction Co	Landowner: Hughes Properties Pty Ltd
Agent: Peter Meline	Originating Officer: Melanie Scott
Development Application:	19/532/473
Application Description: Variation to Development Authorisation 19/532/473 to vary truck wash location, combined fence and retaining wall height (maximum 4.4m), retaining walls height (maximum height 2m) and retaining wall location and associated earthworks Original Proposal: Change of use to include a transport depot and extend an existing vehicle hardstand, retaining walls, combined fence and retaining (maximum height 4.15 metres), 2 x 28000 litre fuel storage pods, storage building, outbuilding for truck wash equipment, 2 x 20000 litre water tanks & associated earthworks	
Subject Land: Lot:3 Sec: P5140 FP:125204 CT: 5220/438	General Location: 4 Brettig Road Lobethal Attachment – Locality Plan
Development Plan Consolidated : 8 August 2019 Maps AdHi/12/55	Zones/Policy Areas: Light Industry Zone - Light Industry (Lobethal North) Policy Area, Watershed (Primary Production) Zone - Onkaparinga Valley Policy Area
Form of Development: Merit	Site Area: 12.5 hectares
Public Notice Category: N/A	Representations Received: N/A Representations to be Heard:

1. EXECUTIVE SUMMARY

The purpose of this report is to seek the Consent of the Council Assessment Panel (CAP) for further variation number 2 to Development Authorisation 19/532/473, determined by CAP on 9 June 2021. The original proposal was described as an extension of the existing land use to include an expanded hard-stand area for the parking of up to 50 trucks and earthmoving machinery (transport depot), and construction of new truck wash and storage building and vehicle canopy, fuel pods, combined fencing and retaining wall structure and associated earthworks and drainage works. The subject land is an existing industrial site, owned and operated by Hughes Construction at 4 Brettig Road Lobethal, immediately north of the township boundary of Lobethal.

Development commenced on the subject land without Development Approval with the truck wash and canopy buildings constructed earlier this year. Council initiated enforcement action and investigations revealed that the truck wash building was constructed in a different location to that approved resulting in additional earthworks and retaining walls. The applicant is now seeking planning consent for these variations.

The subject land is located within the Light Industry Zone and within the Light Industry (Lobethal North) Policy Area as well as the Watershed (Primary Production) Zone - Onkaparinga Valley Policy Area. The proposal is entirely within the Light Industry Zone - Light Industry (Lobethal North) Policy Area. No works are proposed within the Watershed (Primary Production) Zoned portion of the subject land.

Whilst the variations are minor in nature in the view of staff, there are new retaining walls proposed which were not part of the original proposal which warrant the variations being determined by CAP as the original decision authority.

The reserve matter conditioned by CAP in relation to the detailed engineering design for the blockwork retaining wall was reviewed by Council's Structural Engineer and the design is considered satisfactory. The design for the bio-detention basin and scour protection measures have been reviewed by Council engineering and are considered satisfactory. Given the truck wash and hardstand are operational the second part of the reserved matter has not been met. It is appropriate for staff to add in an additional condition regarding completion of the bio retention swale within 6 months of Development Approval being issued.

The main issues relating to the proposal are visual amenity from nearby points of public outlook including Kenton Valley Road, with additional concrete block retaining walls proposed in the variation.

In consideration of all the information presented, staff are recommending that the second variation proposal be **SUPPORTED as a minor variation to previous Development Authorisation 19/532/473** subject to conditions.

2. DESCRIPTION OF THE PROPOSAL

Variation number 2 comprises the following variations:

- the combined fence and retaining wall on the southern boundary was approved at 4.15 metres high and the proposed new height is at 4.4metres (.25metre higher)
- new retaining wall returns on the eastern and western edges of the hardstand which vary in height from being buried to 1.7m where they connect to the southern boundary retaining wall. These new retaining walls are internal to the site.
- The truck wash building has been relocated further north on the site, now proposed at approximately 52 metres from the southern boundary (was originally approved at 36 metres then varied to 29 metres) which has seen the FFL increase by .8 metre from 438 to 438.8 as the hardstand does slope up hill to the north.

The proposed variation plans are included as **Attachment – Variation Plans** with other information included as **Attachment – 09 June 2021 CAP Report and CAP Attachments, Attachment – Approved Plans 09 June 2021** and **Attachment – Regulation 65 Minor Variation 1 Approved Plans**.

3. REFERRAL RESPONSES

Internal Referrals

Council Engineering team have reviewed the detailed design provided for the bioretention basin provided on 21 July 2022 and the temporary scour protection and consider the details satisfactory. The scour protection is a temporary measure until the bioretention swale is built.

And provided the following requirements:

- (i) That ponding water in the south east corner will scour between the concrete blockwork if gaps are not sealed. Ensuring no gaps between blocks or sealing is crucial to avoid surcharge, scouring and discharge of sediment laden water.
- (ii) Detailed design / engineering regarding the overflow mechanism from the bio-filtration area via the 6m weir is required to confirm the design rate of discharge to the local stormwater systems.

Council's Structural Engineer reviewed the detailed engineering for the blockwork retaining wall and considers the information satisfactory.

4. **PLANNING & TECHNICAL CONSIDERATIONS**

The original application was evaluated in accordance with the following matters:

i. The Site's Physical Characteristics:

The subject land is in the order of 12 hectares of which approximately 40% is utilised for the commercial activity. The eastern half particularly, which lies within the Watershed (Primary Production) Zone is retained for grazing use.

The site is expansive, yet the requirements for the operation's vehicle storage necessarily utilises a large proportion of the site given the nature of heavy vehicles, including semi-trailer and dual-trailer combinations as well as the manoeuvring / circulation areas. The site slopes from high in the north to low in the south. The slope of the land was enough to cause some work health and safety concerns for staff accessing vehicles which has resulted in the proposed filling of land to decrease the slope.

The site was impacted by the Cudlee Creek Bushfire with the main impact being on existing landscaping on the western edge of the existing hardstand area. The applicant has also worked with Council engineering and arboricultural staff to ensure that the existing access point on Brettig Road meets expected safety standards. This involved the recent removal of a large Council Eucalypt tree which was causing sight line issues. The tree also had its health impacted by installation of Council stormwater infrastructure. Survival of the bushfire event and the access works demonstrate the existing site is generally well kept and orderly in its layout and parking arrangements.

There is limited flood mapping in the south eastern portion of the site adjacent the winter creek which flows across this portion of the land. The applicant has provided a consultant's report which indicated the proposed works will not impact the creek, but more particularly nor upstream or downstream sites.

ii. The Surrounding Area

The surrounding locality exhibits a closely interfaced arrangement of land use zones which have dissimilar planning objectives and land uses established.

The topography of land in the locality results in the proposed and existing development to be prominent within the landscape when travelling along Kenton Valley Road, rather than being concealed. In this respect, aesthetic and operational impacts are likely to be recognised well beyond the site boundaries.

The site is bounded to the north and east by primary production land. To the south the neighbouring land is dual zoned being both Township and Watershed Primary Production. To the west there are large light industry uses and some larger Township zoned residential parcels.

The locality plan is provided as Attachment – Locality Plan.

iii. Development Plan Policy considerations

a) *Light Industry Zone & Policy Area provisions*

The subject land lies within the Light Industry Zone and the Light Industry (Lobethal North) policy Area applies to this assessment. The zone and policy area provisions seek to enable a range of light industrial land uses which will be protected from intrusion of residential and other conflicting land uses, enhance the aesthetic characteristics of the zone and ensure the nearby areas within the Watershed (Primary Production) zone areas are protected from pollution as a priority.

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

Objectives: 1, 2 & 3

Desired Character Statement: (all)

PDCs: 1, 2, 3, 5, 6 & 7

The following are considered to be the relevant Zone provisions:

Objectives: 1

PDCs: 1, 3 & 4

The relevant zone and policy area provisions illustrate the intention for the zone to support appropriate forms of industrial development without encroachment of incompatible uses. The zone and policy area PDCs 1 both indicate envisaged forms of development including light industry and service industry.

Accordance with Zone

The light industry zone seeks to become '*intensely developed*', with '*low impact*' industrial activities and seeks to achieve a '*high quality, landscaped industrial area*' aesthetic.

The impacts associated with the variation elements on balance, are considered to be relatively low for the proposed hard-stand area, which will still involve the movement of trucks and trailers from the southern portion of the land on commencement and conclusion (typically) of work. The previous western and eastern edges of the proposed hardstand had battered banks. It is considered the block retaining will enable better visual amenity for long term property maintenance. It is noted that more intensive movements are likely at the northern end of the property and more so associated with loading, unloading and movement of machinery and construction materials.

The relocation of the truck washing and storage building and apparatus is also considered on balance to present low level impacts. The originally approved plan had the truck wash building set back approximately 39 metres from the southern boundary. The variation 1 approved plan amended the truck wash building set back to approximately 29 metres from the southern boundary. The current variation amends the building setback from the southern boundary to 52.3 metres. Given the turning circle is accommodated and the proposed fencing on the boundary is unaltered it is considered that the new location will not have an unreasonable impact on the neighbouring property to the south.

The height of the proposed building does not change (6metre wall height) in the current variation. The CAP approved footprint was 548m². The amended proposal in variation 1 has a footprint of 710m², which was an increase of 162m² or a 30% increase. The footprint in the current variation has not changed.

Activities will necessarily involve the movement of trucks through the truck wash apparatus, therefore traffic movements, and some associated noise from the washing, pumps etc. will exist.

Earthworks have been partially completed with some fill still to come in the southwestern portion of the site. The proposed change to the combined fence and retaining wall on the southern boundary from 4.15m to 4.4m in height is considered inconsequential and a reckoning of matching conditions found on site. The “returns” or internal retaining walls on the eastern and western edges of the hard stand are new. The western retaining wall varies from .2m to 1.7m high above ground as it varies from 1 concrete block to 2 concrete blocks high with varying degrees of the bottom block being embedded in the ground. The eastern retaining wall varies from .6m high to 1.7m high above ground as it varies from 1 concrete block to 2 concrete blocks high with varying degrees of the bottom block being embedded in the ground. The hardstand level has not changed with exception of where battered banks were proposed now there are retaining walls.

Of note the land has a seasonal watercourse which traverses the land, coming in to close proximity with the proposed truck wash building. This watercourse is partially flood mapped. The applicant previously provided a professional report which provided recommendations to ensure that the proposal would not impact on upstream and downstream properties. The proposed retaining wall (eastern return) does not interfere with the creek and offers some stabilisation to ensure that the eastern side of the proposed truck wash building and hard-stand area is protected from seasonal flood waters and inundation and scouring or undermining of the site. The structural engineer was satisfied with the detailed design.

Interface between Land Uses

Objectives: 1 & 3

PDCs: 1 & 2

As discussed in the original CAP report, the provision of a fence is necessary to improve the interface between the light industrial land uses and the adjoining and adjacent residential developments to enhance the residential occupants' amenity. The fence is to be acoustically sealed. It is expected the removal of the truck wash further from the southern boundary will lessen the potential amenity impact.

7. SUMMARY & CONCLUSION

The variation assessed against the provisions of the Adelaide Hills Development Plan, Consolidated 8 August 2019, is considered to demonstrate adequate merit insofar that it has the potential to improve upon the existing form and appearance of the subject land, and would visually contain the activities carried out upon the land.

The variations are considered minor in nature and unlikely to unreasonably impact on the neighbouring properties for the following reasons:

- the combined fence and retaining wall on the southern boundary was 4.15 metres high and the proposed new height at 4.4metres (.25metre higher) is considered minor by its very nature being a modest height variation only.
- the retaining wall returns on the eastern and western edges of the hardstand vary in height, including being buried to 1.7m where they connect to the southern boundary retaining wall and are internal to the site. For this reason they are considered minor as they do not abutt a property boundary.
- The truck wash building has been moved further from the southern boundary, now proposed at approximately 52 metres (was originally approved at 36 metres) which has seen the FFL increase by .8 metre from 438 to 438.8 as the hardstand does slope up hill to the north. This is considered minor as along with the acoustic properties of the proposed fence on the southern boundary the new location will improve amenity for the southern neighbours.

Staff are recommending the variation be **SUPPORTED**, subject to amendment to conditions of Planning Consent.

8. RECOMMENDATION

That the Council Assessment Panel considers that Variation Number 2 to vary Development Plan Consent 19/532/473 to vary truck wash location, combined fence and retaining wall height (maximum 4.4m), retaining walls height (maximum height 2m) and retaining wall location and associated earthworks is minor in nature and unlikely to unreasonably impact on the neighbouring properties and approves the variation under Regulation 65 of the Planning, Development and Infrastructure (General) Regulations 2017 at 4 Brettig Road Lobethal subject to amendment to the following condition:

(1) Development In Accordance With The Plans

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

- Designing Places Architects plans:
 - dated 11 August 2022, WD01, WD01a, WD02 & WD02a, WD03, WD04
 - dated 16 June 2021 PA01, PA02, PA03 & PA04
 - dated 19 April 2021 PA01, PA01a, PA02, PA02B, PA03, PA04, PA05& PA06 (original approved plans, noting PA01, PA01a and PA02 are superseded by 11 August 2022 Plans WD01, WD01a and WD02 and PA02, PA03 and PA04 were firstly superseded by 16 June 2021 plans

[Variation 1] and finally by 11 August 2022 plans WD02, WD03 and WD04) Highlighted text (plans and explanation included for information purposes) will be removed prior to resolution of CAP.

- **DBN Consulting Engineers Stormwater management plan dated 30 April 2021 revision 3D, Figure 01 A dated 13 August 2019, Figure 02 A dated 26 July 2020, Figure 03 E dated 26 August 2020, Appendices B and C dated 17 July 2020**
- **A-FLO Equipment Sheets 1 and 2 Rev 01 and Sheet 1 Rev 0.1 date stamped by Council 27 November 2019**

9. ATTACHMENTS

Locality Plan

Variation Plans

CAP Report and CAP Attachments – 9 June 2021

Approved Plans - 9 June 2021

Regulation 65 Minor Variation 1 Approved Plans

Respectfully submitted

Concurrence

Melanie Scott
Senior Statutory Planner

Deryn Atkinson
Assessment Manager

CAP MEETING – 14 SEPTEMBER 2022
ITEM 11.1 – ERD COMPROMISE PROPOSAL

DEVELOPMENT NO.:	21031474
APPLICANT:	14 JOHNSTON PTY LTD
ADDRESS:	14 JOHNSTON ST STIRLING SA 5152
NATURE OF DEVELOPMENT:	Construction of a three-level childcare centre (pre-school) with ancillary car parking, outdoor play areas and landscaping
ZONING INFORMATION:	Zones: <ul style="list-style-type: none">• Suburban Main Street Overlays: <ul style="list-style-type: none">• Hazards (Bushfire - Medium Risk)• Mount Lofty Ranges Water Supply Catchment (Area 2)• Native Vegetation• Prescribed Water Resources Area• Regulated and Significant Tree• Traffic Generating Development Technical Numeric Variations (TNVs): <ul style="list-style-type: none">• Maximum Building Height (Metres) - 10 Metres• Maximum Building Height (Levels) - 2 Levels
LODGEMENT DATE:	12 Oct 2021
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	Operative Version 2021.14 - (23 September to 13 October 2021)
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Melanie Scott
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Council Engineering

INTRODUCTION

A deemed consent notice was issued on 21 June 2022 in relation to Development Application 21031474, by 14 JOHNSTON PTY LTD, for construction of a three-level childcare centre (pre-school) with ancillary car parking, outdoor play areas and landscaping at 14 Johnston Street, Stirling; and the Council Assessment Panel considered the proposal at a Special Meeting on 30 June 2022.

The Panel resolved on 30 June 2022 that an application be made to the Environment, Resources and Development (ERD) Court for an order quashing the Deemed Planning Consent and refusing Planning Consent for the development.

Accordingly an appeal application was lodged with the ERD Court by Council and a conference was scheduled for 12 August 2022.

A draft compromise proposal for waste collection was received by Council prior to the court conference and the conference was adjourned to 16 September 2022 to allow for a formal amended proposal to be prepared and considered by the Council Assessment Panel.

The purpose of this report is to present the amended proposal to the Council Assessment Panel for consideration.

CONTENTS:

ATTACHMENT 1: Compromise Proposal
ATTACHMENT 2: CAP Report 09 March 2022
ATTACHMENT 3: CAP Attachments 09 March 2022
ATTACHMENT 4: CAP Report 30 June 2022

ATTACHMENT 6: CAP Attachments 30 June 2022
ATTACHMENT 7: Internal Referral Advice

ITEM 11.1 – ERD COMPROMISE PROPOSAL

AMENDED PROPOSAL:

The amended proposal sees the waste collection vehicles reverse into the site to collect waste two or three times a week during non-peak hours for the centre of 9am – 3pm. There is a possibility of a smaller waste collection vehicle being used however no contractors could commit to that until the project is built. In order to cater for a worst case scenario of the largest waste collection vehicle (10.1m in length) being accommodated on site the building has had some minor alterations proposed to its street presentation summarised as follows:

- Straightening of the street facing walls to provide additional ramp clearance. This results in a minor encroachment of the 8-metre setback above the driveway entry ramp.
- Shifting of the stair position and slight straightening of the bottom of the exit ramp to allow for the additional driveway splay as recommended by traffic engineer's advice.
- Minor adjustment to the finished floor levels of building level 1 (200mm) to provide additional safety margin/clearance as per waste engineer's advice, noting that there has been no overall change to the building height.

These are demonstrated with side by side snip images below for ease of reference with the proposed on the left and the previously considered on the right.



- Further the proposal includes footpath and kerb alterations which result in a 900mm footpath remaining trafficable when the waste collection vehicle is parked on the site.

The plans and information forming the compromise documentation is provided in **Attachment 1 – Compromise Proposal**.

CAP MEETING – 14 SEPTEMBER 2022
ITEM 11.1 – ERD COMPROMISE PROPOSAL

BACKGROUND

A deemed consent notice was issued on 21 June 2022 in relation to Development Application 21031474, by 14 JOHNSTON PTY LTD, for construction of a three-level childcare centre (pre-school) with ancillary car parking, outdoor play areas and landscaping at 14 Johnston Street, Stirling; and the Council Assessment Panel considered the proposal at a Special Meeting on 30 June 2022.

Prior to the Special Meeting of 30 June 2022, this application was previously presented to the 9 March 2022 meeting of the Adelaide Hills Council Assessment Panel. The Panel resolved on 9 March 2022 to defer determination of the application for the following further information:

- 1) An acoustic report prepared by a suitably qualified professional.*
- 2) A review of the car parking design and its relationship with the intensity of the land use, in consideration of staff, parents and children, and visitors to the site.*
- 3) Preparation and provision of a Waste Management Plan which considers storage capacity, location and collection times.*
- 4) Consideration of built form in terms of overshadowing.*

The previous CAP Report and Attachments for this proposal from the Council Assessment Panel meeting held on 9 March 2022 are provided as Attachments 2 and 3.

At its meeting on 30 June 2022 the CAP resolved:

- 1) Having:*
 - i) received a deemed consent notice dated 21 June 2022 in relation to Development Application 21031474, by 14 JOHNSTON PTY LTD, for construction of a three-level childcare centre (pre-school) with ancillary car parking, outdoor play areas and landscaping at 14 Johnston Street, Stirling; and*
 - ii) undertaken an assessment of Development Application 21031474 (including its subsequent amendments and additional information/documentation) against the Planning and Design code*

an application be made to the Environment, Resources and Development Court for an order quashing the Deemed Planning Consent.

- 2) The reasons the Council Assessment Panel considers that Development Application 21031474 should have been refused Planning Consent include the following:*

The proposed development is at variance with the following Planning & Development Code Assessment Provisions (AP) , Desired Outcomes (DO) and Performance Outcome (PO/Designated Performance Feature (DPF) Values:

Design

<i>All Development – External Appearance</i>	
<i>PO 1.2</i>	<i><u>Where zero or minor setbacks are desirable, development provides shelter over footpaths (in the form of verandahs, awnings, canopies and the like, with adequate lighting) to positively contribute to the walkability, comfort and safety of the public realm.</u></i>

- The proposed footpath indent for waste pick up will not create a safe and walkable public realm space.*

CAP MEETING – 14 SEPTEMBER 2022
ITEM 11.1 – ERD COMPROMISE PROPOSAL

Transport, Access and Parking

<i>Desired Outcomes</i>	
DO1	<i>A comprehensive, integrated and connected <u>transport system that is safe, sustainable, efficient, convenient and accessible to all users.</u></i>
<i>Movement Systems</i>	
PO 1.2	<i>Development is designed to <u>discourage commercial and industrial vehicle movements through residential streets and adjacent other sensitive receivers.</u></i>
PO 1.4	<i>Development is sited and designed <u>so that loading, unloading and turning of all traffic avoids interrupting the operation of and queuing on public roads and pedestrian paths.</u></i>

<i>Sightlines</i>	
PO 2.1	<i>Sightlines at intersections, <u>pedestrian and cycle crossings, and crossovers to allotments for motorists, cyclists and pedestrians are maintained or enhanced to ensure safety for all road users and pedestrians.</u></i>
<i>Vehicle Parking Areas</i>	
PO 6.6	<i><u>Loading areas and designated parking spaces for service vehicles are provided within the boundary of the site.</u></i>

- *The proposed waste pick up on Johnston Street is not considered safe, efficient or convenient in terms of general road users.*
- *The proposed waste pick up will increase the number of large vehicle movements on a largely residential street.*
- *The proposed waste pick up will interrupt the operation of and queuing on Johnston Street and will impact on pedestrian paths.*
- *The proposed waste pick up will interfere with sight lines on Johnston Street and will not maintain or enhance safety for all road users and pedestrians on Johnston Street.*
- *The proposal does not provide loading areas and parking spaces for service (waste) vehicles within the boundary of the site.*

Interface Between Land Uses

<i>Desired Outcome</i>	
DO 1	<i>Development is located and <u>designed to mitigate adverse effects on or from neighbouring and proximate land uses.</u></i>

- *The proposal will impact on adjacent residential properties adversely with the proposed private kerbside waste pickup.*

Design in Urban Areas

<i>Site Facilities / Waste Storage (excluding low rise residential development)</i>	
PO 11.1	<i><u>Development provides a dedicated area for on-site collection and sorting of recyclable materials and refuse, green organic waste and wash bay facilities for the ongoing maintenance of bins that is adequate in size considering the number and nature of the activities they will serve and the frequency of collection.</u></i>

- *The proposal does not have a dedicated area for onsite collection of waste.*

CAP MEETING – 14 SEPTEMBER 2022
ITEM 11.1 – ERD COMPROMISE PROPOSAL

Zone

Suburban Main Street Zone					
PO 3.11	<p><i>Building height consistent with the form expressed in any relevant Maximum Building Height (Levels) Technical and Numeric Variation and Maximum Building Height (Metres) Technical and Numeric Variation, and otherwise low-to-medium rise, where the height is commensurate with the development site's frontage and depth as well as the main street width, to complement the main street character.</i></p> <table><tr><th>Maximum Building Height (Metres)</th></tr><tr><td>Maximum building height is 10m</td></tr><tr><th>Maximum Building Height (Levels)</th></tr><tr><td>Maximum building height is 2 levels</td></tr></table>	Maximum Building Height (Metres)	Maximum building height is 10m	Maximum Building Height (Levels)	Maximum building height is 2 levels
Maximum Building Height (Metres)					
Maximum building height is 10m					
Maximum Building Height (Levels)					
Maximum building height is 2 levels					

- *The proposed building exceeds the maximum building height by one level and is greater than 10metres in height.*

AND:

- 3) *The Assessment Manager is directed to engage Council's lawyers to make an application under Section 125(6) of the Planning, Development and Infrastructure Act 2016 to the Environment, Resources & Development Court.*

Accordingly an appeal application was lodged with the ERD Court by Council and a conference was scheduled for 12 August 2022. The conference was adjourned to 16 September 2022 to allow for a formal amended proposal to be prepared and considered by the Council Assessment Panel.

The previous CAP Report and Attachments for this proposal from the Council Assessment Panel meeting held on 30 June 2022 are provided as Attachments 4 and 5.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 14 JOHNSTON ST STIRLING SA 5152

Title ref.: CT 5350/901 **Plan Parcel:** F158259 AL13 **Council:** ADELAIDE HILLS COUNCIL

The site is a relatively rectangular shaped allotment of approximately 1054m² with frontage of 19.6 metres and depth of 60.1 metres on the low side of Johnston Street. The site has moderate slope away from Johnston Street with a variation of approximately 4.0 to 4.5 metres maximum fall diagonally across the site from front (south-west) to rear (north-east) of the site on a grade of approximately 1:10.

The land contains the previously mentioned dwelling and two domestic outbuildings, all of which are to be demolished to make way for the proposed development.

Assessment of Amended Proposal

The amended proposal to allow on-site waste collection does not impact the number of parking spaces provided and the truck turning circle proposed by Phil Weaver and Associates as traffic engineers has been accepted by Council engineering staff. The amended proposal does involve widening the existing crossover to the site and Council engineering has requested the paving to extend to the kerb and to match the existing paving. When a waste collection vehicle is parked within the site, two to three times a week for approximately 3 minutes, there will remain a 900mm

CAP MEETING – 14 SEPTEMBER 2022
ITEM 11.1 – ERD COMPROMISE PROPOSAL

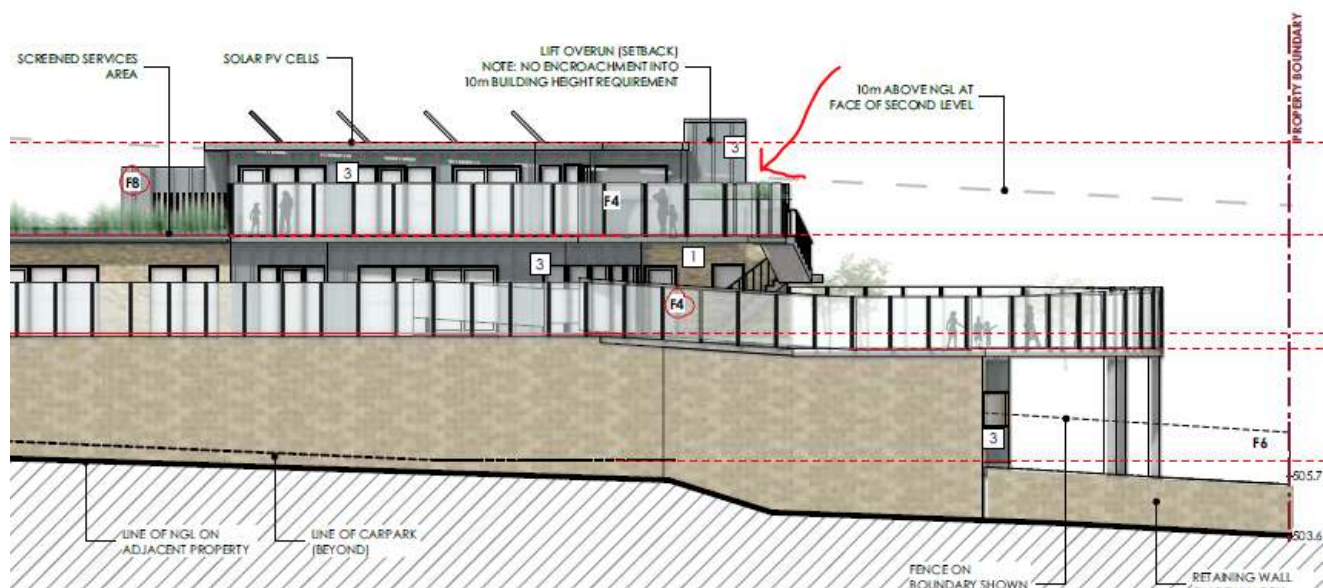
trafficable footpath. Please note on-site waste collections are private waste collection managed by the proponent. There will be Council kerbside collection of recyclables and green waste fortnightly.

It is not considered the realignment of the front of the building and the minor incursion into the front boundary set back will have any great amenity impact and the minor incursion is considered inconsequential when referencing the 8m building established setbacks of both 16 and 18 Johnston Street.

Council Planning and Engineering staff accept the amended waste collection proposal with the application of proposed **conditions 5 & 8**.

The Internal Referral Response is included as Attachment 7 – Internal Referral Response.

The matter of building height has been clarified further, with each of the amended proposal elevation drawings having a 10metre building height line drawn for reference. The proposal only deviates from the proposed 10 metre DPF in small portions of the northern side elevation. Noting the fall of the subject land and that of neighbouring land and the greatest height deviation is created by the lift overrun, the variation in height is not significant. There is a small section of room 5 and the staff facilities on level 2 which exceed the building height. The following elevation snip is of the portion which exceeds the 10 metre height.



Arguably the lift overrun should not be considered when using the Planning and Design Code definition of building height:

Means the maximum vertical distance between the lower of the natural or finished ground level at any point of any part of a building and the finished roof height at its highest point, ignoring any antenna, aerial, chimney, flagpole or the like. For the purposes of this definition, building does not include any of the following:

1. flues connected to a sewerage system
2. telecommunications facility tower or monopole
3. electricity pole or tower
4. or any similar structure.

It is argued the lift overrun falls into any other structure in point 4. In any event the DPFs are not considered definitive and a performance assessment would suggest the deviation from Suburban Main Street Zone DPF3.1 is not considered a significant matter which should hinder support for the amended proposal.

CONCLUSION

There is fundamental support for the proposed development within the Suburban Main Street Zone and the original traffic safety concerns associated with general waste collection on-street are considered to be overcome with the amended proposal.

Of particular note, it is recognised that the general waste management collection process is now contained within the site itself. The traffic impacts have been, as far as practicable, reduced by the on-site waste collection. Other traffic impacts were verified by two consulting traffic engineers (for the applicant) as being appropriate in respect of the function of Johnston Street. As previously stated in this report the building redesign to accommodate the amended waste solution is not considered to have any material effect on the presentation of the building to the street.

Notwithstanding the identified small departures of building height and car park provision shortfall (0.75 of a space shortfall), the revised proposal is considered on-balance, to generally pursue the Desired outcomes of the Suburban Main Street Zone and to otherwise sufficiently accord with the performance values of the Planning and Design Code and as such the compromise proposal is recommended for support by the Panel subject to conditions.

It is recommended that the Council Assessment Panel resolve that:

- 1) Pursuant to Section 125 (4)(b) 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) The Amended Proposal received 1 September 2022 for Development Application Number 21031474, by 14 JOHNSTON PTY LTD for construction of a three-level childcare centre (pre-school) with ancillary car parking, outdoor play areas and landscaping at 14 Johnston Street, Stirling is SUPPORTED and**
- 3) An order is sought from the ERD Court granting Planning Consent subject to the conditions below; and**
- 4) Delegation is given to the Assessment Manager to negotiate the final condition wording for a Court order to settle the appeal.**

CONDITIONS

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below:**
 - Amended plans from Gardiner Architects Job number 202015 Drawing number TP.00 Rev D, TP.02, TP.03 Rev D, TP.04 Rev D, TP.05 Rev D, TP.06 Rev D, TP.07 Rev D , TP.08 Rev D, TP.09 Rev D, TP.10 Rev D, TP.11 Rev D, and TP.20 Rev D all dated 30 August 2022
 - Amended Waste Management Report from Colby Phillips dated 31 August 2022
 - Environment Noise Assessment Report from Echo Acoustic Consulting dated 6 April 2022
 - Stormwater Management Plan Report prepared by Drew Rudd Engineers' dated 3 March 2021
- 2) External lighting shall in designed to conform with AS4289: - *Obtrusive Effects of Outdoor Lighting* and be restricted to that necessary for safe access & egress and security purposes only and shall be directed and shielded and fitted with honeycomb diffusers in such a manner to reduced glare and direct light so as to not cause nuisance to adjacent properties.**
- 3) All lighting shall be connected to a timer and be switched on no earlier than 6am and switched off by no later than 7.00pm.**
- 4) 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. Excluded parking areas such as the turn-around bay shall be marked with diagonal yellow bars in accordance with Part 11 of *AS 1742 Manual of uniform traffic control devices*.

- 5) Alterations to the Johnston Street footpath and kerb shall be undertaken to the reasonable satisfaction of Council, and footpath paving materials shall match the existing footpath paving.
- 6) 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.
- 7) All solid waste of any kind shall be stored in closed containers having a close-fitting lid with containers stored in a concealed location and in a manner which mitigates the occurrence of offensive odours emanating from the site or attraction of animals or insects to the stored waste. Waste shall not be stored on the land in areas delineated for use as car parking.
- 8) Waste collection shall be managed on-site in accordance with the Waste Management Plan, prepared by Colby Phillips Advisory, dated 31 August 2022. On-site waste shall be collected only between 9am and 3pm Monday to Friday.
- 9) The opening hours of the facility shall be 6:30am to 6:30pm Monday to Friday, and remain closed on Saturdays, Sundays and Public Holidays.
- 10) Prior to Building Consent being issued, all noise management construction recommendations from the Echo Acoustic Consulting Report (the Report) dated 6 April 2022 shall be included in the final building design plans submitted for Building Consent as follows:
 - The fences in Figure 2 of the Report depicted as blue are a minimum of 2.4m in height when measured above the Outdoor Play Area 1 ground level and fences depicted as red are a minimum of 1.8m in height when measured above the Outdoor Play Area 1 ground level.
 - The fences depicted in Figure 2 of the Report shall be constructed from sheet steel with a base material thickness (BMT) of 0.42mm, or an alternative material with the same or greater surface density. The fences should be sealed airtight at all junctions, including with the building, the ground floor wall and at the overlap of sheets.
 - The extent of the balustrade depicted as yellow in Figure 3 of the Report shall be a minimum of 2.1m in height when measured above the deck.
 - The extent of the balustrade depicted as orange in Figure 3 and Figure 4 of the Report shall be a minimum of 1.8m in height when measured above the deck.
 - The balustrade material shall be of material with a surface density equal to or greater than sheet steel with a 0.42mm BMT, including glass or Perspex. The balustrade should be sealed airtight at all junctions, including with the deck and at the overlap of sheets.
 - The access to Play Area 2 and Play Area 4 shall incorporate a 1.8m high solid external gate of the same material specification as the balustrade. The gate shall incorporate a frame and rubber contact at all sides and a drop-down seal at the base to provide an airtight seal when closed.
 - Any shade sail used in the play areas shall be constructed from an acoustically transparent material such as “open weave” shade cloth or similar rather than waterproof PVC.
 - Acoustic absorption shall be provided to the soffit of the slab above the Play Area 1 for the extent shown as purple in Figure 3 of the Report and in accordance with Figure 5 of the Report by directly fixing material such as 25mm thick *Pyrotek “Reapor”* panels.
- 11) Prior to occupation of the approved building, the noise management construction recommendations from the Echo Acoustic Consulting Report dated 6 April 2022 shall be implemented to the reasonable satisfaction of Council staff.

- 12) The applicant shall prepare and implement a Noise Management Plan for the facility which includes the following measures:
1. Closing doors and windows in rooms when music is being played.
 2. Ensuring outdoor play spaces are not used before 7.00am.
 3. Not introducing surfaces or equipment which regularly elevate children above the fence height.
 4. Not having equipment or surfaces intended for impact outside.
 5. Not having musical instruments outside.
 6. Maintaining play equipment such that noise which could be reduced by maintenance is not generated.
 7. Utilising gates and doors with soft close mechanisms.
 8. Maintaining a method for neighbours to contact the facility and communicating this to neighbours in writing.
 9. Ensuring crying or distressed children are taken inside the centre and comforted.
 10. Monitoring the behaviour of children by trained childcare staff.
 11. Ensuring carers and staff control the level of their voice while outside.

This plan and associated records shall be maintained and be made available to Council upon request.

- 13) All roof runoff and runoff from the car-park shall be managed on-site in accordance with the approved Stormwater Management Plan Report prepared by Drew Rudd Engineers' dated 3 March 2021 and Email from Jon Rudd dated 7 October 2021 to the reasonable satisfaction of Council.

Note: There is an existing stormwater 150mm pipe that crosses the front of the property, no alterations are to be made to this. If damaged report to the Council immediately.

- 14) Prior to the commencement of the development herein approved tree protection measures shall be implemented in accordance with the detail contained in the Tertiary Tree Consulting Pty Ltd Addendum Report dated 26 August 2021 (the report) for the purposes of protection of the regulated trees, for and during the construction phase. Note the tree is on neighbouring land, but the following applies to those parts of the TPZ on the subject land. In particular:
1. Site Meeting: A site meeting must occur between the minimum AQF level 5 Project Arborist and the builder addressing the tree protection plan before site works commence inclusive of demolition works (AS4970-2009).
 2. Tree Watering: The TPZ is to be irrigated and kept moist for 4 weeks before site works commence and is to continue throughout the length of the project (AS4970-2009).
 3. Tree Nutrition: Before site works commence and to enhance and facilitate new tree root growth, the TPZ is to be inoculated with QuadShot organic biological stimulant and Trichoderma harzianum. These measures will increase tree health and new fine feeder root growth. This must be undertaken by the minimum AQF level 5 Project Arborist. This must be certified by the Project Arborist with the certification submitted to the local council (Handreck and Black 2010).
 4. Mulching The TPZ: Before site works commence and to enhance and facilitate tree health through nutrient cycling, within the TPZ area, the TPZ must have a layer of properly composted mulch complying with AS4454 covering it to a depth of between 50-100 mm only. Mulch choices include but are not limited to Jeffreys Biomatt and Jeffreys Recover. No machinery is permitted within the TPZ to complete this task. The minimum AQF level 5 Project Arborist must certify the choice of mulch. The minimum AQF level 5 Project Arborist must certify the mulch is correctly installed with the certification submitted to the local council (AS4970-2009).

5. **TPZ Fencing:** A two-metre-tall temporary chain mesh tree protection fence must be installed in the location as drawn in appendix 5 complying with AS4687 and AS4970-2009. This will protect the TPZ/SRZ and vascular tissue while allowing the works to proceed. Signage identifying the TPZ must be attached to the TPZ fencing complying with AS4970-2009 and AS1319. The tree protection fencing must be installed prior to the commencement of any site works including demolition works. This fence must not be moved without consulting the minimum AQF level 5 Project Arborist (Refer the Tree Protection Plan appendix 5 in this report for further information). The minimum AQF level 5 Project Arborist must certify in writing the tree protection measures are correctly installed with certification documents submitted to the local council. This fence can be moved in consultation with the minimum AQF level 5 Project Arborist at the point of footing construction. (AS4970-2009).
6. **Machinery Access:** Machinery access is only permitted within the tree protection zone including the building and carpark footing footprint area under the direct supervision of the minimum AQF level 5 Project Arborist. Suitable ground protection such as rumble boards must first be laid to spread the load and stop soil compaction. The rumble boards must be approved in writing by the Project Arborist. The works within the TPZ must be directly supervised by the Project Arborist with certification documentation submitted to the local council (AS4970-2009). This may be required for works such as digging the elevator shaft and the bored piers.
7. **Grade Changes (Footing):** Except for the pier and elevator shaft locations. Within the area for the building and carpark footing, the soil within the TPZ must remain undisturbed with no grade change.
8. **Elevator Shaft:** Refer the machinery access section 6 above for further instructions. These works must occur under the direct supervision of the minimum AQF level 5 Project Arborist with certification submitted to the local council.
9. **Bored Pier Footings:** Within the TPZ the footings must be pier and beam. The beam sections must be installed above the existing grade with an air gap. This means the only impact for the footing will be the footprint of each pier only keeping the impact low and acceptable. All pier trench works must be bored. Refer the machinery access section above for further instructions. This must occur under the direct supervision of the minimum AQF level 5 Project Arborist with certification submitted to the local council (AS4970-2009). Some fine feeder roots will be lost during these works. Trees replace fine feeder roots every week to six months depending on thickness (Hirons and Thomas 2018), therefore, will have no deleterious impact on the TPZ as the tree will quickly replace/regenerate these roots.
10. **Supplementary Irrigation:** A supplementary irrigation system must be installed under the proposed footing within the TPZ to ensure water continues to be delivered to the roots within this part of the TPZ. This must be a dripper system laid on the existing grade, so no excavation is required. (Roberts et al., 2018).
11. **Service Installation:** Services must either be hung/fixed to the underside of the beam sections of the footing, or service trenches must be excavated with a hydrovac to ensure tree roots >40mm diameter are not damaged. Exposed tree roots are to be kept moist and the trench must be backfilled in a timeframe specified by the minimum AQF level 5 Project Arborist which will be determined by the weather at the time of works and the roots found during this process. This must occur under the direct supervision of the minimum AQF level 5 Project Arborist with certification submitted to the local council (Roberts et al., 2018; AS4970-2009). Some fine feeder roots will be lost during hydrovac works. Trees replace fine feeder roots every week to six months depending on thickness (Hirons and Thomas 2018), therefore, will have no deleterious impact on the TPZ as the tree will quickly replace/regenerate these roots.
12. **Further Tree Protections:** Unless specifically specified within section 4 of the report, the following activities a-n inclusive are not permissible within any Tree Protection Zone and form part of the tree protection plan for the nominated trees to be retained:
 - a. Machine excavation including trenching.
 - b. Excavation for silt fencing.
 - c. Cultivation.
 - d. Storage of materials.
 - e. Preparation of chemicals including cement products.
 - f. Parking of vehicles or plant.
 - g. Refueling.
 - h. Dumping of waste.
 - i. Washing and cleaning of equipment.

CAP MEETING – 14 SEPTEMBER 2022

ITEM 11.1 – ERD COMPROMISE PROPOSAL

- j. Placement/storage of fill.
- k. Lighting of fires.
- l. Soil level alterations.
- m. Temporary or permanent installation of utilities and signs.
- n. Physical damage to the tree including attaching anything to the tree. (AS4970-2009).

- 15) Landscaping detailed on plans TP.05 Rev D, TP.08 Rev D and TP.09 Rev D dated 30 August 2022 and the planting of the green roof as shown in TP.07 Rev D shall be planted prior to the occupation of the building herein approved. 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.
- 16) Prior to Building Consent a Construction Erosion Management Plan (CEMP) including a Traffic Management Plan for construction shall be prepared and submitted to Council for approval.

COUNCIL ASSESSMENT PANEL MEETING
14 September 2022
AGENDA
ITEM – 13.1

Originating Officer: Deryn Atkinson, Assessment Manager

Subject: Review of Council Assessment Panel (CAP) Operating and Meeting Procedures

For: Decision

SUMMARY

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

The *Planning, Development and Infrastructure (General) Regulations 2017* (the PDI Regulations) prescribe basic meeting procedures for Council Assessment Panels (CAPs). These meeting procedures are limited to:

- Instances where a CAP may exclude the public from attendance (i.e., go into confidence)
- The recording of minutes and access to agendas and minutes by members of the public
- The determination of a meeting quorum
- Voting rights
- The validity of CAP proceedings in the event of a vacancy in membership or a defect in the appointment of a member.

Further meeting procedures are determined by the CAP itself in accordance with Regulation 18 of the PDI Regulations. The current Operating and Meeting Procedures were last adopted by CAP on 10 March 2021.

The Operating and Meeting Procedures are required to be reviewed at a minimum every two years or when a new CAP is appointed. A new CAP was appointed from 1 June 2022 with one new member. The current Operating and Meeting Procedures were considered by the Members to be working well and the review was deferred for 3 months.

The Local Government Association recently updated the Model Operating Procedures template to remove the Emergency Response Act addendum permitting electronic meetings and new procedures were included in the body of the template and minor wording changes made. The revised draft Operating and Meeting Procedures also include changes as a result of feedback from members of the community and best practice in the sector.

These latest changes have been incorporated into the draft revised Operating and Meeting Procedures prepared by staff for consideration and recommended for adoption by the CAP (refer to **Attachment 1**).

RECOMMENDATION

- 1. That the Council Assessment Panel revokes the Operating and Meeting Procedures adopted on 10 March 2021 and adopts the revised Operating and Meeting Procedures dated 14 September 2022 as detailed in Attachment 1 of this report.**
 - 2. Delegation is provided to the Assessment Manager to make any legislative, formatting or nomenclature changes to the Operating and Meeting Procedures.**
-

1. GOVERNANCE

➤ Legal Implications

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

Pursuant to Section 83(1) (f) of the PDI Act the operating procedures of the CAP must be in accordance with any requirements prescribed by the regulations. Regulations 13 to 18 of the PDI Regulations address matters including public access to meetings, minutes, documents, quorum and voting. Regulation 18 permits the CAP to adopt other procedures not prescribed as it considers necessary.

The COVID-19 Emergency Response Act 2020 (COVID Act) commenced operation on 9 April 2020 in response to the COVID-19 pandemic. An addendum to the current Operating and Meeting Procedures was adopted to facilitate temporary electronic meetings until the expiry day of the COVID Act. The emergency response is no longer in place and the LGA Model Meeting Procedures have removed the Addendum.

Section 39 of the Legislation Interpretation Act 2021 allows electronic meetings to occur via audio connection only. The LGA Model Meeting Procedures allow for both audio and visual connections, where possible.

Under the PDI Act the requirement to provide reasons for the imposition of conditions is no longer present.

The current requirement to provide reasons pursuant to Regulation 42(3) of the Development Regulations 2008 is not replicated in the new requirement pursuant to Regulation 58 of the PDI Regulations.

2. AMENDMENTS TO CAP OPERATING AND MEETING PROCEDURES

A Panel may adopt its own procedures as long as they are consistent with the PDI Act or the PDI (General) Regulations. The current Operating and Meeting Procedures are based upon the LGA Model Meeting Procedures with addition procedures adopted by the former CAP members.

In consideration of the updated Model Meeting Procedures prepared by the LGA, the following matters are recommended to be included in the revised Operating and Meeting Procedures for CAP:

➤ **Ordinary Meetings –**

- Clause 1.6 has been amended to acknowledge current practice of a copy of the agenda, including reports and attachments to reports) for all meetings being available for viewing by the public on the Council's website.
- Current clause 1.7 has been deleted which referred to copies of staff reports being made available to the applicant on request. This is considered to not be required as the applicant has access to the information on the Council's website.
- New sub-clause 1.4.6 has been added in relation to details of how to connect to a meeting held electronically (suggested in Updated Model Procedure).

➤ **Electronic Meetings –**

- This section has been renamed and renumbered.
- New clause 3.4 has a requirement that where a meeting is being live streamed, the live streamed must be disconnected only during parts of the meeting where the public are excluded (suggested in Updated Model Procedure). Previously the addendum stated shall rather than must.
- It was also acknowledged in the existing Operating and Meeting Procedures that where a person appears before the CAP both in relation to Assessment of Development Applications or Review of an Assessment Manager Decision, that the person may appear by electronic means. The update to the Model Procedures moved this clause from the Heading of Assessment of Development Applications to the Decision Making section, and the revised draft Operating and Meeting Procedures reflect this change.

➤ **Additional Members –**

- Deletion of the section Additional Members as the Council has no appointed Additional Members and existing clause 9.2 permits CAP to call for professional assistance from other professionals as it deems necessary and appropriate from time to time.

➤ **Assessment of Development Applications –**

- New clause 5.4 and 5.5 in relation to the requirement for CAP to consider whether a proposal is seriously at variance with the Planning Rules or Development Plan/Reasons and the need to refuse consent if CAP considers a proposal is seriously at variance, have been relocated from the Decision Making section to Assessment of Development Applications. (Suggested in the Updated Model Procedure).
- New sub-clause 5.6.5 has been changed to remove a maximum of five minutes and follow the Model Procedure wording of five minutes. As the Presiding Member can allow additional time, it is suggested that "maximum" may be contradictory.

➤ **Decision Making –**

- Removal of existing clause 6.1 and 6.2 in relation to seriously at variance clauses to the Assessment Section as noted previously and renumber clause 6.3 and remove the last sentence referencing Additional Members.
- Relocation of current sub-clause 5.4.2 to this section as new clause 6.5 to cover opportunity for a person to appear by electronic means.

- **Minutes and Reporting –**
 - New clause 6.3.10 added in relation to where a decision is by the casting vote of the Presiding Member, that it is recorded as “carried on the casting vote of the Presiding Member”.
 - Clause 6.6 – timeframe for minutes to be made available to the public amended to 2 business days to be consistent with the timeframes for application decisions.
- **Recording of Meetings-**
 - Recent LGA training for CAP members indicated that best practice of the sector is to not record CAP meetings. In recognition that the Procedures should reflect best practice clauses 8.1 to 8.4 have been deleted.
- **Definitions –**
 - New section with definitions related to electronic meeting attendance added that were previously contained in the Addendum.
- **Temporary Addendum to Facilitate Electronic Meetings – removed.**
- **Attachment A Guidelines & Protocols for Council Assessment Panel Meetings**
 - Amended so the lead in paragraph relates to the PDI Act
 - Point (9) has been redrafted to include reference to the Planning Rules as well as the Development Plan. The amendments also seek to address feedback that CAP may explore reasonable solutions to issues related to the proposal that affect other interested parties or third parties as an obligation under the Code of Conduct for CAP members. Furthermore the amendments clarify this does not extend to redesigning or redefining a proposal or finding alternative locations for a development.

FURTHER MATTERS FOR CONSIDERATION

- CAP meeting days and times – currently the second Wednesday of the month at 6.30pm.
- Assessment sub-clause 5.6.10 – consider allowing a further opportunity for representors (at the discretion of the Presiding Member) to clarify one or more points of response made by the Applicant or their agent, following their address to the CAP. This is related back to Code of Conduct statutory obligation to be prepared to find reasonable solutions to issues that affect other interested parties and recognising there being no third party appeal rights under the PDI Act, making the decision of the CAP final for third parties.

Staff recommend that the revised Operating and Meeting Procedures in are adopted to replace the Operating and Meeting Procedures dated 10 March 2021. The marked up version of Operating and Meeting Procedures is provided in **Attachment 2** to assist the Panel in their review with staff comments shown on the right hand side. The existing Operating and Meeting Procedures is provided in **Attachment 3** for convenience.

3. ATTACHMENTS

- (1) Clean Copy of Revised Draft CAP Operating and Meeting Procedures
- (2) Marked up Revised Draft CAP Operating and Meeting Procedures
- (3) Existing CAP Operating and Meeting Procedures adopted 10 March 2021