



Notice of Meeting

Notice is hereby given to Members that the next meeting of the
Fleurieu Regional Assessment Panel will be held at
CLUB FLEURIEU, 140-142 Main South Road, Yankalilla
on Tuesday, 20 September 2022 commencing at 11:00 am

We would like to begin by acknowledging the Kurna and Ngarrindjeri people, the traditional custodians of this land and waters and pay our respects to their elders past, present and emerging

Your attendance is requested.

11.00 am Commencement of Meeting

- | | | | |
|-----------------|-------------------|--|---------------|
| Item 3.1 | 22015580 - | Construction of a two-storey detached dwelling with Balcony | Pg. 3 |
| | | <i>23 Thomas Street, Yankalilla</i> | |
| Item 3.2 | 22022036 - | Construction of a two-storey detached dwelling with a balcony & garage | Pg. 17 |
| | | <i>Unit 13, 20 Troon Drive, Normanville</i> | |
| Item 3.3 | 22014508 - | Gin distillery with shop (being a cellar door and restaurant/cafe), function centre & ancillary carpark | Pg. 33 |
| | | <i>422 Forktree Road, Wattle Flat</i> | |
| Item 3.4 | 21040387 - | construction of a detached two storey dwelling, associated earthworks and retaining walls to a maximum height of 1.65 metres, fencing and outbuilding | Pg. 55 |
| | | <i>4 Aldam Avenue, Goolwa Beach</i> | |

Matt Atkinson
Assessment Manager

13 September 2022

PRESENT

APOLOGIES

IN ATTENDANCE

CONFLICT OF INTEREST

Fleurieu Regional Assessment Panel Members are reminded of the requirements for disclosure by Members of direct or indirect personal or pecuniary interest in a matter listed for consideration on the Agenda.

Section 83 of the Planning, Development and Infrastructure Act 2016 requires that any Member declares any interest and provide full and accurate details of the relevant interest to the Panel prior to consideration of that item on the Agenda.

Each Member of the Fleurieu Regional Assessment Panel has a duty to vote at all meetings unless excepted by legislation.

The major exception being where a Member has a conflict of interest.

All discussion and consideration of decisions about development applications before the Fleurieu Regional Assessment Panel will be made in public unless otherwise determined by the Panel in accordance with their Meeting Procedures.

ITEM 1. CONFIRMATION OF MINUTES

Minutes of the Fleurieu Regional Assessment Panel held on 16 August 2022.

RECOMMENDATION

That the Minutes of the Fleurieu Regional Assessment Panel held on 16 August 2022 as circulated to members be received as a true and accurate record.

ITEM 2 DEVELOPMENT APPLICATIONS - DEVELOPMENT ACT 1993

Nil

ITEM 3 DEVELOPMENT APPLICATIONS - PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016**ITEM 3.1**

APPLICATION ID 22015580
PROPOSED DEV Construction of a two-storey detached dwelling with Balcony
SUBJECT LAND 23 Thomas Street, Yankalilla
APPLICANT Rivergum Homes
REPORT AUTHOR Kirsty Tapp
LODGEMENT DATE 11 May 2022

DEVELOPMENT NO.:	22015580
APPLICANT:	Rivergum Homes
ADDRESS:	23 Thomas Street, Yankalilla
NATURE OF DEVELOPMENT:	Construction of a two-storey detached dwelling with Balcony
ZONING INFORMATION:	<p>Zones</p> <ul style="list-style-type: none">• Neighbourhood <p>Overlays</p> <ul style="list-style-type: none">• Hazards (Flooding - Evidence Required)• Native Vegetation• Prescribed Water Resources Area• Traffic Generating Development• Hazards (Bushfire - Medium Risk)
LODGEMENT DATE:	11 May 2022
RELEVANT AUTHORITY:	Fleurieu Regional Assessment Panel
PLANNING & DESIGN CODE VERSION:	11 May 2022
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Kirsty Tapp, Senior Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil

CONTENTS:

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DETAILED DESCRIPTION OF PROPOSAL:

The Applicant has proposed the construction of a two-storey detached dwelling with a front balcony.

The dwelling has a two-storey form with a pitched roof, which will be constructed with lightweight cladding ('Duragroove' and Stratum Contour) with a Nexteel Colorbond roof in the colour 'Monolith'. A front balcony is incorporated into the dwelling design.

In order to bench the dwelling, some earthworks are proposed including a new retaining wall along the northern side boundary.

Plans and details of the proposed development are contained in **Attachment 1**.

SUBJECT LAND & LOCALITY:

Address: 23 Thomas Street, Yankalilla

Title ref: CT 6178/353 **Plan parcel:** D112356 AL9 **Council:** DC of Yankalilla

Site Description:

The subject land is comprised of one (1) allotment, with a frontage to Thomas Street of 16.97 metres and a depth of 33 metres, resulting in an overall site area of approximately 560 square metres.

The subject land contains no encumbrances, easements or land management agreements.

The subject land has a slope from north to south and is currently vacant.

An aerial photograph of the subject land is provided below.

Locality

The locality is predominantly characterised by low-density residential development, with allotment sizes of approximately 560 square metres in the area known as 'Yankalilla Grove', which comprises the subject land and land to the north, south, and west. To the east of the subject land is an older section of Yankalilla that is characterised by larger allotment sizes between 700 and 1500 square metres.

The built form is predominantly single-storey detached dwellings with a small number of two-storey detached dwellings evident in the locality. A range of building styles and materials is present, with no uniform character.

The subject land is located approximately 150 metres from the main shopping and business precinct of Yankalilla. Farmland and rural living allotments are located further to the north.

Subject Land and Locality Map



Figure 1- Subject land and locality



Figure 2 - Planning and Design Code zoning

Key: N- Neighbourhood Zone (purple), Ru- Rural Zone (beige)

Subject Land and Locality Photographs



Figure 3 - View of subject land from Thomas Street looking north



Figure 4 - View of subject land from Thomas Street looking south



Figure 5 - View from subject land looking north



Figure 6 - View from subject land looking east towards rear neighbour

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Detached Dwelling: Code Assessed – Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
Planning & Design Code – Detached Dwelling is identified as having a Performance Assessed development pathway.

PUBLIC NOTIFICATION

The Planning & Design Code (the Code) specifies that all forms of development require notification unless considered to be minor in nature, or where listed as exempt within the procedural matters notification table (Table 5 of the corresponding zone). In this instance, the proposed development of a dwelling is listed with some exceptions, which includes:

Dwelling height

1. *Exceeds the maximum building height specified in Neighbourhood Zone DTS/DPF 4.1*

DTS/DPF 4.1 outlines;

DTS/DPF 4.1

Building height (excluding garages, carports and outbuildings) is no greater than:

(a) the following:

Maximum Building Height (Metres)
Maximum building height is 7.5m
Maximum Building Height (Levels)
Maximum building height is 2 levels

The proposed dwelling is greater than 7.5 metres in height and, as such, the application was publically notified.

The proposed development was notified between the 24 May 2022 and 14 June 2022, which included the installation of a sign on the subject land and written notification of all properties within 60 metres.

During the public notification period, two (2) representations were received. One (1) of the representations supported the development with some concerns and one (1) representor opposed the development. One (1) of the representors indicated that they wished to be heard by the Panel in support of their submission.

Representations Received

Representations received		Support / Opposed	Wish to be heard?
1.	Steve Brice	Do not support	Yes
2.	Emma Siekmann	Support (with concerns)	No

Location of Representors

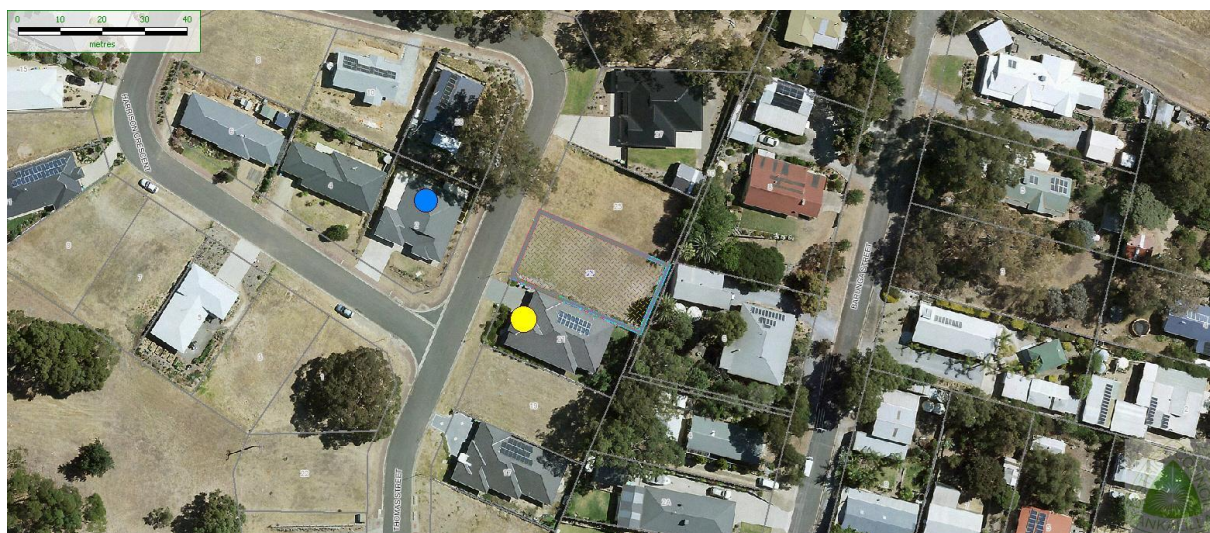


Figure 7 - The location of the representors (yellow dot - do not support & blue dot - support (with concerns))

Summary of Issues Raised and the Applicant's Response

Summary of Issues Raised	Applicant's response
<p><u>Two-storey Form & Character</u></p> <p>Concerns over the development being two-storeys given other dwellings in the vicinity are all single-storey.</p> <p>The dwelling will not fit in with the existing streetscape.</p>	<p>The notified plans have been amended and a reduction of approximately 624mm has been made to the height of the building. The building will now have a maximum height of 7.757m.</p> <p>The Neighbourhood Zone contemplates dwellings of two levels with a maximum height of 7.5 metres.</p>
<p><u>Overlooking & Privacy Concerns</u></p> <p>Overlooking from the front balcony into a bathroom and bedroom. The representor is unable to erect a fence along the boundary so cannot take privacy measures on their land.</p> <p>Windows on the first floor will overlook adjoining properties.</p>	<p>Both representors raised concerns about overlooking from the front balcony.</p> <p>The Code allows street facing balconies to not be screened (views across a road are not considered to be direct overlooking).</p> <p>All upper level windows include obscure glazing to 1.5 metres above the Finished Floor Level, which complies with the Code.</p>

<p>Solar Access</p> <p>The use of retaining walls to bench the site (fill) will cause additional shadowing over the lower neighbour's rear yard and existing solar panels located on the roof.</p>	<p>The representor at 21 Thomas Street has raised concerns regarding solar access. The setback of the dwelling on this side boundary (the southern) is greater than what is outlined in the Code.</p> <p>Shadow diagrams have also been prepared that demonstrate the impact of the development on the southern neighbour.</p> <p>The extent of overshadowing is considered to be reasonable.</p>
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A full copy of the representation received is contained in **Attachment 2**. The Applicant's response is contained in **Attachment 3**.

AGENCY REFERRALS

Having reviewed the Planning and Design Code and Schedule 9 of the *Planning Development and Infrastructure (General) Regulations 2017*, no statutory referrals were required.

INTERNAL REFERRALS

No internal referrals were required.

PLANNING ASSESSMENT

An assessment has been undertaken against the relevant provisions of the Planning & Design Code at the date of lodgement, which are contained in **Attachment 4**.

Land Use

Residential land uses are anticipated within the Neighbourhood Zone and are directly referenced within the Desired Outcomes for the Zone (DO1). The proposed land use is considered acceptable.

Building Height

This section of the Neighbourhood Zone recommends buildings with a maximum height of 7.5 metres (and two levels) or buildings that are generally consistent with the prevailing character of the locality (i.e. which complement the height of nearby buildings).

The building has two levels with a maximum building height of approximately 7.9 metres when measured from natural ground level to the highest point.

The locality is predominantly characterised by single storey buildings, however some two-storey buildings are also evident. The height of the proposed building slightly exceeds the 7.5-metre recommended maximum outlined by the Code. The extra height is a result of the building design, which incorporates a higher section of roof in a small section (see the elevation below). The addition height of approximately 0.4 metres will not detrimentally affect the locality in which the building is situated.

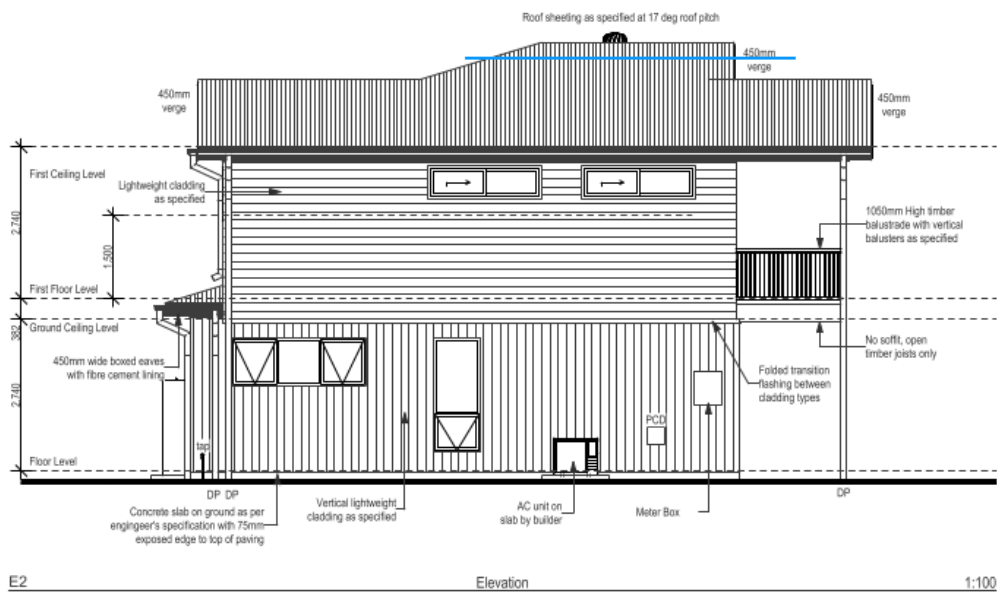


Figure 8 - Elevation Plan- blue line depicts approximate location of the section of building over 7.5 metres

The overall height of the building is not considered to be excessive or significantly at variance with the Performance Outcomes in the Zone.

Setbacks, Design & Appearance

The dwelling is proposed to be constructed predominantly with lightweight weatherboard walls. Some rendered walls provide interest in the front facade. The roof, gutters and downpipes are to be constructed with 'Nexteel Colorbond Monolith'. The proposed materials and colours will complement other development in the locality.

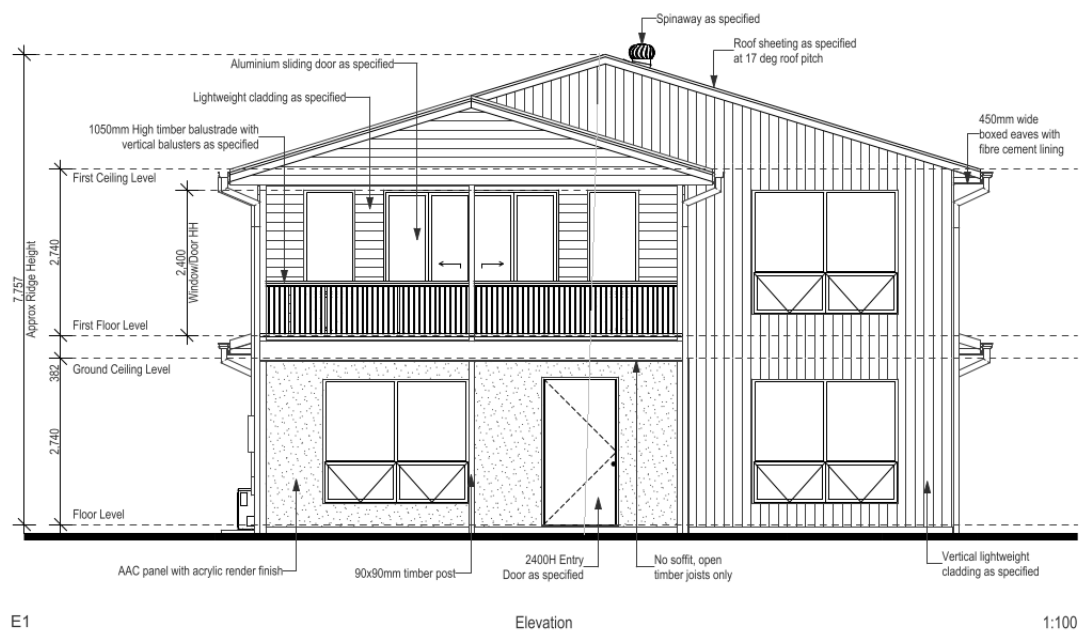


Figure 9 - Front Elevation

The proposed dwelling incorporates a front setback of 7.5 metres, with the front balcony extending to 5.75 metres from the Thomas Street boundary. The dwelling will be set back 2.5 metres from the northern side boundary and 3.47 metres from the southern side boundary.

PO 5.1 prescribes that *'Buildings are set back from the primary street boundaries consistent with the existing streetscape'*.

The front setback of the building is consistent with other dwellings in the locality.

PO 8.1 encourages buildings to have a side setback that complements the character of the locality and provides access to natural light and ventilation.

For allotments of less than 800 square metres, DTS/DPF 8.1 recommends side setbacks:

- a) at least 900mm where the wall is up to 3 metres;
- b) other than for a wall facing a southern side boundary, at least 900mm plus 1/3 of the wall height above 3 metres;
- c) at least 1900mm plus 1/3 of the wall height above 3 metres for walls facing a southern side boundary.

The northern and southern side setbacks exceed the quantitative requirements outlined by the Code.

The Applicant has provided shadow diagrams for the development, which identify how overshadowing could affect the immediate neighbour to the south. Shadow diagrams have been provided that depict the winter solstice (21 June) and the summer solstice (21 December). The shadow diagrams identify that some overshadowing would occur on 21 June, with the morning casting the longest shadow as would be anticipated given the allotment configurations along this section are orientated west to east.

Even though some overshadowing will occur, it is not considered unreasonable given the allotment's orientation and the slope of the land, which is higher on the northern side. It is also noted that non-living areas such as bedrooms and wet areas are located along the northern boundary of the adjacent dwelling at Number 21.

The representor did raise concerns about their existing solar panels, which are illustrated on the shadow diagram below. The Code addresses shadowing from adjoining development on rooftop solar in PO 3.3 - Interface between land uses, which states that development should *'not unduly reduce the generating capacity of adjacent roof top solar'*. The solar panels on the adjoining site will receive slightly less sunlight as a result of the development. However, the panels will continue to be able to generate energy throughout most of the day.

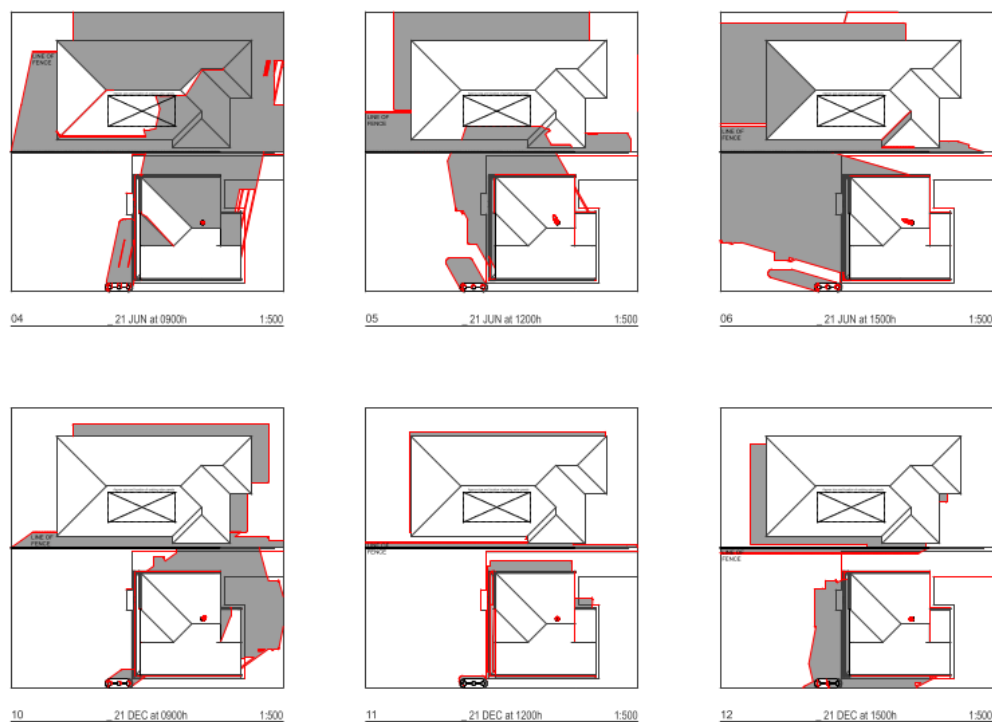


Figure 10 - Shadow diagrams

Overlooking/Visual Privacy

The dwelling incorporates a living and dining area on the first floor that gains access to a front balcony. PO 10.1 & 10.2 recommends that development should mitigate direct overlooking from balconies and windows.

The proposed dwelling does not include any upper floor level windows on the southern side of the dwelling. The northern side elevation incorporates two (2) windows for the living area while the rear (east) elevation identifies windows for the wet areas and butler's kitchen, these windows are identified as being either 1500mm above Finished Floor Level (FFL) or incorporating obscure glass to 1500mm above the FFL, which is consistent with the Code provisions.

PO 10.2 comments on direct overlooking from decks and balconies to adjoining habitable rooms and private open spaces of adjoining residences.

DTS/DPF 10.2 outlines that:

- a) the longest side of the balcony or terrace will face a public road, public road reserve or public reserve that is at least 15m wide in all places faced by the balcony or terrace

The balcony fronts a public road that is approximately 15 metres in width (including the road reserve).

The dwelling to the west is across a public road and, as such, the balcony does not directly overlook as defined by the Code. Similarly, the proposed balcony does not directly overlook into the adjoining dwellings private open space or habitable rooms, given the location of the balcony on the front facade of the dwelling.

No privacy measures are required on the front balcony.

CONCLUSION

Though the dwelling does not meet the recommended maximum building height identified in the Neighbourhood Zone, the overall height of the building is not considered to be excessive when considered in the context of the locality, nor will the additional height have an adverse impact on the locality.

The siting of the dwelling is considered to reflect the predominant setbacks in the locality, consistent with the quantitative measures outlined by the Code.

The proposed development is not considered to be 'seriously at variance' with the relevant provisions of the Planning & Design Code, and warrants Planning Consent.

RECOMMENDATION

It is recommended that the Fleurieu Regional 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 22025580, by Rivergum Homes, is granted Planning Consent subject to:**

CONDITIONS

- 1. Development shall proceed in accordance with the plans and written documentation accompanying the application, unless varied by the following conditions.**
- 2. The external finishes to the building or structure herein approved shall be in accordance with the materials as specified in the application now approved.**
- 3. Stormwater shall be diverted away from the building and shall not pond against or near the footings and shall not be discharged onto adjoining land. Where drainage is directed to the street water table, this shall be by way of a Council approved stormwater drainage system.**
- 4. All scarring or physical disturbances of the land surface during any excavation work shall be restricted to only that which is shown on the approved plan as required for building work and/or access purposes. All exposed faces around such scarred areas and spoil shall be screened with trees and shrubs and covered**

with suitable ground cover to the reasonable satisfaction of Assessment Manager.

5. During construction of the development, hay bales (or other soil erosion control methods as approved by Council) shall be placed above and below the excavated/filled site to prevent soil moving off the allotment during periods of rainfall.
6. The upper level windows pertaining to what has been identified as the living room on Floor Plan FF Reference No. 19895 - WD04 and on the Elevations - E2 Reference No. 19895 - WD05 forming part of the submission, shall be permanently fitted with fixed screen capable of minimising over-looking to a minimum height of 1500mm above the finished floor level, to the reasonable satisfaction of the Assessment Manager prior to occupation of the development.
7. A supply of water independent of reticulated mains supply shall be available at all times for fire-fighting purposes.
 - A minimum supply of 2000 litres (two thousand) of water shall be available at all times for bushfire fighting purposes (in accordance with the Ministerial Building Standard MBS 008 - Designated bushfire prone areas - additional requirements).
8. All water tanks used as a dedicated water supply for bushfire fighting shall be made of non-combustible material.

ADVISORY NOTES

General Notes

1. No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
2. Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
3. A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - b. if an appeal is commenced—
 - i. until the appeal is dismissed, struck out or withdrawn; or
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).

Council Notes

1. Allotment boundaries will not be certified by Council staff. The onus of ensuring that the building is sited in the approved position on the current allotment is the responsibility of the owner. This may necessitate a survey being carried out by a licensed land surveyor.
2. It is the builder's responsibility;
 - to ensure the Council's footpaths, roads, kerbing and drainage pits etc are protected from damage during the construction of the development
 - to provide the necessary signage on the footpath and road, where hazards are created as a result of the development
 - to repair any portion of Council's infrastructure damaged as a result of work undertaken on the
 - allotment or associated with the construction on the allotment.

To limit damage, a single temporary access location to the frontage of the allotment (ie the future driveway location) is to be established and utilised for machinery, delivery of building materials and general vehicular access. If required, existing footpath paving can be removed during the construction period to define the access location, and relayed at the completion of construction.

Council is to be supplied with dated photos and measurements of any defects that existed prior to the commencement of work; otherwise it will be assumed that all damage was caused during construction.

Reinstatement of damaged infrastructure must be carried out to the satisfaction of the Council. Failure to do so will result in such repairs being carried out by the Council and invoiced to the builder.

3. All work undertaken within the road verge between the property boundary and the carriageway edge requires approval from Council.

Approval shall be obtained for the following activities;

- construction of a driveway across Council verge
- underground electrical connection
- stormwater connection from property to the road
- landscaping or earthworks including filling, retaining walls, removal and/or planting of vegetation

4. Please be advised that where a Private Certifier is appointed to undertake the Building Rules Assessment, Council does not provide a service of advising the Private Certifier of site conditions or any matters relevant to the building assessment. It is recommended that Private Certifier undertakes his or her own investigations and inspection of the site to become acquainted with site conditions and any other relevant matter.

ITEM

3.2

APPLICATION ID 22022036
PROPOSED DEV Construction of a two-storey detached dwelling with a balcony & garage
SUBJECT LAND Unit 13, 20 Troon Drive, Normanville
APPLICANT Maptia Pty Ltd.
REPORT AUTHOR Kirsty Tapp
LODGEMENT DATE 30 June 2022

DEVELOPMENT NO.:	22022036
APPLICANT:	Maptia Pty Ltd.
ADDRESS:	Unit 13, 20 Troon Drive, Normanville
NATURE OF DEVELOPMENT:	Construction of a two-storey detached dwelling with a balcony & garage
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none">• Golf Course Estate <p>Overlays</p> <ul style="list-style-type: none">• Hazards (Bushfire - Urban Interface)• Hazards (Flooding - Evidence Required)• Native Vegetation• Prescribed Water Resources Area• Water Resources
LODGEMENT DATE:	30 June 2022
RELEVANT AUTHORITY:	Fleurieu Regional Assessment Panel
PLANNING & DESIGN CODE VERSION:	30 June 2022
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Kirsty Tapp Senior Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil

CONTENTS:

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ATTACHMENT 2:	Representation	Pg. 142
ATTACHMENT 3:	Response to Representation	Pg. 168
ATTACHMENT 4:	Relevant P&D Code Policies	Pg. 169

DETAILED DESCRIPTION OF PROPOSAL:

The Applicant has proposed the construction of a two-storey detached dwelling with balcony and double garage under the main roof.

The dwelling is two-storeys in form with a Colorbond 'Monolith' skillion roof. The external walls are predominantly rendered with an off-white colour. Weatherboard cladding and a brick section provide articulation to the front facade.

The maximum height of the building is approximately 8.6 metres when measured from natural ground level to the highest point. Notwithstanding the overall height, the dwelling will have a single storey appearance when viewed from Troon Drive.

A balcony is incorporated into the dwelling, which gains views to the golf course, ocean and Rapid Head.

Given the topography of the land, some earthworks and retaining walls are proposed.

Plans and details of the proposed development are contained in **Attachment 1**.

SUBJECT LAND & LOCALITY:

Address: Unit 13, 20 Troon Drive, Normanville

Title ref: CT5916/498 **Plan parcel:** C22206 FL13 **Council:** DC of Yankalilla

Site Description:

The subject land is comprised of one (1) allotment, with a frontage to Troon Drive of 32.56 metres and a depth of 22.35 metres, resulting in an overall site area of approximately 593 square metres.

The land is not subject to any Easements.

Two (2) Encumbrances are noted on the Title in favour of the Developer and a Community Corporation.

The land has a fall at the front of the allotment from east to west, which flattens out as the allotment heads west.

The land is currently vacant.

An aerial photograph of the subject land is provided below.

Locality

The locality is characterised by low-density residential development on the steeper allotments, with an average allotment size between 600 and 700 square metres. Denser development is located on the more level topography with smaller allotments between approximately 300 and 360 square metres.

The locality is predominantly characterised by two-storey dwellings with some three-storey dwellings located on the steeper allotments and a mix of single and two-storey dwellings on the flatter areas.

The subject land and locality is in the area known as 'Links Lady Bay' and forms part of a golf course estate with high amenity value.

The Golf Clubhouse and Hotel are located to the north of the subject land.

Views are available from the subject land to the south and west towards the golf course and ocean. Extended views are also possible of Rapid Head to the south-west.

Rural land is located to the east, which does not form part of the estate.

The main street of Normanville is located approximately 1.9 kilometres from the subject land.

The locality demonstrates a variety of contemporary dwelling styles given the age of the estate.

Subject Land and Locality Map



Figure 1 - Subject land and locality



Figure 2 - Planning and Design Code zoning
Key: GCE- Golf Course Estate

Subject Land and Locality Photographs



Figure 3 - View of the subject land from Troon Drive looking south-west



Figure 4 - View from Troon Drive looking west over subject land



Figure 5 - View looking south



Figure 6 - View looking south along Troon Drive



Figure 7 - View looking north along Troon Drive

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Detached Dwelling: Code Assessed – Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
Planning & Design Code – Detached Dwelling is identified as having a Performance Assessed pathway.

PUBLIC NOTIFICATION

The Planning & Design Code (the Code) specifies that all forms of development require notification unless considered to be minor in nature, or where listed as exempt within the procedural matters notification table (Table 5 of the corresponding zone). In this instance, the proposed development of a dwelling is listed with some exceptions, which include:

Golf Course Estate Zone DTS/DPF 3.1

DPF 3.1 outlines;

Building height (excluding garages, carports and outbuildings) are no greater than 2 building levels and 9m and wall height is no greater than 7m except in the case of gable end.

As the proposed dwelling has a height greater than 9 metres above the lowest footing, the development was placed on Public Notification.

The proposed development was notified between 13 July 2022 and 2 August 2022, which included the installation of a sign on the subject land and written notification of all properties within 60 metres.

During the public notification period, two (2) representations were received opposing the proposal. The representors indicated that they did not wish to be heard by the Panel in support of their submission.

Representations Received

Representations received		Support / Opposed	Wish to be heard?
1.	Brian Tipper	Opposed	No
2.	Matthew Pink	Opposed	No

Location of Representors



Figure 8 - The location of the representations (yellow dots)

Summary of Issues Raised and the Applicant's Response

Summary of Issues Raised	Applicant's response
<p><u>Encumbrance</u></p> <p>The plans do not meet the Encumbrance in several areas.</p>	<p>The previous owner informed the current owner that the Encumbrance had been discharged.</p> <p>The owner has however been in contact with the Encumbrancee during the process and gained Encumbrance approval from the developer.</p> <p>The garage is only 3.0 metre high as it is set-down.</p> <p>The plans have been amended with the roof pitch lowered to reduce the overall height.</p> <p><i>Officer comment - One of the Encumbrances noted on the Certificate of Title is to the developer of the Estate and Council plays no role in administering the Encumbrance.</i></p>

<u>Community Corporation</u> The plans will need to be presented to the Community Corporation as per the by-laws.	<i>Officer comment - this is a matter between the owner and the Community Corporation.</i>
<u>Loss of Views</u> The design of the dwelling will affect existing views.	The overall height of the building has been reduced.
<u>Property Value</u> The development will negatively affect adjoining property prices.	<i>Officer comment - the impact on property values either positively or negatively is not a planning consideration.</i>

A full copy of the representation received is contained in **Attachment 2**. The Applicant's response is contained in **Attachment 3**.

AGENCY REFERRALS

Having reviewed the Planning and Design Code and Schedule 9 of the *Planning Development and Infrastructure (General) Regulations 2017*, the proposed development was not required to be referred to any statutory authorities.

INTERNAL REFERRALS

Engineering

Existing

The maximum gradient achieved on the current topography is 9 degrees from the front to the rear of the allotment. A Side Entry Pit (SEP) and a light pole is located behind the retaining wall at the eastern corner of the allotment.

Proposal

The development proposes a 7.6-metre wide concrete driveway, with a gradient that ranges from 2 degrees to 12 degrees. Transition areas are proposed to ensure that the proposed driveway gradients comply with the relevant Australian Standards.

The proposed driveway crossover is sited 1.1m from an adjacent light pole and 0.37m from a Side Entry Pit (SEP).

Driveway Access and Manoeuvrability

An engineering assessment was conducted utilising vehicle tracking on AutoCAD, to analyse the ground clearance level and turning path on proposed driveway design by Thomas Klee from 3D Design & Drafting Adelaide. According to Australian Standards (AS/NZS

2890.1:2004), the minimum ground clearance level for a B99 vehicle (fully loaded) has been adopted as 120mm.

Accordingly, analysis displays the minimum achieved is at 147mm at 12-degree transition. Therefore, passing the Australian Standards (AS/NZS 2890.1:2004) and demonstrating safe movements of people and goods to and from the development is provided to minimum standard.

In accordance with current Australian standards (AS/NZ 2890.1:2004) “the maximum gradient of domestic driveways shall be 1 in 4 (25%)” therefore the proposed driveway is designed to meet the maximum gradient under Australian Standards.

The proposed vehicle crossover detail shall be constructed to Council’s satisfaction and in accordance with Council’s Engineering detail – Infrastructure Guidelines SD225, SD235 and SD245.

Conclusion

I am satisfied with the current application subject to recommended conditions.

PLANNING ASSESSMENT

The proposal has been assessed against the relevant provisions of the Planning & Design Code at the date of lodgement, which are contained in **Attachment 4**.

Land Use

Residential land uses are anticipated within the Golf Course Estate Zone and are directly referenced within the Desired Outcomes for the Zone (DO1). The proposed land use is therefore considered acceptable.

Building Height

The Golf Course Estate Zone (at this locality) recommends a maximum building height of 9 metres and two levels, with wall heights no greater than 7 metres (except for gable ends).

The building has two levels with a maximum building height of approximately 8.6 metres, when measured from natural ground level to the highest point. The plans were amended as a response to the representations, which saw a reduction in the building height from that originally proposed (9.3 metres from natural ground level).

The dwelling will present as a single-storey building when viewed from Troon Drive. This is due to the slope of the land at the front of the subject land, with the land falling away as illustrated in Figure 5. The dwelling then incorporates a lower level.

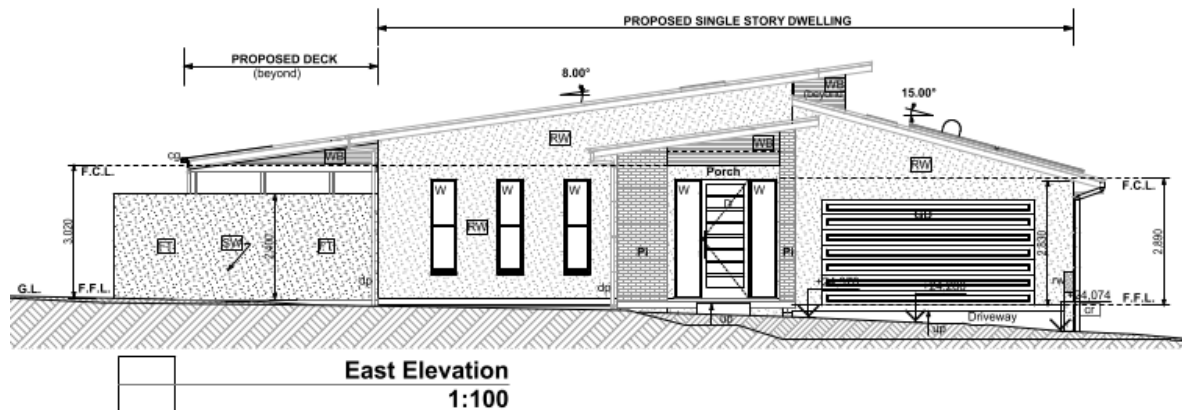


Figure 9 - View of the dwelling from the street

The overall height of the building is consistent with the prevailing character of the locality and is in keeping with the Performance Outcomes outlined in the Zone.

Setbacks, Design & Appearance

The proposed dwelling has a contemporary design with a skillion roof form. Materials include rendered walls (off-white), brick and weatherboard. The roof material is Colorbond in the colour 'Monolith'.

The front setback ranges between 3.0 metres and 4.7 metres, with an approximate 2 metre southern side setback, an approximate 3.2 metre northern side setback and a rear setback of approximately 4 metres.

DTS/DPF 4.1 of the Code states:

The building line of a building set back from the primary street boundary:

- (a) *at least the average setback to the building line of existing buildings on adjoining sites which face the same primary street (including those buildings that would adjoin the site if not separated by a public road or a vacant allotment)*
- (b) *where there is only one existing building on adjoining sites which face the same primary street (including those that would adjoin if not separated by a public road or a vacant allotment), not less than the setback to the building line of that building*
or
- (c) *not less than 5m where no building exists on an adjoining site with the same primary street frontage.*

The subject land is the only allotment that fronts this section of Troon Drive, with this section of road forming part of the common property for the Community Title division.

The adjoining allotment to the north (currently under construction) fronts the public road section of Troon Drive while the golf course is located to the south of the land.



Figure 10 - Aerial showing allotment configurations and public road (grey overlay)

The relevant DTS/DPF 4.1 (c) outlines a 5-metre front setback. While the proposal does not meet the quantitative requirement, the front setback is considered to be acceptable given the allotment is the only allotment that fronts this section of Troon Drive. The allotment is slightly angled and the front setback varies from approximately 3.0 metres to 4.7 metres.

PO 7.1 recommends that buildings have a side setback that complements the character of the locality and provides access to natural light and ventilation.

DTS/DPF 7.1 outlines side setbacks for allotments with a site area less than 800 square metres. On these smaller allotments, building walls should be set back from the side boundary:

- (a) at least 900mm where the wall is up to 3m;*
- (b) other than for a wall facing a southern side boundary, at least 900mm plus 1/3 of the wall height above 3m; and*
- (c) at least 1900mm plus 1/3 of the wall height above 3m for walls facing a southern side boundary.*

The northern side setback exceeds the quantitative requirements outlined by the Code.

The subject land abuts the golf course on the southern side. While the proposed southern side setback does not entirely meet the relevant Designated Performance Feature for side setbacks, the dwelling incorporates a balcony that will take advantage of views over the golf course. The reduced side setback will therefore not have any adverse impact on residential land.

DTS/DPF 8.1 prescribes recommended rear setbacks, as follows:

- (a) where the rear boundary fronts a golf course, no less than the average rear setback of any existing dwellings on adjoining allotments.*
- (b) where the rear boundary adjoins a laneway - 0m*
- (c) In all other cases:*
 - i. 3m for the first building level and*
 - ii. 5m for any second building level.*

The rear setback does not meet the quantitative provision outlined for the second level. However, the allotment configuration is such that the reduced rear setback will not have an unreasonable impact on adjacent dwelling occupiers (the rear boundary for the subject land abuts the side boundary of the adjoining allotment).

Overlooking/Visual Privacy

The dwelling incorporates a side balcony and upper level living areas that are oriented to capture views of the golf course, ocean to the west and Rapid Head to the south-west. PO 10.1 & 10.2 recommends that development mitigate direct overlooking from balconies and windows.

The dwelling is oriented such that there will not be any direct overlooking of adjacent residential land.

Loss of Views & Amenity

Whilst the Code contains general amenity provisions, there are no provisions that specifically address the retention of existing views from adjacent land

Notwithstanding, the topography of the land is such that the proposed dwelling will not have an unreasonable impact on the views obtained from adjacent dwellings.

The design, siting and height of the dwelling is consistent with the prevailing character in the locality.

Infrastructure

The subject land will rely on a sewer connection in an area not identified as a designated SA Water location and, as such, a waste control system is required to be lodged and approved by Council. The District Council of Yankalilla's Environmental Health Department has received an application, but it has not yet been approved.

CONCLUSION

The design of the dwelling has been amended in response to the representations and largely meets the provisions of the Gold Course Estate Zone and the general Code provisions.

The subject land is an unusual configuration, with a slope at the front of the subject land and is the only allotment on the western side of the road in this section of Troon Drive. The design considers the topography of the land and position to maximise views over the adjoining golf course to the south and views to Rapid Head.

The proposed development is not considered to be 'seriously at variance' with the relevant provisions of the Planning & Design Code, and warrants Planning Consent.

RECOMMENDATION

It is recommended that the Fleurieu Regional 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 22022036, by Maptia Pty Ltd. is granted Planning Consent subject to the following conditions and reserved matter;**

RESERVED MATTER

Pursuant to Section 102 (3) of the Planning, Development and Infrastructure Act 2016, the following matters shall be reserved for further assessment, to the satisfaction of Council, prior to the granting of Development Approval:

- Approval to install an on-site waste control system from the relevant authority. Evidence of approval shall be uploaded to the PlanSA Portal**

Note - Further conditions may be imposed on the Planning Consent in respect of the above matters.

CONDITIONS

- 1. Development shall proceed in accordance with the plans and written documentation accompanying the application, unless varied by the following conditions.**
- 2. The building may only be used as a single detached dwelling and may not be used as two self-contained residences at any time.**
- 3. The external finishes to the building or structure herein approved shall be in accordance with the materials as specified in the application now approved.**
- 4. Stormwater shall be diverted away from the building and shall not pond against or near the footings and shall not be discharged onto adjoining land. Where drainage is directed to the street water table, this shall be by way of a Council approved stormwater drainage system.**

5. All scarring or physical disturbances of the land surface during any excavation work shall be restricted to only that which is shown on the approved plan as required for building work and/or access purposes. All exposed faces around such scarred areas and spoil shall be screened with trees and shrubs and covered with suitable ground cover to the reasonable satisfaction of Assessment Manager.
6. During construction of the development, hay bales (or other soil erosion control methods as approved by Council) shall be placed above and below the excavated/filled site to prevent soil moving off the allotment during periods of rainfall.
7. Any retaining wall required to ensure the stability of adjoining land shall be constructed as soon as practicable after the excavation and/or prior to the filling being undertaken and in all instances, prior to the commencement of construction of the dwelling.
8. Ensure 0.5m clearance from the closest point of a driveway to any street pole, infrastructure services pit, or other stormwater or utility infrastructure, unless consent is provided from the asset owner.

ADVISORY NOTES

General Notes

1. No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
2. Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
3. A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - b. if an appeal is commenced—
 - i. until the appeal is dismissed, struck out or withdrawn; or
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).

Council Notes

1. Allotment boundaries will not be certified by Council staff. The onus of ensuring that the building is sited in the approved position on the current allotment is the responsibility of the owner. This may necessitate a survey being carried out by a licensed land surveyor.
2. It is the builder's responsibility;
 - to ensure the Council's footpaths, roads, kerbing and drainage pits etc are protected from damage during the construction of the development
 - to provide the necessary signage on the footpath and road, where hazards are created as a result of the development
 - to repair any portion of Council's infrastructure damaged as a result of work undertaken on the
 - allotment or associated with the construction on the allotment.

To limit damage, a single temporary access location to the frontage of the allotment (ie the future driveway location) is to be established and utilised for machinery, delivery of building materials and general vehicular access. If required, existing footpath paving can be removed during the construction period to define the access location, and relayed at the completion of construction.

Council is to be supplied with dated photos and measurements of any defects that existed prior to the commencement of work; otherwise it will be assumed that all damage was caused during construction.

Reinstatement of damaged infrastructure must be carried out to the satisfaction of the Council. Failure to do so will result in such repairs being carried out by the Council and invoiced to the builder.

3. All work undertaken within the road verge between the property boundary and the carriageway edge requires approval from Council.

Approval shall be obtained for the following activities;

- construction of a driveway across Council verge
 - underground electrical connection
 - stormwater connection from property to the road
 - landscaping or earthworks including filling, retaining walls, removal and/or planting of vegetation
4. Please be advised that where a Private Certifier is appointed to undertake the Building Rules Assessment, Council does not provide a service of advising the Private Certifier of site conditions or any matters relevant to the building assessment. It is recommended that Private Certifier undertakes his or her own investigations and inspection of the site to become acquainted with site conditions and any other relevant matter.

ITEM 3.3

APPLICATION ID 22014508
PROPOSED DEV Gin distillery with Shop (being a Cellar Door and Restaurant/Cafe), Function Centre & Ancillary Carpark
SUBJECT LAND 422 Forktree Road, Wattle Flat
APPLICANT Fleurieu Gin
REPORT AUTHOR Kirsty Tapp
LODGEMENT DATE 31 May, 2022

DEVELOPMENT NO.:	22014508
APPLICANT:	Fleurieu Gin
ADDRESS:	422 Forktree Road, Wattle Flat
NATURE OF DEVELOPMENT:	Gin distillery with Shop (being a Cellar Door and Restaurant/Cafe), Function Centre & Ancillary Carpark
ZONING INFORMATION:	<p>Zones</p> <ul style="list-style-type: none">• Rural <p>Overlays</p> <ul style="list-style-type: none">• Environment and Food Production Area• Hazards (Bushfire - Medium Risk)• Hazards (Flooding - Evidence Required)• Limited Land Division• Native Vegetation• Prescribed Water Resources Area• Water Resources
LODGEMENT DATE:	31 st May, 2022
RELEVANT AUTHORITY:	Fleurieu Regional Assessment Panel
PLANNING & DESIGN CODE VERSION:	31 st May, 2022
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Kirsty Tapp Senior Planner
REFERRALS STATUTORY:	Nil.
REFERRALS NON-STATUTORY:	Nil.

CONTENTS:

ATTACHMENT 1:	Application Documents	Pg. 194
ATTACHMENT 2:	Representations	Pg. 223
ATTACHMENT 3:	Response to Representations	Pg. 272
ATTACHMENT 4:	Relevant P&D Code Policies	Pg. 278

DETAILED DESCRIPTION OF PROPOSAL:

The Applicant has proposed the development of a number of elements and includes;

- Gin distillery
- Shop in the form of a Café/Restaurant and Cellar Door
- Function Centre &
- Ancillary Carpark

A shed like structure is proposed in materials of galvanised corrugated iron with the cellar door and distillery area on the ground floor and offices and staff areas located on a mezzanine level. A verandah is proposed on the northern side which gains views to metropolitan Adelaide. The building has a maximum height of approximately 6.9 metres.

A hardstand area is located to the east of the building and this area will be used for deliveries, rubbish bins and machinery associated with the development.

The building will be located 106 metres from Forktree Road and 110 metres from Myponga Beach Road in a cleared area on the site.

The car park area is located to the south and comprises thirty-one (31) car parking spaces.

Herb gardens, citrus trees and landscaping are proposed around the entrance to the building.

The gin distillery proposes to produce 1750 litres per annum, being approximately 400 litres per week. No grain processing will be undertaken on-site with 96% Alcohol by Volume (ABV) being delivered which forms the major ingredient in the gin making process. Some locally grown fruits and botanicals are added during the distilling process, with these distilled for eighteen (18) hours. The spirit is then cut down with water added and the product bottled. The process produces a small amount of waste being tails/tea/grains which is then used to feed cattle or used as compost on the land. The gin distillery will operate two days per week between 8am to 4pm.

The function centre will host up to 20 functions per year being mainly weddings but also birthday celebrations. A maximum of seventy-five (75) people can attend these events. Only acoustic music is envisaged with no live bands.

The shop being in the form of a Café/Restaurant and Cellar Door also proposes a maximum of seventy-five (75) people, with gin from the site being offered. The gross leasable floor area for the 'shop' use is approximately 400 square metres.

The hours of operation for the function centre and shop are;

- Monday to Wednesday- Closed
- Thursday- 11am-5pm
- Friday & Saturday- 11am-9pm
- Sunday 11am-5pm

Cattle will continue to be reared on the land with the cattle being processed off-site and served in the café/restaurant.

Access to the development is via an existing gate with gravel driveway.

Three (3) signs are proposed, all are located on the building elevations, one (1) on the western elevation and two (2) on the southern façade with no signage proposed to be illuminated or lighted in any way.

Plans and details of the proposed development are contained in **Attachment 1**.

SUBJECT LAND & LOCALITY:

Address: 422 Forktree Road, Wattle Flat

Title ref CT 6016/466 **Plan parcel** D76839 AL12 **Council** The DC of Yankalilla

Site Description:

The subject land is comprised of one (1) allotment, with a frontage to Forktree Road of approximately 310 metres and a frontage to Myponga Beach Road of approximately 854 metres, resulting in an overall site area of approximately 56 hectares.

The subject land contains no encumbrances or land management agreements. The land is however subject to an easement marked C on the Title which dissects the land.

The subject land currently contains a dwelling and several outbuildings which are located close to Forktree Road. Around these buildings is some established vegetation with vegetation scattered across the land with another denser area of vegetation located close to the site of the proposal.

The land contains several dams and watercourses which dissect the land and can be seen on the aerial photograph below.

The land contains relatively flat areas with the higher land located closer to Forktree Road, with it generally falling away to the north.

An aerial photograph of the subject land is provided below.

Locality

The locality is predominantly characterised by its rural setting with dwellings and outbuildings located close to Forktree Road, a sealed road. Myponga Beach Road is located to the west which is an un-sealed road and is the main access to the coastal settlement of Myponga Beach. The locality is mainly used for the grazing of sheep and cattle, with some smaller rural living style allotments also evident.

Forktree Road is the main road between Myponga and Carrickalinga and is a scenic route, taking in distant views of Adelaide, the hills and Myponga Reservoir.

Subject Land and Locality Map

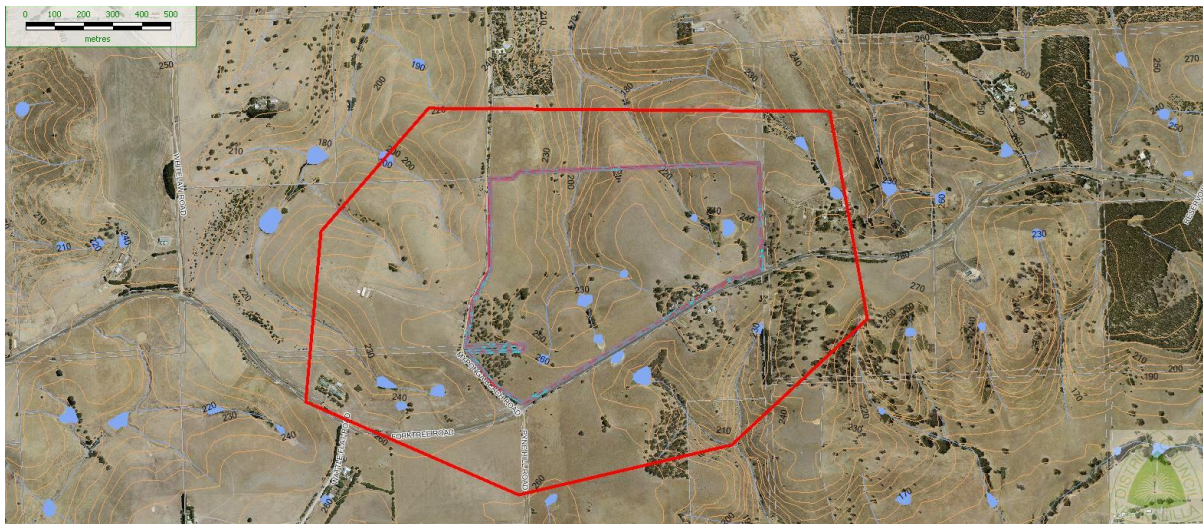
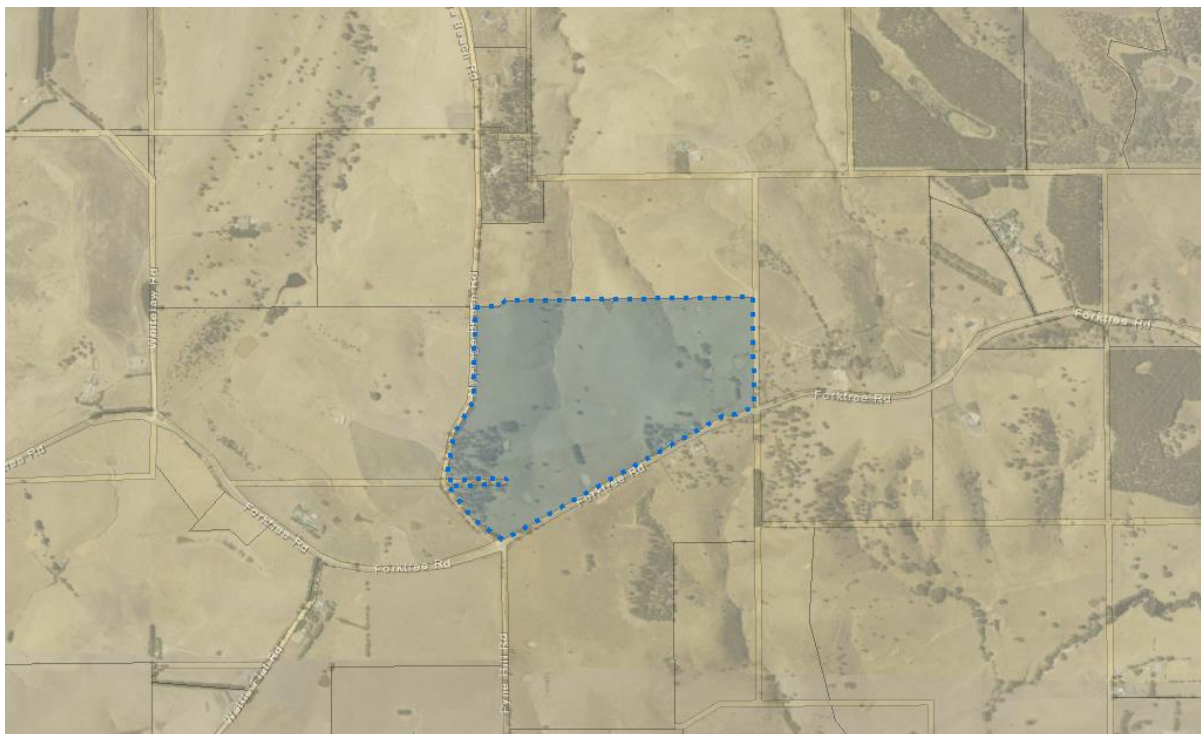


Figure 1- Subject land and locality



*Figure 2- Planning and Design Code zoning
Key: Ru- Rural Zone (beige)*

Subject Land and Locality Photographs



Figure 3- View towards the site of the development from Forktree Road



Figure 4- Access to development via an existing access



Figure 5- View looking west down Forktree Road over subject land



Figure 6- View of site from Myponga Beach Road

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Distillery: Code Assessed – Performance Assessed
Shop: Code Assessed – Performance Assessed
Function Centre: Code Assessed – Performance Assessed
Ancillary Carpark: Code Assessed – Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
Planning & Design Code –

Given the different elements of the proposal, legal advice was sought on how the application should be assessed in terms of assessment pathways and Public Notification.

In summary, the advice outlines that the elements of the development are so intrinsically linked, to separate them would be artificial. The development should be processed as a performance assessed publicly notified development.

PUBLIC NOTIFICATION

The Planning & Design Code (the Code) specifies that all forms of Performance Assessed development require notification unless considered to be minor in nature, or where listed as exempt within the procedural matters notification table (Table 5 of the corresponding zone).

In this instance, the following element triggered Public Notification for the development;

- The cellar door exceeds 250m² in floor area, see Table 5, 7. Shop DTS/DPF 6.1(c)

The distillery and function centre elements are exempt from requiring Public Notification.

The proposed development was notified between 14 June and 4 July 2022, which included written notification to all properties within 60 metres. No sign was required to be installed on the land as signage is exempt within the Rural Zone.

During the public notification period, one (1) representation was received in support of the development with some concerns. The representor has indicated that they do not wish to be heard by the Panel in support of their submission.

Representations Received

Representations received	Support / Opposed	Wish to be heard?
2. Graeme Siggs	Support (with concerns)	No

Location of Representors

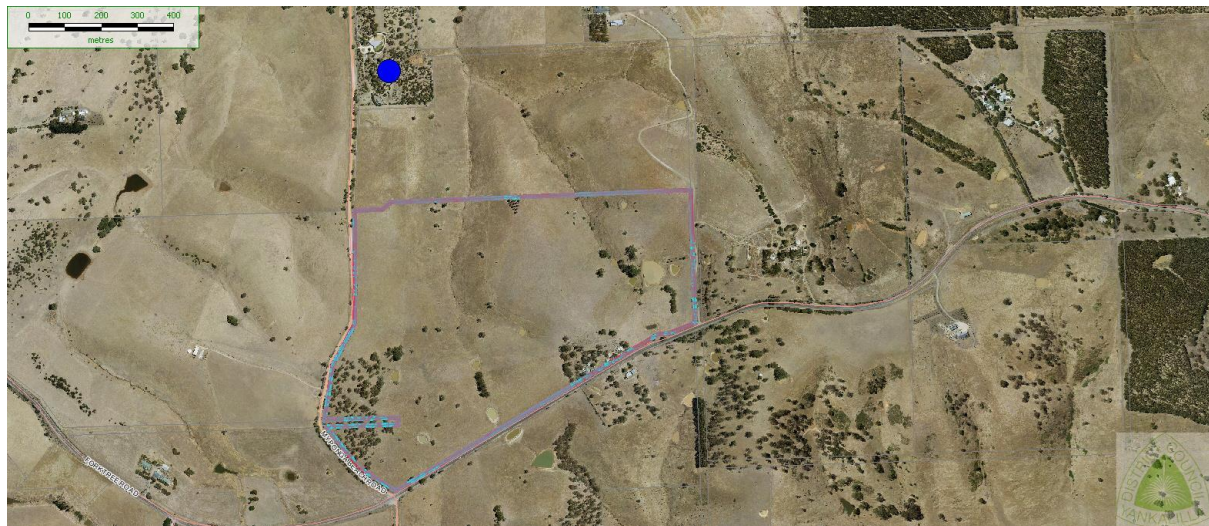


Figure 7- The location of the representor (blue dot- support (with concerns))

Summary of Issues Raised and the Applicant's Response

Summary of Issues Raised	Applicant's response
<p><u>Sale of Goods</u></p> <p>No alcohol not produced on the land should be served to customers.</p>	<p>A shop is considered acceptable in the Zone.</p> <p>The development will not provide what might traditionally be provided in a 'bar' type setting with the focus on local produce.</p>
<p><u>Amenity- Noise</u></p> <p>No loud music should be played either indoors or outdoors.</p> <p>The application is lacking a detailed acoustic assessment and as such no assessment has been made on how the operations of the facility will affect nearby 'sensitive receivers'.</p> <p>The Panel should seek a report from an independent acoustic engineer to assess the noise impacts of the development.</p>	<p>The Interface Between Land Use Policy in the Code seeks to minimise impacts of new developments on existing lawful uses.</p> <p>The representors dwelling is located approximately 900 metres from the site of the development.</p> <p>The function centre will be the primary cause of noise through music and patrons leaving the venue.</p> <p>Functions would be limited to the hours of operation proposed with the latest being Friday and Saturday nights at 9pm. It is envisaged that the indoor and outdoor area will be used however given the separation distance the proposal would meet the Environment Protection Noise Policy 2007.</p>
<p><u>Hours of Operation</u></p> <p>The hours of operation should be consistent with other boutique distilleries and cellar doors in rural South Australia being, 10-11am to 5-6pm.</p> <p>How will closing times be policed particularly on the weekends?</p>	<p>There client is committed to adhering to the hours of operation and is willing to take a log of hours.</p> <p>Any non-compliance with the hours of operation can be taken up by the Council or/and the Liquor Licence Commission.</p>
<p><u>Function Centre</u></p> <p>The development of a function centre use is not ancillary to the primary production use.</p> <p>Number of events/functions per year is at a size which is too intense.</p>	<p>Functions are proposed to be limited to inside the building, the verandah area and area immediately adjacent the building.</p> <p>No other areas are proposed to be used.</p> <p>The functions are ancillary to the cellar door and distillery operations and an important adjunct to the business.</p>

	<p>It is likely that most of the events will occur in the warmer months, but winter events can also be booked.</p> <p>The restaurant and cellar door are likely to be closed when functions take place.</p>
<p><u>Traffic & Parking</u></p> <p>Increased traffic movements affecting the locality particularly associated with the function centre use.</p> <p>48 car parks identified in planning report but 31 shown on site plan is overflow in the paddock?</p>	<p>There is a similar facility in this locality that would generate similar volumes of traffic.</p> <p>The maximum numbers should be able to be accommodated on the local traffic network.</p> <p>The access is sufficient and safe.</p>
<p><u>Gin Distillery</u></p> <p>Odour from distilling processes being offensive.</p> <p>Solid waste from the distilling processes is to be fed to cattle how much is produced? How will excess be disposed of?</p> <p>Alcohol distillery wastewater can be a pollutant and the land comprises of a network of springs which ultimately make their way to the Myponga River and estuary. No information has been provided on the wastewater treatment.</p> <p>The existing pink gum woodland located near the development site could be affected by the wastewater from the distilling process and compaction of vehicles on the soil.</p> <p>The storage of alcohol near a wood fired oven constitutes an extreme fire risk.</p> <p>The deliveries to the site associated with the gin operation and other activities will significantly increase noise from the current land-use of grazing cattle.</p>	<p>The distillery is small and scale and not likely to produce a lot of waste product.</p> <p>The spelt grains will be fed to the cattle on the land.</p> <p>A wastewater application is required under on the <i>Public Health Act, 2011</i> and will need to comply with the On-site Wastewater Systems Code 2013.</p> <p>No native vegetation is proposed to be removed.</p>

<u>Capacity</u> The development has the space to increase the capacity of the facility given the large area around the building and potential for further car parking informally on the land (i.e. in the paddock).	
<u>Staging of Development</u> No details on the proposed staging of the development with the application indicating it will be over five years.	

A full copy of the representation received is contained in **Attachment 2**. The Applicant's response is contained in **Attachment 3**.

AGENCY REFERRALS

Having reviewed the Planning and Design Code and Schedule 9 of the *Planning Development and Infrastructure (General) Regulations 2017*, the proposed development was not required to be referred to any statutory authorities.

INTERNAL REFERRALS

Environmental Health

Councils jurisdiction in regards to an on-site wastewater application is limited to up to 40 Equivalent people (that's the equivalent of 40 people's full-time use), so if the total wastewater system design exceeds this limit, then the authority is the Department of Health (DOH). In this instance the DOH is the authority for the on-site wastewater application and approval process.

Engineering

- COMMENTS

Driveway Access & Traffic Generation

The development has vehicle entry and exit onto Forktree Road via a single existing entrance located approximately 160m from Myponga Beach Road. In accordance with AS2890.1 – Off Street car parking, the minimum required sight distance for such a development onto a 100km/hr road is 160m. Sight distance to the North of the existing access far exceeds the minimum requirement. Sight distance to the south of the access meets the minimum requirements under Australian Standards. Sight distance to the south could be compromised by future roadside vegetation growth and therefore it is the property owner's responsibility to ensure that vegetation adjacent to the property access is appropriately maintained such that it does not impact sight distance.

The proposed site plans have been amended such that internal driveways have a minimum of 6m width therefore design for access driveway dimensions meets minimum requirements under AS2890.1.

Parking

The Planning and Design Code indicates that a minimum of 30 car parking spaces should be provided for proposed development. Site plans demonstrate 30 carparks + 1 Parking space for people with a disability. Therefore, the minimum requirements for carparking for this type of development are satisfied.

The layout of the car park generally appears to comply with the provisions of the Australian Standard AS 2890.1.

I am supportive of the development application proceeding in accordance with site plans provided subject to the following engineering conditions.

These conditions have been placed on the recommendation.

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code at the date of lodgement, which are contained in **Attachment 4**.

Rural Zone

The Desired Outcomes (DO 1 and 2) for the Rural Zone state –

- DO 1 A zone supporting the economic prosperity of South Australia primarily through the production, processing, storage and distribution of primary produce, forestry and the generation of energy from renewable sources.*
- DO 2 A zone supporting diversification of existing businesses that promote value-adding such as industry, storage and warehousing activities, the sale and consumption of primary produce, tourist development and accommodation.*

The proposed use of part of the land for gin distillery, shop (in the form of a café and cellar door) and function centre will not affect the existing primary production use of grazing cattle.

The distilling component of the operation will incorporate some on-site and locally produced fruits and botanicals with the proposal identifying some herb beds and citrus trees on the part site plan. The herbs and citrus will be used in the distilling process and kitchen.

The applicant has also outlined that beef served at the café/restaurant will be beef from the subject land. The documents do not outline how they will track this process to ensure their cattle are returned from farm back to plate however the applicant has outlined a general process of the cattle leaving the farm and returning.

The provisions in the Code concerning shops and function centre developments being DTS 6.1, 6.2, 6.5 and 6.6 have some similarities.

DTS/DPF 6.1 addresses the development of a shop and comments;

- a) *are ancillary to and located on the same allotment or an adjoining allotment used for primary production or primary production related value adding industries*
- b) *offer for sale or consumption produce or goods that are primarily sourced, produced or manufactured on the same allotment or adjoining allotments*
- c) *have a gross leasable floor area not exceeding 100m² or 250m² in the case of a cellar door*
- d) *have an area for the display of produce or goods external to a building not exceeding 25m².*

DTS/DPF 6.5 and 6.6 comment on development of function centres in the Zone.

DTS/DPF 6.5 states;

Function centres:

- a) *are ancillary to and located on the same allotment or an adjoining allotment used for primary production or primary production related value adding industry*
- b) *do not result in more than 75 persons for customer dining purposes.*

DS/DPF 6.6 outlines that

Function centres:

- a) *are located on an allotment having an area of at least 5ha*
- b) *are set back from all property boundaries by at least 40m*
- c) *are not sited within 100m of a sensitive receiver in other ownership*
- d) *have a building height that does not exceed 9m above natural ground level.*

The Code seems to be at odds with DTS/DPF 6.1 and 6.5 outlining that the shop or function centre should be 'ancillary' while the corresponding PO's outline they should be 'associated'. These two words 'ancillary' and 'associated' have quite different meanings when placed in a planning context.

The PO's provide a more qualitative outcome for the Zone while the DTS/DPF's provide more quantitative provisions. The DPF is intended to guide the achievement of the PO. Therefore, the question is raised as to whether the shop and function centre should be ancillary as guided by the DPF, in order for it to be associated and subsequently achieve the PO.

The applicant has outlined that the existing land uses and proposed are linked through the grazing of cattle which will be used in the café/restaurant and that some herb gardens and a small number of citrus trees will be planted and that this satisfies the two uses being appropriately associated.

It is debatable however, whether the application does meet the DPS/DPF, that the proposal is ancillary and 'value-adding'. Even though there are some links to the existing use on the land and some produce may be harvested on the land (once the site is developed) to be used in the gin making process these are considered to be minor components to the overall proposal and thus the development would not be considered to be ancillary to the existing use, but it is associated.

The land is greater than 5 hectares in area and will be set-back 40 metres from all property boundaries. No sensitive receiver in other ownership is located within 100 metres.

The building is under 9 metres in height.

The Zones policy in terms of a shop or function centres appropriateness in terms of scale and frequency are largely silent in the Code.

The Code does outlines in relation to function centre a maximum of seventy-five (75) persons.

The original material provided by the Applicants Planning Consultant outlined that the facility will hold seventy-five (75) persons as a maximum and that when a function is held the shop component (being the cellar door/café/restaurant) will be closed. In the response to representations the response outlines that the restaurant and cellar door are 'likely' to be closed. Clarification was sought on this point however no response was provided at the time of writing this report.

A condition on the number of patrons has been placed on the recommendation with a maximum of seventy-five (75) patrons using the premises at any-one time.

Siting and Design

The Rural Zone comments on the built form of buildings in relation to shops being a 'pleasant rural character and amenity', with other PO's commenting on the buildings being located below ridgelines, set-back from boundaries and the use of low reflective material.

The building and associated infrastructure is sited well back from the adjoining two roads with both set-backs being slightly over 100 metres to the building. The siting is within an existing area of vegetation being predominantly eucalypt trees which will nestle the building into the site with some cut and fill required, but this is not considered to be excessive.

The sealed road being Forktree Road, is the top of the ridgeline in this locality and buildings are located on either side of this road near or on the ridge. In this instance the siting of the building is on the ridge however it is nestled into a site with well-established vegetation and as such will not have an adverse impact on the character of the locality.

The appearance of the building is that of a large agricultural building with galvanised corrugated iron proposed to mimic this affect, with simple lines much as you would see with these larger agricultural shed type buildings.

Landscaping has been proposed with further plantings of eucalypts (ghost gums) around the car parking area and following the driveway. This will assist in softening the development.

The building will have its entrance on the southern side with the building opening up with a large floor area for the shop area. A verandah is located on the northern side of the building which will gain views over metropolitan Adelaide and its coastline.

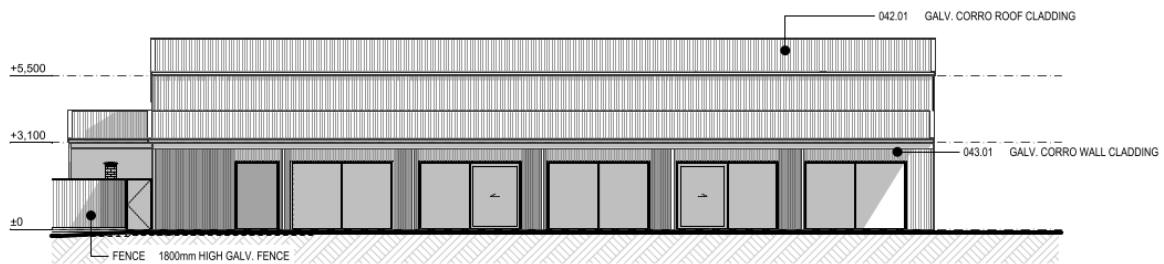


Figure 8- Northern elevation

The design mimics a large agricultural farm building which is appropriate in this locality given its rural context.

Overlays Environment and Food Production Area

No applicable policy

Hazards (Bushfire - Medium Risk)

No habitable building is proposed however the application proposes an all-weather driveway access to Forktree Road a sealed road.

A CFS truck is capable of entering and exiting the land in a forward direction and this is shown on the part site plan.

Two (2) 120 000 litre tanks are proposed close to the main building which can be used for bushfire-fighting purposes.

Hazards (Flooding - Evidence Required)

No applicable policy

Limited Land Division

No applicable policy

Native Vegetation

The applicant confirmed that three trees close to the shed are to be retained and this can be seen on the plan below;

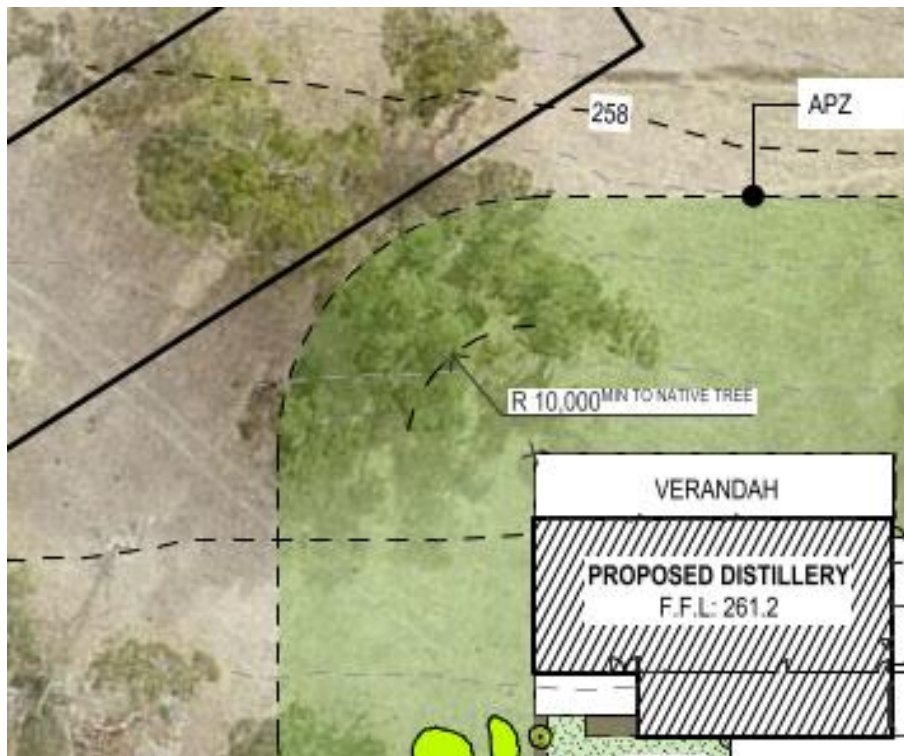


Figure 9- close up of part site plan

In the original planning report, it noted that one (1) dead tree may need to be removed. This tree is not identified on the plan however a dead tree can be seen in figure 4 which is located close to the driveway configuration.

Prescribed Water Resources Area

No applicable policy

Water Resources

Whilst there are watercourses and dams located on the subject land, the development does not result in any impacts on the watercourses.

General Development Policies

Advertisements

The proposed advertisements are consistent with PO 1.1 being incorporated into the eastern and southern façade of the building, these signs will not be illuminated in anyway, be below the guttering of the building and be flush with the wall.

The sign on the eastern elevation is quite small (in comparison with the building) and will face towards Myponga Beach Road. The main signage is at the entrance to the building with the company name identified under the guttering and the logo on one of the wall panelling's as you enter the building. These signs will be visible from Forktree Road.



Figure 10- image showing signage

Beverage Production in Rural Areas

DO 1 outlines;

Mitigation of potential amenity and environmental impacts of value-adding beverage production facilities such as wineries, distilleries, cideries and breweries

The site of the development is located well away from nearby residences on other allotments, with the closest dwelling being located approximately 620 metres from the development site.

The production of gin is on the modest side with 1750 litres per annum which will generate limited waste. Spent grains will be stored to the area to the east of the building and will be fed to the cattle on the land or composted. Effluent generated through the distilling process is considered to be minimal, and will be treated through a proposed on-site waste control system.

Interfaces Between Land Uses

DO 1 comments that;

Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.

The development does have the potential to generate noise given the uses proposed being a shop in the form of a café/restaurant & cellar door and function centre, with the function centre more likely to generate a higher level of noise due to the nature of the activity.

Patrons for all uses will be primarily inside the building however there is access to the verandah and areas around the building and car parking area when arriving and leaving.

PO 2.1 comments on hours of operation with DTS/DPF outlining hours of operation for shop being Monday to Friday 7am to 9pm and Saturday and Sunday 8am to 5pm. The proposed hours of operation extend past the time identified by the DTS/DPF on Saturday night only, which proposes a closing time of 9pm.

The proposal outlines that only acoustic music will be played inside the building, with no live bands.

The EPA document Evaluation distances for effective air quality and noise management outlines for distilleries, a set-back of 300 metres. The closest dwelling (not on the subject land) is located approximately 620 metres from the site.

For the reasons above, no Acoustic Report was requested and the noise impact of the development was considered to be mitigated by the set-back distances from the site to 'nearby' neighbouring dwellings and that only acoustic music is proposed as part of the development.

Tourism Development

DO1 seeks tourism development that positively contributes to South Australia's visitor economy.

The proposal is a standalone facility however does compliment the two breweries located in the district being at Myponga and Carrickalinga. The Carrickalinga brewery is located on the same scenic route and the brewery at Myponga is located in the town, a short distance away.

The use as a function centre will provide an additional tourism offering with a maximum of 20 functions per year. These events are proposed to be held throughout the year however it is anticipated that the majority of these events will be held, in the warmer months.

Transport, Access and Parking

Advice was sought from Council's Engineering section who have no concerns around the access/egress location nor the car parking configuration and number.

CONCLUSION

The Rural Zone does contemplate the development of shops (café/restaurant & cellar doors), distilleries and function centres, with the Zone seeking 'value-adding' activities to existing primary production businesses on the land.

The proposal will bring diversification to the activities occurring on the land without hindering the existing primary production use of grazing cattle. Whilst the proposal may not be considered 'ancillary', it is directly associated with the existing use of the land and is a reasonably anticipated form of development within the Rural Zone.

The function centre use is limited to twenty (20) events per year with the hours of operation for all the uses being considered reasonable with the latest closing time being 9pm on a Friday and Saturday night.

The siting of the development however means the closest dwelling on another allotment to the development site is approximately 620 metres which provides an adequate separation distance.

On consideration the proposal against the relevant provisions of the Planning and Design Code and the concerns raised by representor, it is concluded that the proposed development is appropriate within the Zone and locality.

The proposal is not considered to be 'seriously at variance' with the relevant provisions of the Planning & Design Code, and warrants Planning Consent.

RECOMMENDATION

It is recommended that the Fleurieu Regional 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 2204508, by Fleurieu Gin is granted Planning Consent subject to the following conditions and reserved matter;

RESERVED MATTER

Pursuant to Section 102 (3) of the Planning, Development and Infrastructure Act 2016, the following matters shall be reserved for further assessment, to the satisfaction of Council, prior to the granting of Development Approval:

- Approval to install an on-site waste control system from the relevant authority. Evidence of approval shall be uploaded to the PlanSA Portal

Note - Further conditions may be imposed on the Planning Consent in respect of the above matters.

CONDITIONS

1. Development shall proceed in accordance with the plans and written documentation accompanying the application, unless varied by the following conditions.
2. The business (the shop and function centre) shall operate within the hours as detailed below;

• Monday to Wednesday-	Closed
• Thursday-	11am-5pm
• Friday & Saturday-	11am-9pm
• Sunday	11am-5pm
3. The external finishes to the building or structure herein approved shall be in accordance with the materials as specified in the application now approved.
4. Stormwater shall be diverted away from the building and shall not pond against or near the footings and shall not be discharged onto adjoining land. Where drainage is directed to the street water table, this shall be by way of a Council approved stormwater drainage system.
5. All scarring or physical disturbances of the land surface during any excavation work shall be restricted to only that which is shown on the approved plan as required for building work and/or access purposes. All exposed faces around such scarred areas and spoil shall be screened with trees and shrubs and covered

with suitable ground cover to the reasonable satisfaction of Assessment Manager.

6. During construction of the development, hay bales (or other soil erosion control methods as approved by Council) shall be placed above and below the excavated/filled site to prevent soil moving off the allotment during periods of rainfall.
7. The maximum number of patrons shall not exceed seventy-five (75) persons for the facility.
8. The maximum number of functions shall not exceed twenty (20) per calendar year.
9. No amplified music shall be played outside or inside the building.
10. The driveway access from the edge of the sealed road to the property boundary shall be constructed in a material that
 - Provides all weather access
 - Does not result in loose debris being deposited on the sealed road
 - Provides suitable vehicle traction when exiting the site
 - Maintains the flow path of any existing side drain
11. All roadways and car parking areas shall be of formed, all-weather construction (minimum standard of compacted gravel) and incorporate adequate drainage measures to provide safe and convenient access for cars and delivery vehicles in accordance with Australian Engineering standards.
12. The car parks should be designed and constructed in accordance with AS 2890.1-2004 Parking Facilities -Off Street Parking.
13. That the landscaping as detailed on the Part Site Plan dated 29/04/2022 Sheet A03 shall be established within 12 months of the use of the development and shall be maintained in good condition, at all times. Any diseased or dying vegetation shall be replaced whenever necessary.
14. External lighting and security lighting shall be directed in such a manner so as to not,
In the opinion of the Authority, create unreasonable overspill onto any adjoining property or roadway which may create a nuisance to any neighbour or road user.

ADVISORY NOTES

General Notes

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

2. **Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.**
3. **A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—**
 - a. **until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or**
 - b. **if an appeal is commenced—**
 - i. **until the appeal is dismissed, struck out or withdrawn; or**
 - ii. **until the questions raised by the appeal have been finally determined (other than any question as to costs).**

Council Notes

1. **Allotment boundaries will not be certified by Council staff. The onus of ensuring that the building is sited in the approved position on the current allotment is the responsibility of the owner. This may necessitate a survey being carried out by a licensed land surveyor.**
2. **It is the builder's responsibility;**
 - **to ensure the Council's footpaths, roads, kerbing and drainage pits etc are protected from damage during the construction of the development**
 - **to provide the necessary signage on the footpath and road, where hazards are created as a result of the development**
 - **to repair any portion of Council's infrastructure damaged as a result of work undertaken on the**
 - **allotment or associated with the construction on the allotment.**

To limit damage, a single temporary access location to the frontage of the allotment (ie the future driveway location) is to be established and utilised for machinery, delivery of building materials and general vehicular access. If required, existing footpath paving can be removed during the construction period to define the access location, and relayed at the completion of construction.

Council is to be supplied with dated photos and measurements of any defects that existed prior to the commencement of work; otherwise it will be assumed that all damage was caused during construction.

Reinstatement of damaged infrastructure must be carried out to the satisfaction of the Council. Failure to do so will result in such repairs being carried out by the Council and invoiced to the builder.

3. **All work undertaken within the road verge between the property boundary and the carriageway edge requires approval from Council.**

Approval shall be obtained for the following activities;

- **construction of a driveway across Council verge**
- **underground electrical connection**

- **stormwater connection from property to the road**
 - **landscaping or earthworks including filling, retaining walls, removal and/or planting of vegetation**
4. **Please be advised that where a Private Certifier is appointed to undertake the Building Rules Assessment, Council does not provide a service of advising the Private Certifier of site conditions or any matters relevant to the building assessment. It is recommended that Private Certifier undertakes his or her own investigations and inspection of the site to become acquainted with site conditions and any other relevant matter.**

ITEM

3.4

APPLICATION ID 21040387
PROPOSED DEV Construction of a Detached Two Storey Dwelling, Associated Earthworks and Retaining Walls to a Maximum Height of 1.65 Metres, Fencing and Outbuilding
SUBJECT LAND 4 Aldam Avenue, Goolwa Beach
APPLICANT Mr Dan Ferrone
REPORT AUTHOR Sarah Longden
LODGEMENT DATE 10 March 2022

DEVELOPMENT NO.:	21040387
APPLICANT:	Mr Dan Ferrone
ADDRESS:	4 Aldam Avenue, Goolwa Beach
NATURE OF DEVELOPMENT:	Construction of a Detached Two Storey Dwelling, Associated Earthworks and Retaining Walls to a Maximum Height of 1.65 Metres, Fencing and Outbuilding
ZONING INFORMATION:	Zones: <ul style="list-style-type: none">• Neighbourhood Overlays: <ul style="list-style-type: none">• Affordable Housing• Building Near Airfields• Hazards (Bushfire - Urban Interface)• Hazards (Flooding - Evidence Required)• Murray-Darling Basin• Native Vegetation• Airport Building Heights (Aircraft Landing Area)
LODGEMENT DATE:	10 March 2022
RELEVANT AUTHORITY:	Fleurieu Regional Assessment Panel (the Panel)
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Sarah Longden Senior Town Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Infrastructure Engineer

CONTENTS:

ATTACHMENT 1:	Additional Information	Pg. 466
ATTACHMENT 2:	19 July 2022 FRAP Report and attachments	Pg. 482

BACKGROUND:

The proposed development was considered at the Fleurieu Regional Assessment Panel (the Panel) Meeting held Tuesday 19 July 2022. At this meeting, the Panel resolved to defer the item, seeking clarity on a number of matters by requesting additional information from the Applicant. The motion was as follows:

- *Moved Michael Doherty, Seconded Craig Maidment that the Fleurieu Regional Assessment Panel resolve:*
 1. *That the application be DEFERRED to allow for the Applicant to provide the following additional information:*
 - a. *Shadow diagrams*
 - b. *Streetscape elevation plans*
 - c. *Landscape plan detailing proposed landscaping for additional screening along boundaries*
 - d. *Amended architectural plans ensuring consistency of information between site, floor and elevation plans, particularly in relation to screening details and finished floor levels*
 2. *That the Assessment Manager be delegated to refuse the application, should the Applicant not agree to place the application 'on hold' to provide the information requested in Part 1, or provide the information within 3 months of the date of request.*

Additional information as requested has been provided and is now presented to the Panel for consideration.

*A copy of the additional information is contained separately in **Attachment 1**. A copy of the previous assessment report and plans are contained in **Attachment 2**.*

PLANNING ASSESSMENT

Following the deferral of the item as per the abovementioned motion, the applicant has provided a series of additional/amended documentation.

This assessment report will focus on the items that formed the reasons for deferral.

Streetscape Elevation

The streetscape elevation provided clearly demonstrates how the proposed dwelling will suitably sit amongst the existing dwellings along Aldam Avenue. The size and scale of the dwelling will not unreasonably 'stand out' as it is comparable with existing dwellings on the southern side of Aldam Avenue, and as the land slopes to the south, each of the dwellings step down amongst the slope. Whilst the dwelling at 2 Aldam Avenue is significantly lower as demonstrated on the streetscape elevation, this dwelling utilises Neighbour Avenue as its primary frontage and has been designed to address and sit amongst the pattern of development on this street.

Landscape Plan

A landscaping plan inclusive of species list has been provided, demonstrating an extent of boundary screening along the southern boundary to assist with privacy screening. The natural slope of the land means that the proposed dwelling sits above the level of this dwelling and in addition to the obscured glazing treatment, the proposed landscaping will provide added privacy and screening of the built form to this dwelling. Landscaping to the remainder of the subject land will assist with the screening any scarring from earthworks and softening the appearance of the dwelling. The nominated species have been selected from a list of locally indigenous species as far as practicable.

Amended Architectural Plans

The amended architectural drawings provide consistency in finished floor levels across all plans as well as clarity on the extent of obscured glazing treatment and screening at the western end (rear) of the proposed dwelling.

Shadow Diagrams

The applicant has provided a full set of overshadowing diagrams for the proposed dwelling, along with a comparison overshadowing diagram should the dwelling have been proposed at 8.0 metres (and subsequently would not have required public notification). It is evident in viewing the overshadowing diagrams, that the proposed development does not strictly meet the provisions outlined in the General Development Policies, Interface Between Land Uses DPF 3.1 of the Code. Having said this, the dwelling at 2 Aldam will still be subject to direct sunlight in areas of private open space and the upper level balcony at the western end of the dwelling in accordance with PO 3.2.

The topography of the land within the locality and the orientation of the allotments on the eastern side of Aldam Avenue, meaning that any dwelling established on this side of the road 'down the hill' from that to its north, will be subject to overshadowing that is at variance with the level contemplated by the Code. In positioning the proposed dwelling as far as possible from the southern boundary to reduce the impacts of overshadowing on the dwelling to the south, the proposed dwelling subjects itself to decreased access to winter sunlight, due to the overshadowing that will occur from the established dwelling at 6 Aldam Avenue. This pattern continues towards the north until the land flattens. Having consideration for the abovementioned points it is unlikely that any two storey dwelling proposed on the subject land would be able to exclusively satisfy the DPF provisions of the Code with respect to overshadowing. Given that two storey dwellings are envisaged and indeed prolific within the Zone and locality, it would be unreasonable to expect that only a single storey dwelling should

be applied for on the subject land in order to specifically satisfy the overshadowing provisions. Whilst consideration must be given to this policy, in this instance, exclusive compliance with the prescribed DPF cannot be achieved when pragmatically taking into account the existing character and the application of all other policy that is applicable to the subject land and locality.

CONCLUSION

When assessed against the relevant provisions of the Code and having regard to the nature of the proposed development and the context of the locality, the proposed development is considered to reasonably satisfy the Desired Outcomes and Performance Outcomes sought by the Code.

The proposed development has been adequately designed to respond to the significant topographical features of the land, and whilst designed to maximise coastal views, and whilst there is some impacts, this is inevitable with any development of the subject land and is not considered to be detrimental.

The development adequately mitigates direct overlooking by use of a solid balustrading, obscured glazing treatments, and landscaping and the design of the dwelling is considered to be suitable due to the topography of the land. Earthworks are reasonably balanced such that the building will not dominate important vistas, and would not look 'out of place', particularly when viewed from neighbouring properties and the street.

Having considered the proposed development, the relevant provisions of the Planning and Design Code, the proposed development is not considered to be 'seriously at variance' with the relevant provisions of the Planning and Design Code. In consideration of the additional information supplied by the Applicant, the amendments respond to the previous concerns of the Panel such that Planning Consent is warranted

RECOMMENDATION

It is recommended that the Fleurieu Regional 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 21040387, by Mr Dan Ferrone is GRANTED Planning Consent subject to the following conditions:**

CONDITIONS

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

Reason: To ensure the development is undertaken in accordance with the approved plans, drawings, specifications and other documents submitted.

2. All stormwater drainage shall discharge so that it does not flow or discharge onto land of adjoining owners or, in the opinion of Council, detrimentally affect structures on this site or any adjoining land.

Reason: To ensure stormwater is disposed of in a controlled manner.

3. All scarring or physical disturbances of the land surface during any excavation work shall be restricted to only that which is shown on the approved plan as required for building work and/or access purposes. All exposed faces around such scarred areas and spoil shall be screened with trees and shrubs indigenous to the area and covered with suitable ground cover to the reasonable satisfaction of Council.

Reason: To ensure that excavations and filled land is stable and will not result in any adverse impact on adjoining properties.

4. The 1.5m obscure glazing treatment illustrated on the elevations at the upper level shall be installed in strict accordance with plans herein approved, and shall be installed prior to occupation of the development.

Reason: To ensure the development mitigates direct overlooking from upper level balconies to habitable rooms and private open spaces of adjoining residential land uses

5. The applicant/developer shall ensure the minimum 1.1 metre high solid balustrade (aluminium powdercoated) illustrated on the elevations at lower level shall be installed prior to occupation of the development. The solid balustrade shall only have a maximum 25% transparency/openings.

Reason: To ensure the development mitigates direct overlooking from upper level balconies to habitable rooms and private open spaces of adjoining residential land uses.

ADVISORY NOTES

1. The Applicant is reminded of their general environmental duty, as required by Section 25 of the Environmental Protection Act, to take all reasonable and practical measures to ensure that any activities on the site do not pollute the environment.
2. Allotment boundaries will not be certified by Council. The onus of ensuring that the building is sited as illustrated on the approved plans is the responsibility of the owner. This may necessitate a survey being carried out by a licensed land surveyor.
3. Encumbrances, Land Management Agreements and/or easements, although not administered by Council, may apply to your property. You are therefore advised to check your Certificate of Title prior to commencing work.

4. The Applicant/ Builder must, for the duration of construction, take action to control, minimise or eliminate (as far as reasonable practical) any local nuisance including (but not limited to) noise, dust, vibration, odour, fumes or aerosols that may be created by the construction work that may have an adverse effect on the amenity value of the locality.
5. You should advise your neighbour of your intention to build on your common boundary prior to commencing construction. The Applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works require the removal, alteration or repair of an existing boundary fence, a 'Notice of Intention' must be served to adjoining owners. Please contact the Legal Services Commission for further advice on Ph: 8463 3555.
6. The attached consent is limited to works within the boundaries of the allotment. Any works external to the allotment boundaries including but not limited to, driveway crossovers and/or tree removals or proposed tree relocations require a separate permit under the Local Government Act. Please contact Alexandrina Council's Engineering Department on 8555 7000 for further information regarding a permit.
7. If there is an intention to clear native vegetation on the land at any time, the applicant should consult the Native Vegetation Council to determine relevant requirements under the Native Vegetation Act 1991 and its Regulations. Note that 'clearance' means any activity that could cause any substantial damage to native plants, including cutting down and removing plants, burning, poisoning, slashing of understorey, removal or trimming of branches, severing roots, drainage and reclamation of wetlands, and in some circumstances grazing by animals. For further information please visit: <http://www.nvc.sa.gov.au>.

GENERAL NOTES

1. No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
2. Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
3. A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or

- b. if an appeal is commenced—**
 - i. until the appeal is dismissed, struck out or withdrawn; or**
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).**

ITEM 4. CONFIDENTIAL REPORTS

Nil

ITEM 5. ADMINISTRATIVE REPORTS

Nil

ITEM 6. GENERAL ITEMS FOR DISCUSSION

Nil

ITEM 7. Next meeting

Next meeting is scheduled for Tuesday 18 October 2022 commencing at 11:00am