



Notice of Meeting

Notice is hereby given to Members that the next meeting of the Fleurieu Regional Assessment Panel will be held in the Alexandrina Council Community Chambers "Wal Yuntu Warrin", Goolwa, on 18 July 2023 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 4.1 | 22037976 - Construction of a two storey detached dwelling. | Pg. 4 |
| | <i>5 Ekers Court, Mount Compass</i> | |
| Item 4.2 | 22033203 - Change of use to a wellness retreat comprising the construction of three (3) tourist accommodation units (and associated infrastructure), a gym/sauna building, part conversion of existing dwelling to wellness centre and associated driveways, earthworks and landscaping. | Pg. 19 |
| | <i>244 Blackmore Road, Strathalbyn</i> | |
| Item 4.3 | 23010056 - Partial change of use from existing farm shed to function centre to host up to 30 events per year including associated car parking areas, ablution block, deck and landscaping. | Pg. 37 |
| | <i>604 Old Bull Creek Road, Strathalbyn</i> | |

Matt Atkinson
Assessment Manager

10 July 2023

PRESENT

APOLOGIES

Cr. Simon Rothwell

IN ATTENDANCE

ITEM 1. CONFIRMATION OF MINUTES

Minutes of the Fleurieu Regional Assessment Panel held on 20 June 2023.

RECOMMENDATION

That the Minutes of the Fleurieu Regional Assessment Panel held on 20 June 2023 as circulated to members be received as a true and accurate record.

ITEM 2 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.

ITEM 3 DEVELOPMENT APPLICATIONS - DEVELOPMENT ACT 1993

NIL

**ITEM 4 DEVELOPMENT APPLICATIONS - PLANNING, DEVELOPMENT AND
INFRASTRUCTURE ACT 2016****ITEM 4.1 4.1**

DEVELOPMENT NO.:	22037976
APPLICANT:	Kenn Loke
ADDRESS:	5 Ekers Court Mount Compass SA 5210
NATURE OF DEVELOPMENT:	Construction of a two storey detached dwelling
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none">• Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none">• Affordable Housing• Hazards (Bushfire – Medium Risk)• Hazards (Flooding - Evidence Required)• Murray-Darling Basin• Native Vegetation• Prescribed Water Resources Area <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none">• Maximum Building Height (Metres) (Maximum building height is 8m)• Maximum Building Height (Levels) (Maximum building height is 2 levels)
LODGEMENT DATE:	09 December 2022
RELEVANT AUTHORITY:	Fleurieu Regional Assessment Panel
PLANNING & DESIGN CODE VERSION:	Operative Version 2022.23 - (8 December to 21 December 2022).
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	<p>Yes</p> <ul style="list-style-type: none">• 3 representations received<ul style="list-style-type: none">○ 1 representation in support○ 1 representation in support with concerns○ 1 representation opposed• 1 representor to be heard by the Panel
RECOMMENDING OFFICER:	Cameron Gibbons

FLEURIEU REGIONAL ASSESSMENT PANEL

	Acting Manager Development Assessment
REFERRALS STATUTORY:	Nil.
REFERRALS NON-STATUTORY:	Nil.
RECOMMENDATION	Refuse Planning Consent

CONTENTS:

Attachment 1:	Application Plans and Documentation	Pg. 52
Attachment 2:	Representations	Pg. 78
Attachment 3:	Response to Representations	Pg. 81
Attachment 4:	Planning and Design Code Policy Extract	Pg. 82

DETAILED DESCRIPTION OF PROPOSAL:

The proposed development is for the construction of an elevated two-storey detached dwelling with attached carport located at 5 Ekers Court Mount Compass.

The proposed dwelling is elevated (pole frame) with the lower floor level situated approximately 2.7 metres above natural ground level at its highest point. The 'undercroft' area is screened at the front with base infill to match the materials and finishes of the dwelling. The materials include a Colorbond roof and Hardie Fine Texture wall cladding. No colours have been specified.

The proposed dwelling contains three (3) bedrooms, with primary living areas situated on the upper floor. The northern side of the proposed dwelling includes 1.8 metre high screening on the two balconies.

The proposed dwelling is up to 9.5 metres in height (when assessed against the definition of 'building height' within the Planning and Design Code (the Code)) however the built form is up to 8.4 metres from natural ground level where measured at the highest point (see figure 1 below).



SUBJECT LAND & LOCALITY:

Title ref.: CT 6028/766 **Plan Parcel:** D79935 AL26 **Council:** ALEXANDRINA COUNCIL

The subject land is comprised of a single allotment with a frontage to Ekers Court. The allotment has a total width of 17.5 metres and a depth of 51.47 metres, resulting in an approximate site area of 896.7 square metres. The subject land has a moderate slope, rising approximately 9.5 metres from front to rear (equating to a '1 in 5' slope). The subject land enjoys elevated views towards the north eastern parts of Mount Compass and surrounds, including Mount Moon.

The subject land is currently vacant and is devoid of any significant vegetation. The land is abutted by a recreation ground to the rear (over the crest), and low-density residential development to the north, east and south. The land is also adjacent to the recently completed Mount Compass Skate Park and recreation grounds.

Locality

The locality is predominantly characterised by low density residential development, with an average allotment size ranging between approximately 600 square metres and 1000 square metres.

The built form in the locality is mostly dominated by brick-veneer, single-storey detached dwellings. A number of two-storey dwellings exist within the locality, and the Code contemplates two-storey development within this locality. Dwellings located on the western side of Ekers Court are typically cut into the hill face and are relatively consistent in alignment from the street. Dwellings within the locality enjoy a pleasant rural outlook towards the north and east. The locality exhibits a high level of amenity, particularly high quality recreation reserves and open space.

Subject Land and Locality Map



Figure 2 - Subject land and locality

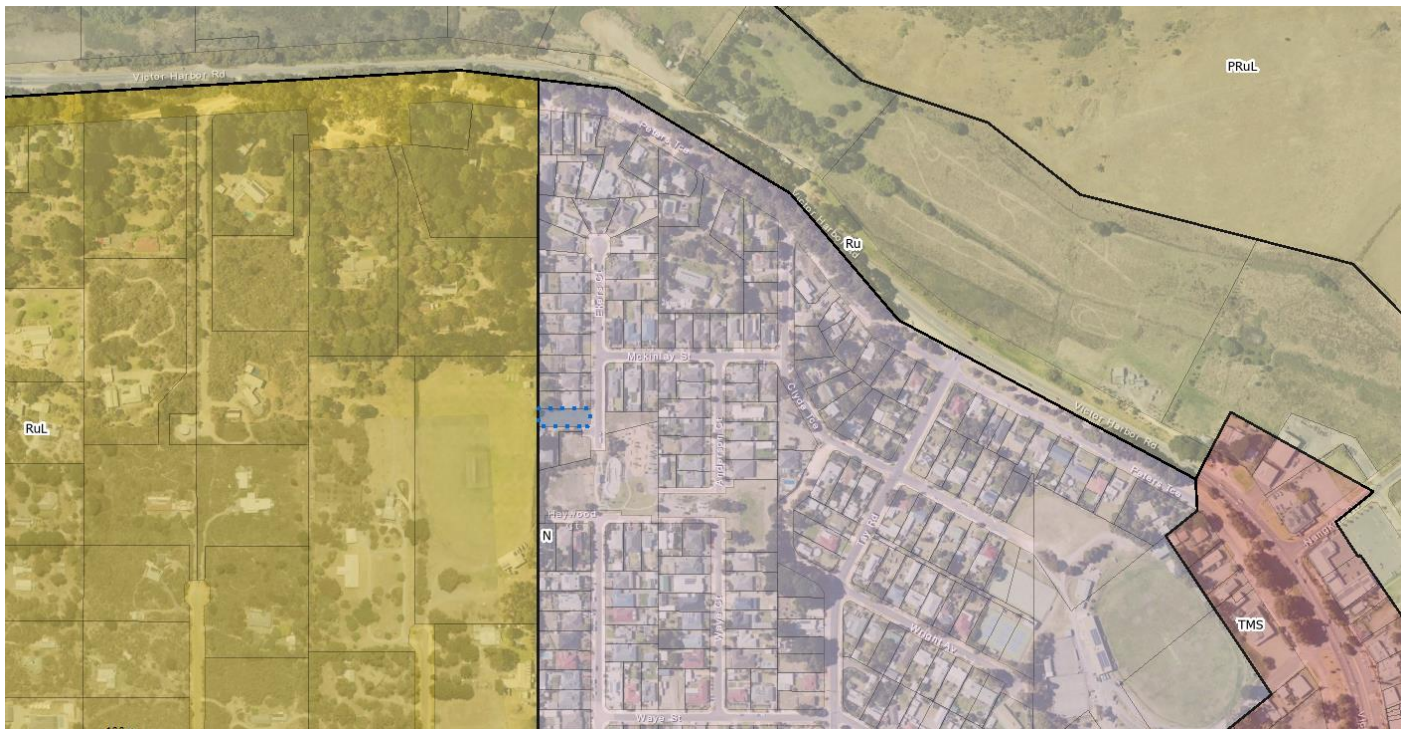


Figure 3 – Zoning

Key: RuL – Rural Living Zone, N – Neighbourhood Zone, Ru – Rural Zone, PRuL – Productive Rural Landscape Zone, TMS – Township Main Street Zone

Subject Land and Locality Photographs



Figure 4 – subject land



Figure 5 – The adjacent dwelling at 3 Ekers Court



Figure 6 – view from the subject land looking north-east towards Mount Moon situated towards the top of the allotment



Figure 7 – view towards Mount Moon at road level

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Detached Dwelling: Code Assessed – Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON:**
No 'Deemed-to-Satisfy' pathway exists for this land due to being located within a Hazards (Bushfire – Medium Risk) Overlay.

PUBLIC NOTIFICATION

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 Neighbourhood Zone).

A detached dwelling is listed in Table 5, Part 3, however, the proposed dwelling exceeds the maximum building height specified in the Neighbourhood Zone (DPF 4.1 – 8.0 metres).

Accordingly, the proposed development required public notification.

The proposed development was notified between 24 January and 14 February 2023, 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, three (3) representations were received. A summary of representations is provided below.

Representations Received

Representations received	Support / Opposed	Wish to be heard?
1. James Guy	Support (with concerns)	No
2. Ebony Van Der Lee	Support	No
3. Cameron Semple	Opposed	Yes

Location of Representors



Figure 8: The location of representations within the locality of the proposed development

Summary of Issues Raised and the Applicant's Response

Summary of Issues Raised	Applicant's response
<p>Support</p> <p>It is considered that building the home close to the rear of the allotment will not have a negative impact on any nearby neighbours.</p> <p>The design is a smart way of maximising use of the land and taking advantage of views towards Mount Moon.</p>	<p>Nil.</p>
<p>Design and Siting</p> <p>The dwelling does not complement the existing local context.</p> <p>The design of the house is out of character with the area.</p> <p>The dwelling is situated towards the rear of the allotment, which along with the building height, the design is out of character with existing homes.</p> <p>The built form is imposing.</p> <p>The dwelling should be lined in a row consistent with other dwellings along Ekers Court.</p>	<p>The support structure for the dwelling will be screened with no exposed beams.</p> <p>There is no requirement to have all dwellings in a straight line. <i>'The alignment of the proposed dwelling will create a Segway to bridge the jump between the existing developments to the north and south and keep an open aspect to – and back from – the community area.'</i></p> <p>It is vital for the Applicant to maximise views and minimise disturbance to the natural land form.</p>
<p>Overlooking</p> <p>The dwelling with two (2) balconies will directly overlook the private open space of 13 McKinlay Street and properties on Anderson Court.</p> <p>The side views from the front of the dwelling will also overlook properties along Ekers Court.</p> <p>The dwelling should not be built so far back on the block so new owners can directly see into adjoining backyards.</p>	<p>Any development on an elevated block will have some capacity to overlook neighbours at lower elevations.</p> <p>Passive views are limited/eliminated by the incorporation of screening on every exposed north face of the structure and only one bedroom window for ventilation is included on the north face.</p>

A full copy of the representations 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

No internal referrals were required to undertake an assessment of the proposed development.

PLANNING ASSESSMENT

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

Part 1 of the Code provides the Rules of Interpretation. In particular, it is important to note the following:

- Desired Outcomes (DO) are designed to aid the interpretation of Performance Outcomes by setting a general policy agenda.
- Performance Outcomes (PO) are policies designed to facilitate assessment according to specified factors, including site dimensions, built form, character etc.
- In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

Land Use

Residential land uses are anticipated within the Neighbourhood Zone and are directly referenced within the Desired Outcome for the Zone (DO1) and DPF 1.1. The proposed land use is considered to be consistent with the intent of the Neighbourhood Zone.

Building Height

As per Figure 1, the proposed dwelling measures up to 9.5 metres in height, which exceeds the building height DPF of 8.0 metres. PO 4.1 of the Neighbourhood states the following in respect to building height:

PO 4.1 Building height is consistent with the maximum height expressed in any relevant Building Height Technical and Numeric Variation, or are generally consistent with the prevailing character of the locality and complement the height of nearby buildings.

Whilst the building generally falls within an 8.0 metre plane parallel to natural ground level, the proposed height, bulk and scale of the building results in an outcome which is not consistent with the prevailing character of the locality, nor does it complement the height of nearby buildings. The impacts of the proposed building height are exacerbated by the intended siting of the dwelling, being situated closer to the rear and further elevated on the land and within the locality.

FLEURIEU REGIONAL ASSESSMENT PANEL

The proposed dwelling will have an elevated ground finished floor level of 269.280, which would be situated approximately 3.0 metres above the roof gutter level of the adjacent dwelling to the north at 7 Ekers Court, which has a gutter level of 266.29. Being positioned behind this adjacent dwelling combined with the overall height of the proposed dwelling results in a potential outcome which is not consistent with the prevailing character and does not complement the height of nearby buildings. Whilst there is an existing dwelling adjacent to the south that is situated at a higher floor level than surrounding buildings (3 Ekers Court), this is a result of the allotment being of a battle-axe configuration. The aforementioned dwelling is also single storey in nature and resultantly has no significant character impact from its siting and height.

For these reasons, the proposed development is not considered to be consistent with PO 4.1 of the Neighbourhood Zone.

Setbacks

The proposed dwelling is situated on the allotment such that the DPF provisions of the Code for front, rear and side setbacks are achieved.

There are conflicting views within the planning industry regarding the interpretation of DPF's/PO's, as some professionals/lawyers may argue that meeting the DPF means automatically achieving the PO, whilst other views suggest that just because a DPF is met, does not mean that the PO is achieved. The Rules of Interpretation in respect to this matter have not been tested in the Environment, Resources and Development Court.

Legal advice was sought regarding this development application, and the advice noted that the Rules of Interpretation only suggests that meeting a DPF would generally mean that you meet the corresponding PO, but the rules leave open the possibility that even if you do meet the DPF that you may not meet the PO. If the intent was that if a DPF was met the PO would automatically be met, the Rules of Interpretation would have stated this. Further, there are many DPF provisions that bear little resemblance to the PO, or PO's that deal with more concepts than considered in the DPF.

In respect to the primary street setback, it is acknowledged that DPF 5.1 of the Neighbourhood Zone is achieved, such that the minimum setback from the primary street is consistent with adjoining development (as it is situated behind the building line of the dwelling at 3 Ekers Court), however in interpreting the associated PO, it is considered that the PO deals with setbacks more broadly in a streetscape appraisal:

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

When an assessment is made against the PO, which requires consideration of the locality context and the streetscape, the proposal is not consistent with PO 5.1 due to it being sited further to the rear of the allotment. Whilst some variation in streetscape setbacks provide for an eclectic streetscape character, the proposed dwelling's building line is directly behind the rear wall of the adjacent dwelling, which would have negative impacts on the existing streetscape character. The setbacks of dwellings along Ekers Court and within the wider locality are very uniform. This particular issue has been raised with the Applicant on multiple occasions, which has resulted in three (3) changes to the building siting (as per Figure 9 below)

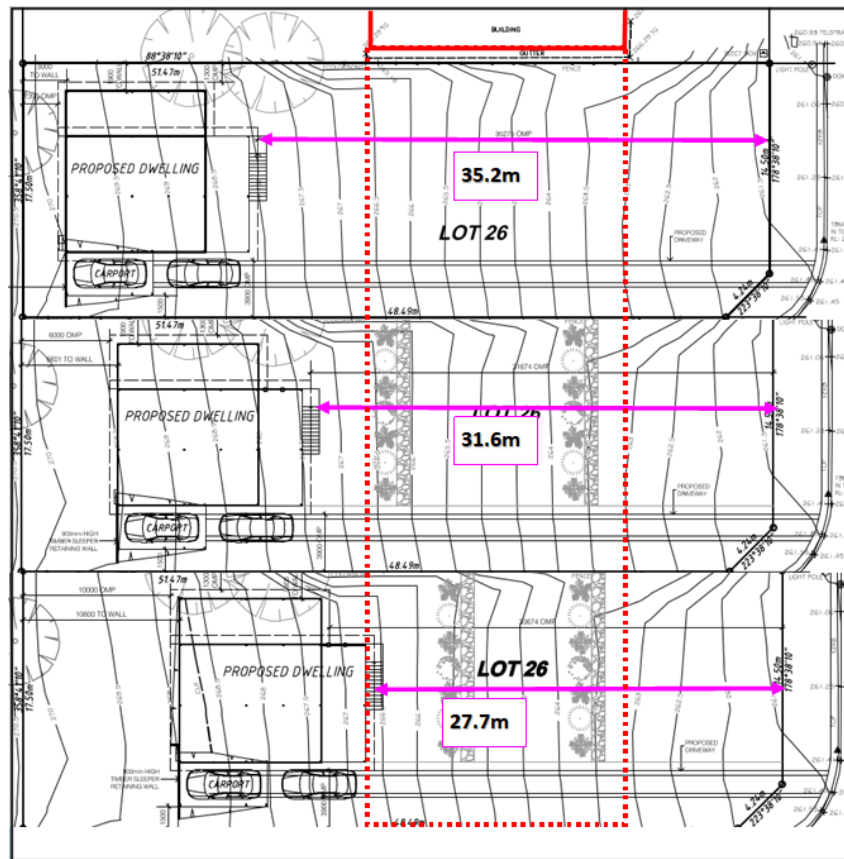


Figure 9 – The siting of the proposed dwelling as amended over the course of the assessment (27.7m proposed) and the positioning of the adjacent dwelling front and rear walls at 3 Ekers Court (red dash).

Whilst it is appreciated that the Applicant has made a number of revisions to more closely align with the provisions of the Code and requests of staff, the positioning of the proposed dwelling is still not considered to be cohesive to a positive streetscape outcome resembling some consistency with the existing streetscape. A strict alignment with the adjoining dwellings to the north is not sought, but rather an average between the dwelling to the north and the existing hammerhead dwelling to the south, which was considered to be a reasonable compromise and streetscape outcome.

Whilst side and rear setbacks are suitable and consistent with respective DPF's/PO's, the front setback is at variance with PO 5.1 of the Zone and not considered to be appropriate. The overall appearance of the development, in respect of its siting and relationship to the road boundaries is not considered to be reasonably consistent with the streetscape and the surrounding locality.

Design and Appearance

The subject land is not located within a type of heritage or character area, and as such, the Neighbourhood Zone provisions and general design provisions do provide some flexibility in the architectural design outcome without needing to replicate the design of other dwellings within the locality. The design itself, being a pole frame dwelling is not atypical to residential building design within Mount Compass, however the design outcome is not necessarily inappropriate.

The design provides some clear cost benefits to the Applicant, particularly the reduction in the amount of cut/fill earthworks needing to be undertaken to support the development.

What is of concern in relation to the design is the visual mass of the building, which is exacerbated by its high positioning on the allotment and elevated two storey nature, which would essentially 'tower' over residential

FLEURIEU REGIONAL ASSESSMENT PANEL

development along Ekers Street to the north. Whilst the positioning is sought to maximise views to Mount Moon, these views would still be easily obtainable from a lower position on the allotment. PO 15.1 of the Design Module provides guidance in respect to massing:

PO 15.1 *The visual mass of larger buildings is reduced when viewed from adjoining allotments or public streets.*

The visual mass in this instance is not reduced because of the siting, the exceedance of the building height provisions and positioning on the allotment. A level of additional cut earthworks would also assist in 'nestling' the dwelling within the slope, similar to what has occurred on adjoining land.

The proposed development includes 1.8 metre screening on the northern side to mitigate direct overlooking to the adjacent dwelling at 3 Ekers Court, however a lower bedroom window is not screened. It is considered that the screening mechanisms in place are reasonable particularly noting the extent of mutual overlooking within the locality due to the slope and topography of the surrounding land. With that being said, sideways overlooking could be completely avoided if the dwelling were brought forward.

Infrastructure and Transport

Fundamentally, the proposed development can be connected to Council's full sewer system, subject to approval being authorised under the Environmental Health Act (via separate wastewater application to Council). Should the Panel resolve to grant Planning Consent, a Reserved Matter is necessary to ensure compliance.

The proposed development includes sufficient on-site car parking consistent with the transport, access and parking provisions of the Code, and can be serviced by all relevant infrastructure, including water, electrical etc.

CONCLUSION

This application presents an interesting assessment challenge, particularly given its strong adherence to most quantitative provisions (DPF's) of the Code, but in the opinion of staff, fails key qualitative provisions (PO's) such that are detrimental to the proposal.

Staff have sought to work with the Applicant to achieve an outcome which could be supported (as evidenced through the number of revisions), however the Applicant's vision does not align with a proposal that staff are able to support. In the opinion of staff, the proposed dwelling's height, positioning and massing would lead to a poor streetscape outcome.

The assessment of this application is finely balanced, however for reasons discussed in this report, it is recommended that the Panel refuse 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 22037976, by Kenn Loke is REFUSED Planning Consent for the following reasons:**

REASONS FOR REFUSAL

1. The proposed development is at variance with PO 4.1 of the Neighbourhood Zone, such that the building height is not consistent with the prevailing character of the locality and does not complement the height of nearby buildings.

PO 4.1 Building height is consistent with the maximum height expressed in any relevant Building Height Technical and Numeric Variation, or are generally consistent with the prevailing character of the locality and complement the height of nearby buildings.

2. The proposed development is at variance with PO 5.1 of the Neighbourhood Zone, such that the setback from the primary street boundary is fundamentally inconsistent with the existing streetscape due to the proposed development having a primary street setback far in excess of that on adjoining land and other dwellings within the broader locality.

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

3. The proposed development is at variance with PO 15.1 of the Design Module, such that the visual mass of the building is not reduced when viewed from adjoining allotments or nearby public streets given its positioning on the land, its building height and elevated design. The proposed building and its subsequent mass will dominate the landscape.

PO 15.1 The visual mass of larger buildings is reduced when viewed from adjoining allotments or public streets.

ITEM 4.2

DEVELOPMENT NO.:	22033203
APPLICANT:	Stuart Allen Karen Burgess
ADDRESS:	244 BLACKMORE RD STRATHALBYN SA 5255
NATURE OF DEVELOPMENT:	Change of use to a wellness retreat comprising the construction of three (3) tourist accommodation units (and associated infrastructure), a gym/sauna building, part conversion of existing dwelling to wellness centre, above ground water tanks and associated driveways, earthworks and landscaping.
ZONING INFORMATION:	Zones: <ul style="list-style-type: none"> • Rural Overlays: <ul style="list-style-type: none"> • Prescribed Water Resources Area • River Murray Tributaries Protection Area • Water Resources • Environment and Food Production Area • Hazards (Bushfire - High Risk) • Hazards (Flooding - Evidence Required) • Limited Land Division • Murray-Darling Basin • Native Vegetation
LODGEMENT DATE:	19 Oct 2022
RELEVANT AUTHORITY:	Fleurieu Regional Assessment Panel
PLANNING & DESIGN CODE VERSION:	Version 2022.19 (Operational 13 October 2022 to 26 October 2022)
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
PUBLIC NOTIFICATION:	Yes <ul style="list-style-type: none"> • 1 representation received: <ul style="list-style-type: none"> • 1 – do not support the development • 0 representors to be heard.
RECOMMENDING OFFICER:	Seb Anderson <i>Town Planner</i>
REFERRALS STATUTORY:	Pre-Lodgement Agreement with SA CFS
REFERRALS NON-STATUTORY:	Nil
RECOMMENDATION	Grant Planning Consent

CONTENTS:

Attachment 1:	Application Plans and Documentation	Pg. 117
Attachment 2:	Representations	Pg. 176
Attachment 3:	Response to Representations	Pg. 177
Attachment 4:	Pre Lodgement Agreement - SA CFS Response	Pg. 180
Attachment 5:	Planning and Design Code Policy Extract	Pg. 219

DETAILED DESCRIPTION OF PROPOSAL

The Applicant is seeking approval for the change of use to a wellness retreat comprising the construction of three (3) tourist accommodation units (and associated infrastructure), a gym/sauna building, part conversion of existing dwelling to wellness centre, above ground water tanks and associated driveways, earthworks and landscaping.

The proposed development will enable the operation of a 'luxury & wellness retreat' which will primarily consist of three (3) single storey tourist accommodation pods and associated amenities. The retreat is to be managed and operated by the landowners that will also reside in the existing dwelling on the site. No other staff will be utilised for the daily operations of the facility, other than the contracting of cleaning staff.

The primary objective of the retreat is to provide luxurious accommodation centred around health and wellness. The wellness centre will be staffed by the landowners between the hours of 9am to 5pm and will operate on a seven (7) days per week basis, consistent with the usage of the tourist accommodation pods. Activities to be facilitated within the wellness retreat will be centred around health, body movement and relaxation – activities such as yoga. The wellness centre will be located within a 'wing' of the existing dwelling on the site and will require a partial change of use. A small gym/sauna is also proposed on the site to provide guests with additional amenity.

Three tourist accommodation pods are proposed on the site. Accommodation pods '2 & 3' contain a bedroom, kitchen/lounge and a bathroom, designed to cater for a maximum of two (2) guest at any one time. Pod '3' will also include an outdoor deck area and privacy screen. Accommodation pod '1' is larger in design and will contain two bedrooms, two bathrooms and a communal kitchen/living/dining and outdoor deck area – designed to cater for a maximum of four (4) guests at any one time. The maximum number of guests on the site at any one time will not exceed eight (8) people.

The proposed development also comprises the construction of three (3) above ground water tanks each with a capacity of 60,000L. The proposed water tanks achieve the Accepted Development Classification (Table 1) of the Rural Zone and as a result, do not require planning consent.

Plans and details of the proposal are contained within ***Attachment 1***.

BACKGROUND

Existing development on site includes a single storey detached dwelling, an above ground water tank and an energy generation facility. Development Approval for the above was issued on 01/02/2021 under Development Application 455/800/19 (dwelling still under construction). The change of use component to the subject development application seeks to change the use of a portion of the existing dwelling to tourist accommodation (wellness centre).

Wastewater Approval for the proposed development was granted by Councils Environmental Health department on 21 June 2023 – 455/396/22.

SUBJECT LAND & LOCALITY

Location reference: 244 BLACKMORE RD STRATHALBYN SA 5255

Title ref.: CT 5430/495

Plan Parcel: D22524 AL1

Council: ALEXANDRINA COUNCIL

The subject land is located within the Rural Zone as per the Planning and Design Code (the Code). Situated on the western side of Blackmore Road the allotment contains an area of approximately 36.5 hectares. Existing development on the site comprises a residential dwelling, water tank and energy generation facility (solar array). The subject land has historically been used for livestock grazing – the former owner (who now resides on the allotment to the north) would use both the subject and adjacent allotments for the rotation of their livestock.

The locality is dominated by rural land uses with associated farm dwellings, etc. The primary land use within the locality is generally livestock grazing. Built form is generally well separated from boundaries and predominantly comprises farm dwellings associated with existing rural land uses and agricultural buildings/structures that support the rural land use.

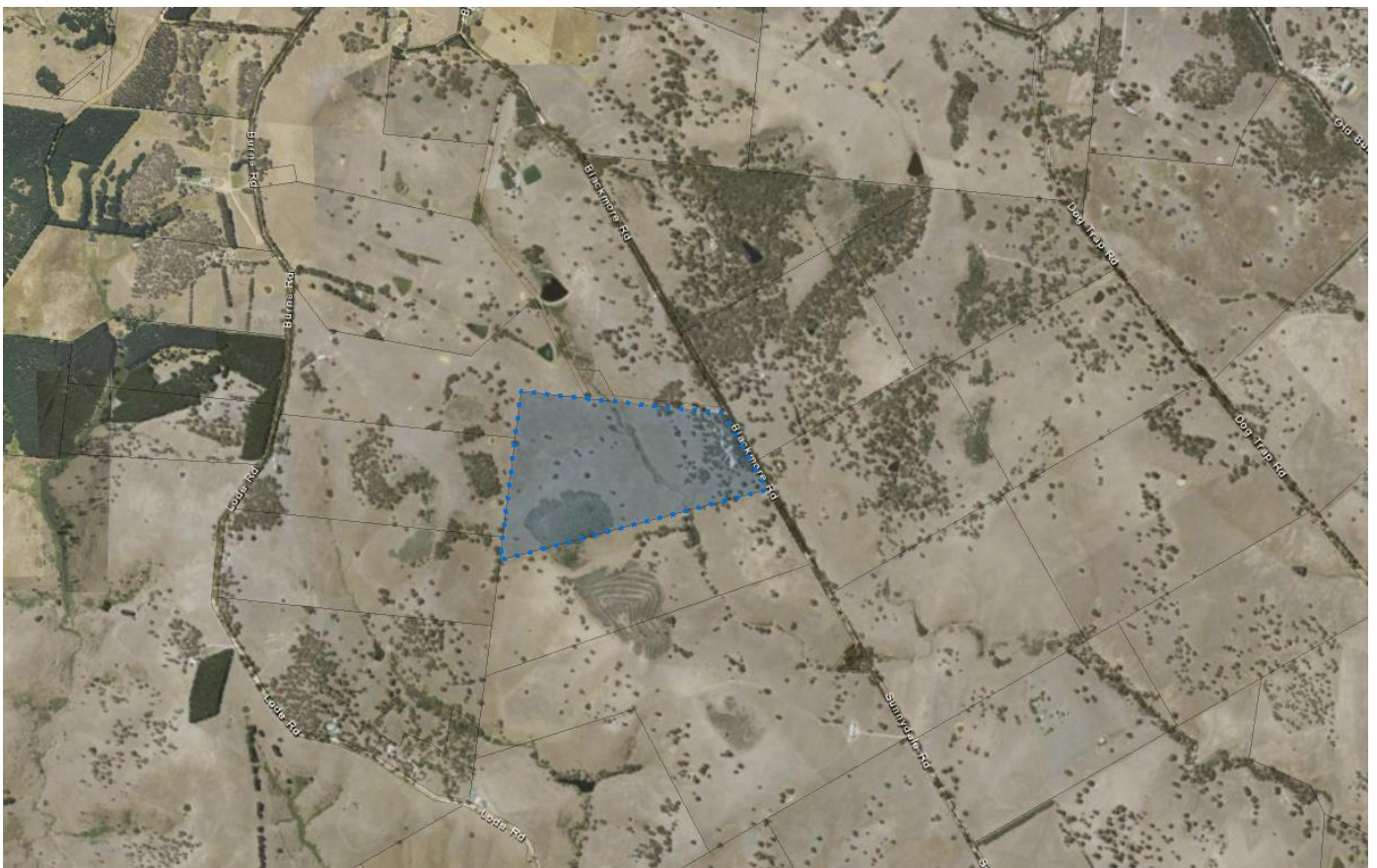
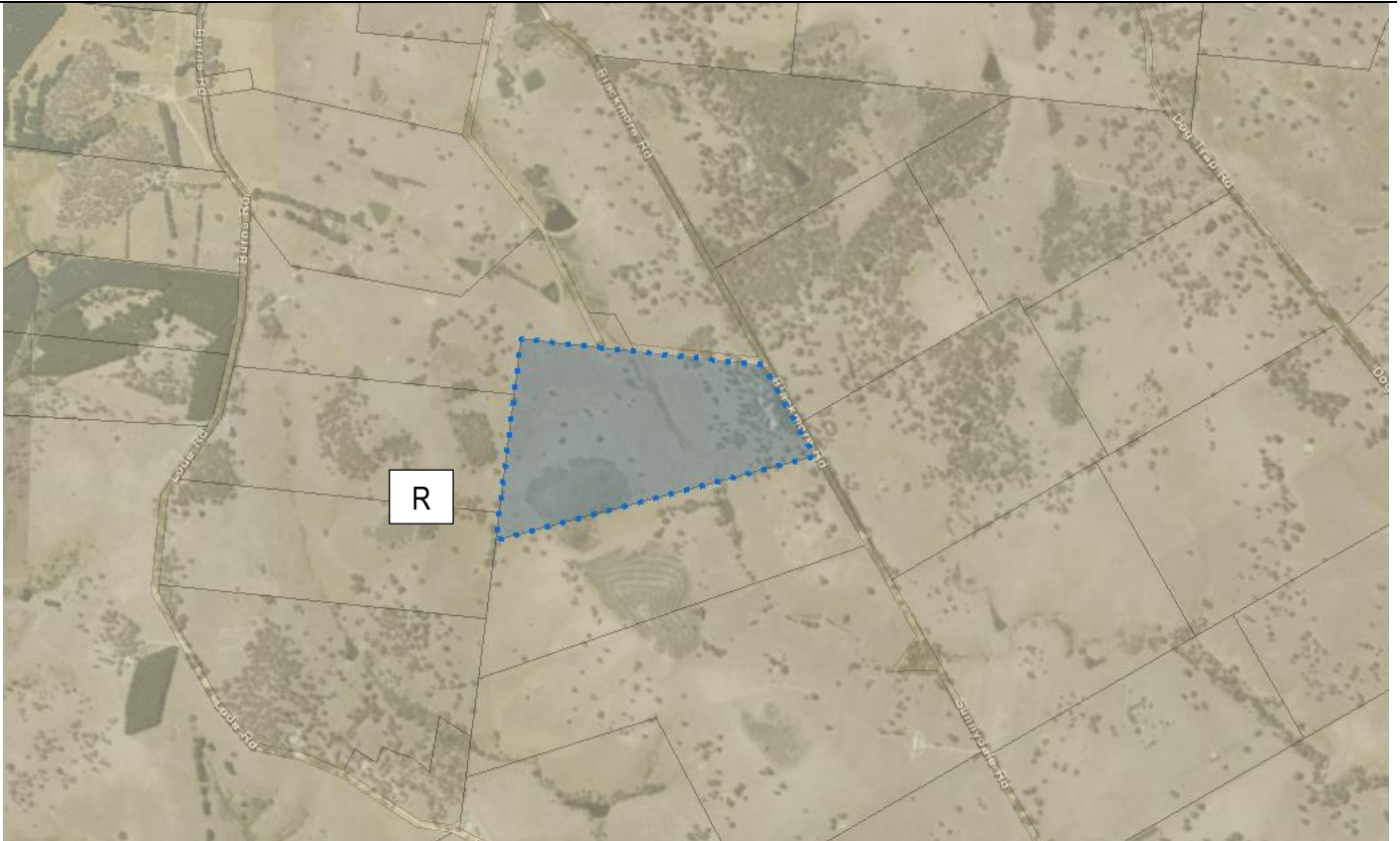


Figure 1 – The subject land and the locality



*Figure 2- Planning and Design Code zoning
Key: R – Rural Zone*



Figure 3 – Photograph of the dwelling under construction / proposed wellness centre.



Figure 4 – Photograph of the site of the proposed tourist accommodation pods.



Figure 5 – Photograph of the site of the proposed tourist accommodation pods.



Figure 6 – Photograph of existing vehicle access.

CATEGORY OF DEVELOPMENT

- **ELEMENTS:**
Tourist Accommodation: Code Assessed – Performance Assessed
Water Tanks: Accepted Development
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed (All other Code assessed development)
- **REASON**
Planning & Design Code – The proposed development achieves the definition of tourist accommodation. Tourist accommodation also includes on-site services and facilities primarily for the use of guests and facilities for the management of the accommodation. On this basis, the wellness centre and gym/sauna components of the subject development application are captured under the 'tourist accommodation' definition.

PUBLIC NOTIFICATION

Performance Assessed developments require notification unless exempt from notification in Table 5 of the corresponding zone.

The proposed development includes the construction of three (3) tourist accommodation pods. Tourist accommodation is normally exempt from notification providing that the total floor area of buildings does not exceed 100 square metres, and the development is setback a minimum of 40 metres from allotment boundaries. As the total floor area exceeds 100 square metres, the proposed development is not exempt from notification within Table 5 of the Rural Zone. Furthermore, the proposed development could not reasonably be considered 'minor in nature'. As such, public notification was required.

The application was notified between 2 November and 22 November 2022. Pursuant to regulation 47(6)(c) of the Planning, Development and Infrastructure (General) Regulations 2017, the requirement to place a notice on the relevant land under section 107(3)(a)(ii) of the Planning, Development and Infrastructure Act 2016 does not apply in the Rural Zone. On this basis, no sign was required. Letters were sent to all landowners/occupiers within 60 metres of the subject land. During the notification period, one (1) representation was received. A summary of representations is provided below.

Representations Received

Representations received	Support / Opposed	Wish to be heard?
1. Tammy Wheaton	Does not support	No

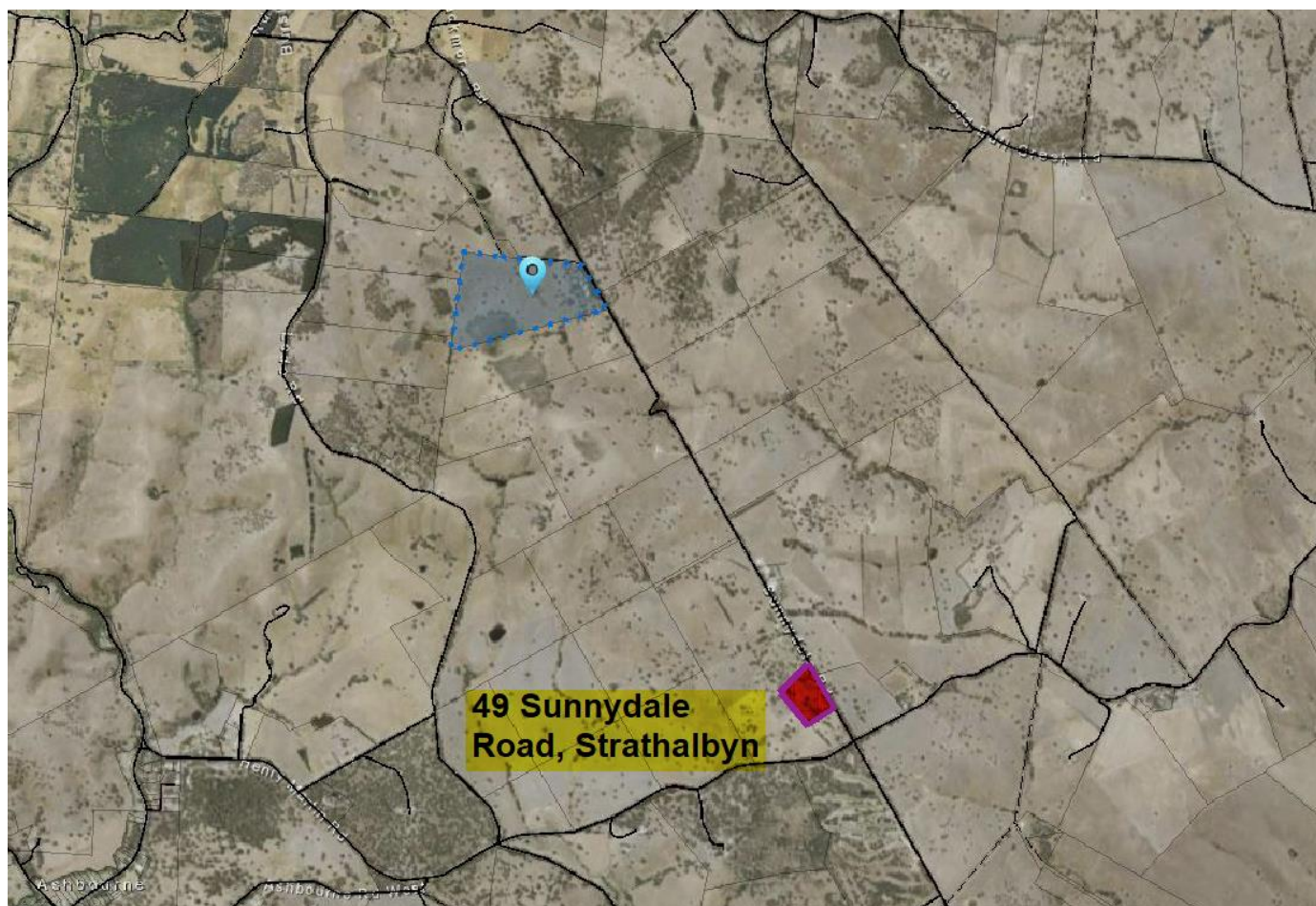


Figure 7: The location of representations within the locality of the proposed development.

Summary of Issues Raised and the Applicant's Response

Summary of Issues Raised	Applicant's Response
<p>Transport and access</p> <p>Sunnydale & Blackmore Roads not suitable for increased vehicle traffic, especially after bad weather events.</p>	<p>- The proposed development will result in no increase in traffic along Sunnydale Rd as all vehicles traverse the northern route via Blackmore Rd from Burns Rd.</p> <p>Over the past 18 months of construction of the approved detached dwelling, all vehicles have accessed the site via this northern route, regardless of direction of travel.</p>

<p>Increased vehicle traffic will have an impact on local flora and fauna and will not support the conservation of local habitats and waterways.</p>	<p>In any case, Google Maps directs anyone coming from Strathalbyn to travel via Old Bull Creek Rd, and not via Sunnydale Rd.</p> <p>Upon leaving the site, a 'no right turn' road sign has been placed within the property acting as a reminder for traffic to not use Sunnydale Road. This has proven to be successful in directing all traffic down Blackmore Road.</p> <p>Privacy and seclusion have been core objectives in the design of the retreat – as such, the pods will not be visible from Blackmore and Sunnydale Roads.</p> <p>Proposal has sought to minimise its impacts both within the subject land and adjoining allotments. There is to be a maximum of 8 guests on site at any one time – the proposed development will result in minimal increase in traffic visiting the site/locality and will not interfere with the free flow of traffic on the existing road network.</p> <p>- Sunnydale and Blackmore Roads are both existing public roads that have been cleared of vegetation to accommodate the movement of vehicles. Sunnydale Road is not expected to be used by visitors to the site, thereby reducing any perceived impacts on local flora and fauna along this stretch of road.</p> <p>Guests are expected to stay for at least two nights – single night stays are not anticipated. A range of activities will be available on-site for guests to participate in. There will be limited need for guests to come and go from the retreat once they have arrived. This framework seeks to reduce the number of vehicular trips to and from the site, ensuring that it will not result in a detrimental increase in traffic visiting the site or locality.</p> <p>It is considered that the expected daily vehicle movements along Blackmore Road will be extremely low and are unlikely to have any significant impacts on local flora and fauna.</p>
<p><u>Bushfire Risk</u></p> <p>Bushfire risk is unreasonable and proposed development is not appropriate for the allotment in its current form.</p> <p>Existing roads to access the site are not appropriate for CFS access</p>	<p>- The Country Fire Service (CFS) have undertaken site visits and given their support to the proposal. The CFS have confirmed that the proposal has been designed in accordance with the relevant Ministers' Specifications.</p> <p>More than 90kL of dedicated fire water been proposed. Supported by all-weather roads, Vegetation Management Zones and ground and roof mounted sprinklers, passive fire protection is achieved.</p> <p>A Bushfire Management Plan has been developed.</p> <p>The CFS have provided a formal response to the proposal and have provided support, subject to a number of Conditions of Approval.</p>

FLEURIEU REGIONAL ASSESSMENT PANEL

<u>Other matters</u>	
Numerous other allotments have been concerted to retreats.	- The proposal provides a unique product to the tourism industry that is currently not catered for in the wider locality. The proposal does not seek to reduce of the extent of existing productive rural lands – the majority of the subject land is to be retained for rural activities. The tourist accommodation pods have been carefully chosen to maximise the enjoyment of the landscape and environment without compromising the existing rural environment.

A full copy of the representations received is contained in **Attachment 2**.

The Applicant's response is contained in **Attachment 3**.

AGENCY REFERRALS

As per Schedule 9 of the *Planning Development and Infrastructure (General) Regulations 2017*, Tourist Accommodation is required to be referred to the SA Country Fire Service (CFS), except if the application is accompanied by a 'relevant certificate'.

Under *Section 123 of the Planning, Development and Infrastructure Act 2016*, an applicant may seek such a certificate (also known as a Pre-Lodgement Agreement) from a referral body in relation to the proposed development prior to the lodgement of the application for planning consent. If the relevant authority is satisfied that the application accords with the agreement indicated by the prescribed referral body, the application no longer needs to be referred to the prescribed body.

Upon lodgement, a Pre-Lodgement Agreement with the CFS was provided with the application. On this basis, no referral was required.

Agency	Comment
SA Country Fire Service Advice type: Direction	The SA Country Fire Service has no objection to the proposed development with conditions.

A full copy of the State Agency Pre-Lodgement Agreement is contained in **Attachment 4**

INTERNAL REFERRALS

Nil

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Code at the date of lodgement, which are contained in **Attachment 5**.

Of note, Part 1 of the Code provides the rules and Interpretation of the Code. In particular, it is worthy to acknowledge the following:

- Desired Outcomes (DO) are designed to aid the interpretation of Performance Outcomes by setting a general policy agenda.
- Performance Outcomes (PO) are policies designed to facilitate assessment according to specified factors, including site dimensions, built form, character etc.
- Designated Performance Features (DPF) assist to interpret PO's by providing a guide to what is generally considered to satisfy the corresponding PO. The DPF does not need to necessarily be satisfied to meet the PO and does not derogate from the discretion to determine that the outcome is met in another way.

Zoning and Land Use

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 Rural Zone is a zone that supports 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. It also supports the 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 productive value of rural land is recognised by the Rural Zone, and it is anticipated that primary productive activities and associated value adding land uses should be supported, protected and maintained (PO 1.1). The Code provides some guidance on land uses it considers appropriate within the Rural Zone. By way of DPF 1.1, tourist accommodation by nature is considered a contemplated land use.

The subject land use will be low-intensity and complement the semi-rural/natural character of the locality. Whilst the proposed land use will promote tourism development within the region, it will also continue to support the existing primary productive value of the land without unreasonably impacting the value of adjacent allotments. The applicant has advised of the future intent to introduce a herd of alpaca to the site to create a small agritourism environment for the guests. The alpaca fleece will be sold to local artisan industry, further promoting the primary productive value of the land.

The proposed tourist accommodation is of a small-scale and ensures that the primary production value of the land is no diminished from the siting of the proposed tourist accommodation units.

It is anticipated that the proposed development will not inhibit the pleasant rural character and amenity of the locality. Value-adding has been demonstrated in numerous ways by the proposed development – both tourist development and primary productivity are promoted. The proposed development seeks to provide authentic and natural visitor experiences, attract tourists to the region and showcase the unique landscapes of the Fleurieu Peninsula. On this basis, it has been determined that the subject development is appropriate from a zoning and land use perspective.

Design, Appearance & Siting

PO 6.4 stipulates that tourist accommodation involving new buildings should be sited, designed and of a scale that maintains a pleasant rural character and amenity. Buildings associated with the proposed development are small-scale, agglomerated, setback substantially from allotment boundaries and not located at ridgelines. Each tourist accommodation pod has been strategically sited in locations that involve the least slope to minimise disturbance to the natural topography of the land. An example of this can be seen in the design of pod '1' which incorporates a split-level design following the natural topography of the land – minimising excessive landform disturbance.

A range of low-reflective colours and materials considered sympathetic to the natural environment have been incorporated into the design of the proposed built form. Colours & materials that have been proposed primarily comprise charred timber cladding and glass balustrading/glazing. The scale and massing of each of the pods have been sensitively designed to complement the surrounding natural setting. The proposed pods will have a maximum height of 4.0 metres – measured from natural ground level. On this basis, the

proposed tourist accommodation pods have been determined to be small-scale, low impact and not unreasonably designed & sited.

Transport Access & Parking

Vehicle traffic generated by the subject development is considered very low in nature. It is anticipated that there will be a maximum of eight (8) guests at the retreat at any one time – these will typically comprise couples. On this basis, it would be reasonable to anticipate that eight (8) guests would attract approximately four (4) vehicles.

As per *Transport, Access & Parking: Table 1 - General Off-Street Car Parking Requirements*, tourist accommodation should provide at least one (1) car parking space per accommodation unit/guest room. Each pod provides its own vehicle parking. Pod '1', having two (2) guest bedrooms provides two (2) vehicle car parking spaces whilst Pods '2 & 3', having one (1) guest bedroom provide one (1) car parking space each. Sufficient carparking has also been provided for the existing dwelling, the wellness centre and the gym/sauna. It is anticipated that once guests have parked their vehicles at their respective pods, there will be limited need for guests to use their vehicles for access throughout the retreat – all elements of the retreat are within walking distance of each other.

The wellness centre and gym/sauna will be accessed via an existing all-weather internal driveway. 'Proposed' internal driveways will be to provide vehicle access to Pods '1, 2 & 3'. Internal vehicle access has been reviewed and endorsed by the South Australian Country Fire Service as per the Pre-Lodgement Agreement provided.

It is acknowledged that during the public consultation period, concerns were raised regarding vehicle access to the site, specifically Sunnydale Road being too low-quality to facilitate additional vehicular traffic. As seen below, the subject site also has access to Blackmore Road which is of suitable condition to support the proposed land use. The applicant has acknowledged the poor condition of Sunnydale Road intends to direct guests upon booking to access the site via Blackmore Road. The applicant has also erected a 'no-right-turn' sign within the allotment at the access point, further reinforcing that Sunnydale Road should not be used for access to and from the site.

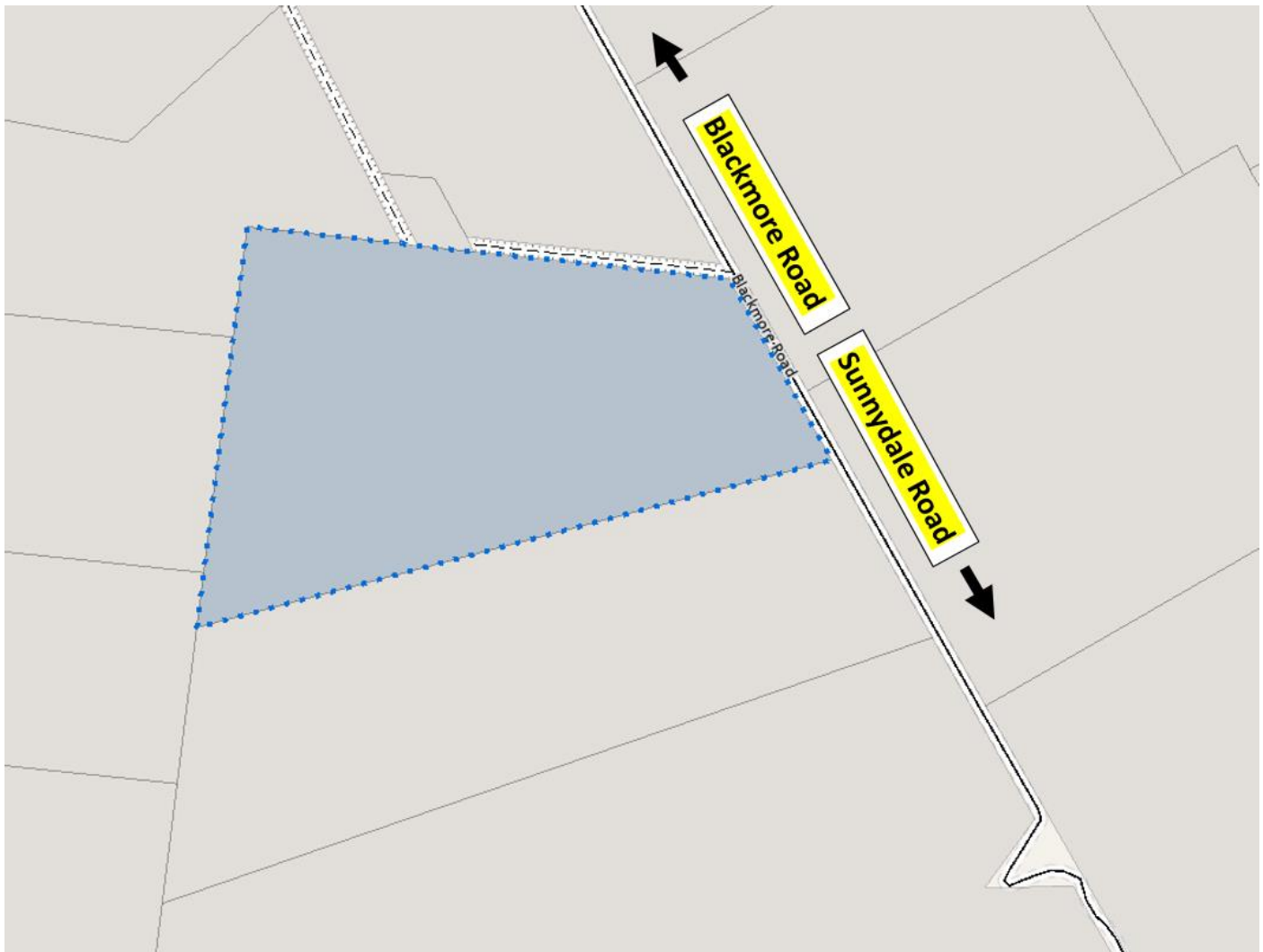


Figure 8 – Water Resources Overlay

DO 1 of Transport Access & Parking, General Development Policies stipulates that transport systems should be safe, sustainable, efficient, convenient and accessible to others. The subject land contains sufficient room to support on-site car parking based on the intensity of the proposed use. The vehicle movements associated with the subject development are not unsafe in nature and do not pose any negative impacts on the efficiency, convenience and accessibility of the existing road system in the locality.

Matters Pertaining to Relevant Overlays

In respect to other relevant Overlays, the following is noted:

- **Prescribed Water Resources Area** – Rainwater to be harvested and stored in rainwater tanks for the use of each of the Pods. Overflow water to be directed to adjacent watercourse. Proposed development does not involve the extraction of water from a natural water course.
- **River Murray Tributaries Protection Area** – Proposed development does not involve the extraction of water from a natural water course.
- **Water Resources** – All proposed development is sited outside of the Water Resources Overlay. On this basis, the Water Resources Overlay is not applicable.



Figure 9 – Water Resources Overlay

- **Environment and Food Production Area** – The primary productive value of the subject land is maintained.
- **Hazards (Bushfire - High Risk)** – Proposed development reviewed and endorsed by the CFS – Pre-Lodgement Agreement sighted & stamped on 21/06/23. Subject to conditions, CFS have no objection to the:
 - Use of the existing / proposed internal access driveways.
 - Proposed locations & capacities of the dedicated water supplies
 - Asset Protection Zones (APZ) that have been proposed, and the
 - Bushfire Survival Plan (BSP) that has been developed.
- **Hazards (Flooding - Evidence Required)** – Proposed development not located in a flood risk area and to be well setback from the adjacent watercourse. Proposed floor levels are appropriate given the level of flood risk anticipated (low risk).
- **Limited Land Division** – Not relevant.
- **Murray-Darling Basin** – Proposed development does not involve the extraction of water from a natural water course.
- **Native Vegetation** – No Native Vegetation is proposed to be removed. Proposed development does not involve any 'potential clearance'. A Native Vegetation Declaration has been provided.

CONCLUSION

Having considered the application against the relevant provisions of the Planning and Design Code and having regard to the context of the locality, the proposed development is considered to reasonably achieve the relevant Desired Outcomes and is considered to sufficiently satisfy the relevant Performance Outcomes of the Zone, applicable Overlays and General Development Policies.

The Rural Zone contemplates a diverse range of primary productive and associated value adding land uses. The context of the rural setting in which the proposal is situated reasonably anticipates tourist

FLEURIEU REGIONAL ASSESSMENT PANEL

accommodation. The proposed development is small-scale and has been designed and sited to be compatible with the existing rural character of the locality. It is anticipated that the proposed development will not result in any unreasonable land use conflict. It is considered that the proposed development is reasonably appropriate within the context of the locality.

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 22033203, by Stuart Allen & Karen Burgess is GRANTED Planning Consent subject to the following conditions:

PLANNING CONSENT CONDITIONS

Assessment Panel

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).
2. The external colours and materials of the building or structure herein approved shall be in accordance with the details specified in the application now approved.

Reason: To maintain and enhance the visual amenity of the locality in which the subject land is situated

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 and covered with suitable ground cover to the reasonable satisfaction of the Authority.

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

4. The buildings/structures herein approved shall only be used for purposes described within the application herein approved.

Reason: To maintain the amenity of the locality.

5. All stormwater drainage and construction shall be in accordance with Australian Standard AS 3500.3.2015 (part 3) to ensure that stormwater does not flow or discharge onto land of adjoining owners or adversely affect structures on the site, or the public road.

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

6. Tourist accommodation guest capacity shall not exceed 8 people at any one time.

7. The development herein approved must comply with the Country Fire Service (CFS) conditions imposed and be in accordance with the associated stamped plans contained within the in the pre-lodgement agreement signed and dated the 21 of June 2023.

PLANNING CONSENT ADVISORY NOTES

Assessment Panel

1. The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).
2. No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
3. This consent or approval will lapse at the expiration of 24 months from its operative date (unless this period has been extended by the Authority).
4. 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.
5. 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>.
6. Allotment boundaries will not be certified by the Authority. 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.
7. Encumbrances, Land Management Agreements and/or easements may apply to your property. You are therefore advised to check your Certificate of Title prior to commencing work.
8. The applicant is reminded of their obligations under the Local Nuisance and Litter Control Act 2016 and the Environment Protection Act 1993, in regard to the appropriate management of environmental impacts and matters of local nuisance.

The Applicant/ Builder must, for the duration of construction, take action to control, minimise or eliminate (as far as reasonably 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 of the locality.

Conditions directed by the South Australian Country Fire Service

1. ACCESS TO HABITABLE BUILDINGS

‘The Planning and Design Code’ Hazards (Bushfire – High Risk) Overlay (Performance Outcome 6.2) details the mandatory requirements for ‘Private’ roads and driveways to facilitate safe and effective use, operation and evacuation for firefighting and emergency personnel and evacuation of residents, occupants and visitors where required. These requirements apply when the furthest point of the building is more than 60m from the nearest public road.

SA CFS has no objection to utilising the existing and proposed access driveways as detailed on drawing named Site Plan – Enlarged (and detailed site plans), dated at last revision 08/06/2023, with the following conditions:

- Access to the building site shall be of all-weather construction, with a minimum formed road surface width of 3 metres and must allow forward entry and exit for large fire-fighting vehicles, to within 60m of the furthest point of the building.
- The all-weather road shall allow fire-fighting vehicles to safely enter and exit the allotment in a forward direction by incorporating either –
 - i. A loop road around the building, OR
 - ii. A turning area with a minimum radius of 12.5 metres, OR
 - iii. A ‘T’ or ‘Y’ shaped turning area with a minimum formed length of 11 metres (for each ‘leg’) and minimum internal radii of 9.5 metres OR
 - iv. A ‘U’ shaped ‘drive-through’ option.
- Private access shall have minimum internal radii of 9.5 metres on all bends.
- Private access shall provide overhead clearances of not less than 4.0m horizontally and vertically between the driveway surface and overhanging branches or other obstructions, including buildings and/or structures.

2. WATER SUPPLY & ACCESS (to dedicated water supply)

Ministerial Building Standard MBS008 “Designated bushfire prone areas – additional requirements” July 2020, as published under the Planning, Development and Infrastructure Act 2016, provides the technical details of the dedicated water supply for bushfire fighting for the bushfire zone. The dedicated bushfire fighting water supply shall also incorporate the installation of pumping systems, pipework and fire-fighting hose(s) in accordance with MBS008.

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

SA CFS has no objection to the proposed locations for the dedicated water supplies as detailed on drawing named Site Plan – Enlarged (and detailed site plans), dated at last revision 08/06/2023, providing the outlets are positioned to comply with the following conditions:

- The water supply outlet shall be easily accessible and clearly identifiable from the access way.
- The dedicated water supply and its location should be identified with suitable signage (i.e. blue sign with white lettering “FIRE WATER”).

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

Please note that where the water supply is an above-ground water tank, the tank (including any support structure) must be constructed of non-combustible material, such as concrete or metal.

3. MAINTAIN AN ASSET PROTECTION ZONE (APZ) - VEGETATION MANAGEMENT

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

An APZ shall be implemented and maintained, for each of the proposed buildings, in line with the vegetation management conditions below:

- Vegetation management shall be established and maintained within 20 metres of the habitable building (or to the property boundaries – whichever comes first) as follows:
 - i. The number of trees and understorey plants existing and to be established within the VMZ shall be reduced and maintained such that when considered overall a maximum coverage of 30% is attained, and so that the leaf area of shrubs is not continuous. Careful selection of the vegetation will permit the 'clumping' of shrubs where desirable, for diversity, and privacy and yet achieve the 'overall maximum coverage of 30%'.
 - ii. Reduction of vegetation shall be in accordance with SA Native Vegetation Act 1991 and SA Native Vegetation Regulations 2017.

- iii. Trees and shrubs shall not be planted closer to the building(s) than the distance equivalent to their mature height.
- iv. Trees and shrubs must not overhang the roofline of the building, touch walls, windows or other elements of the building.
- v. Shrubs must not be planted under trees and must be separated by at least 1.5 times their mature height from the trees' lowest branches.
- vi. Grasses within the zone shall be reduced to a maximum height of 10cm during the Fire Danger Season.
- vii. No understorey vegetation shall be established within 2 metres of the habitable building (understorey is defined as plants and bushes up to 2 metres in height).
- viii. Flammable objects such as plants, mulches and fences must not be located adjacent to vulnerable parts of the building such as windows, decks and eaves
- ix. The VMZ shall be maintained to be free of accumulated dead vegetation.

4. TOURIST ACCOMMODATION - BUSHFIRE SURVIVAL PLAN

CFS further recommends:

- The applicants to prepare and display a BUSHFIRE SURVIVAL PLAN (BSP) designed specifically for the purpose of any guests that may be in residence during a bushfire event, especially during the Fire Danger Season. The BSP:
 - i. should provide clear directions to persons that may be unfamiliar with the area/locality and unfamiliar with what protective actions they may need to take to protect their lives during a bushfire event, including when to take such protective actions; and
 - ii. should address the possibility that the owners may not be present at the time of the bushfire event; and
 - iii. should not expect guests to be involved in fire-fighting operations.

The SA CFS 'Bushfire Safety Guide For Business' document (refer to CFS website) should be utilised as a basis for information and the drafting of the (GUEST) BSP.

The applicant should consider reducing operating hours and restrictions on days of heightened bushfire danger and/or bushfire events and consider including any alterations to bookings and services offered due to actual or predicted conditions during the Fire Danger Season in any booking/refund policy.

SA CFS has no objection to the supplied BSP, provided that it is reviewed and updated on a regular basis.

MANIFEST BOX (or similar)

Given the complexities that the subject site presents, SA CFS further recommends the installation of a Manifest Box at the entrance of the property. This box (which looks a bit like a small meter box), should be red with white writing 'Fire Protection system' or similar, and clearly visible to fire crews as they access the property. Information contained should include, but is not limited to, a list of emergency contact phone numbers and a site plan highlighting vehicle access, turning ability, building location, water i.e. fill locations, all fire protection equipment, and any on-site hazards or storage of dangerous materials i.e. LPG, fuels or chemicals.

ITEM 4.3

DEVELOPMENT NO.:	23010056
APPLICANT:	Ms Sarah Maidment - Quince Brook
ADDRESS:	604 Old Bull Creek Rd Strathalbyn SA 5255
NATURE OF DEVELOPMENT:	Partial change of use from existing farm shed to function centre to host up to 30 events per year including associated car parking areas and ablution block.
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• Murray-Darling Basin• Native Vegetation• Prescribed Water Resources Area• River Murray Tributaries Protection Area• Water Resources
LODGEMENT DATE:	28 April 2023
RELEVANT AUTHORITY:	Fleurieu Regional Assessment Panel
PLANNING & DESIGN CODE VERSION:	2023.5 30/03/2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	<p>Yes</p> <ul style="list-style-type: none">• 2 representations received<ul style="list-style-type: none">○ 1 representation in support○ 1 representation in opposition• 1 representor to be heard
RECOMMENDING OFFICER:	<p>Trent Hollis</p> <p>Town Planner</p>
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Engineering - Traffic
RECOMMENDATION:	Grant Planning Consent

CONTENTS:

Attachment 1:	Application Plans and Documentation	Pg. 250
Attachment 2:	Representations	Pg. 295
Attachment 3:	Response to Representations	Pg. 298
Attachment 4:	Planning and Design Code Policy Extract	Pg. 303

DETAILED DESCRIPTION OF PROPOSAL:

The applicant is seeking approval for partial change in land use involving the conversion of a farm building to a form of function venue which will predominantly be used for weddings. This application includes incidental improvements to the access road including additional formal carparks and informal overflow carparks, landscaping and building works and ablutions block.

The existing building will have no noticeable alterations to its current external appearance and will retain its existing metal roof and wall cladding (finished in navy blue) to keep its rural appearance when not in use.

The operation of the function centre is proposed to host up-to 30 functions/events per year at a maximum capacity of 140 guests standing or 120 seated. Most events will occur in the afternoon with hours of operation proposed from 11am to 12am (midnight) to permit set-up, arrival, the event, subsequent departure and pack-up within the proposed hours outlining that departure from the site would be initiated from 11:30 pm to ensure all guests have departed and the event has completed by midnight.

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

BACKGROUND:

This development is retrospective in nature. In the response to representations, the applicant has explained that the structure was approved as a 'farm building' and there was no initial intention to host weddings on the site, however following a successful family event, the applicant decided to offer the venue to others which they are now seeking to formalise to permit the use in an appropriate on-going manner.

SUBJECT LAND & LOCALITY:

Address: 604 OLD BULL CREEK RD STRATHALBYN SA 5255

Title ref.: CT 5946/455 **Plan Parcel:** D65756 AL114 **Council:** ALEXANDRINA COUNCIL

Site Description:

The subject land is located within the Rural Zone as per the Planning and Design Code (the Code).

The subject land is comprised of one (1) allotment, with a frontage to Bull Creek Road of approximately 270 metres and a depth of approximately 1,190 metres, resulting in an overall site area of approximately 33.74 hectares.

The land is undulating with a number natural topographic features including creeks, clustered and sparse vegetated areas as well as relatively significant gullies towards the centre and rear of the allotment.

Existing improvements on the site include the residence, the existing agricultural building which is the subject of this change of use application, formed all weather access tracks, internal and perimeter fencing, landscaping, rainwater tanks, dams and other minor structures and infrastructure associated with the residence and the farming of the subject land.

An aerial photograph of the subject land is provided below (Figure 1).

Locality

The locality is characterised by consistently large rural acreages with a number of sites vacant and dedicated wholly to farming. Predominantly the locality consists of low impact grazing likely due to the terrain, with some cropping and other activities occurring on the flatter portions of land. Dams, fenced off scrub, brush and wetland areas also a prominent natural feature of the locality.

There are a number of rural dwellings and buildings scattered throughout the locality. Additionally, other notable tourist facilities exist within the locality, including Wirraway Homestead (a rural camp facility) that operates from buildings clustered near Old Bull Creek Road.

Subject Land and Locality Map

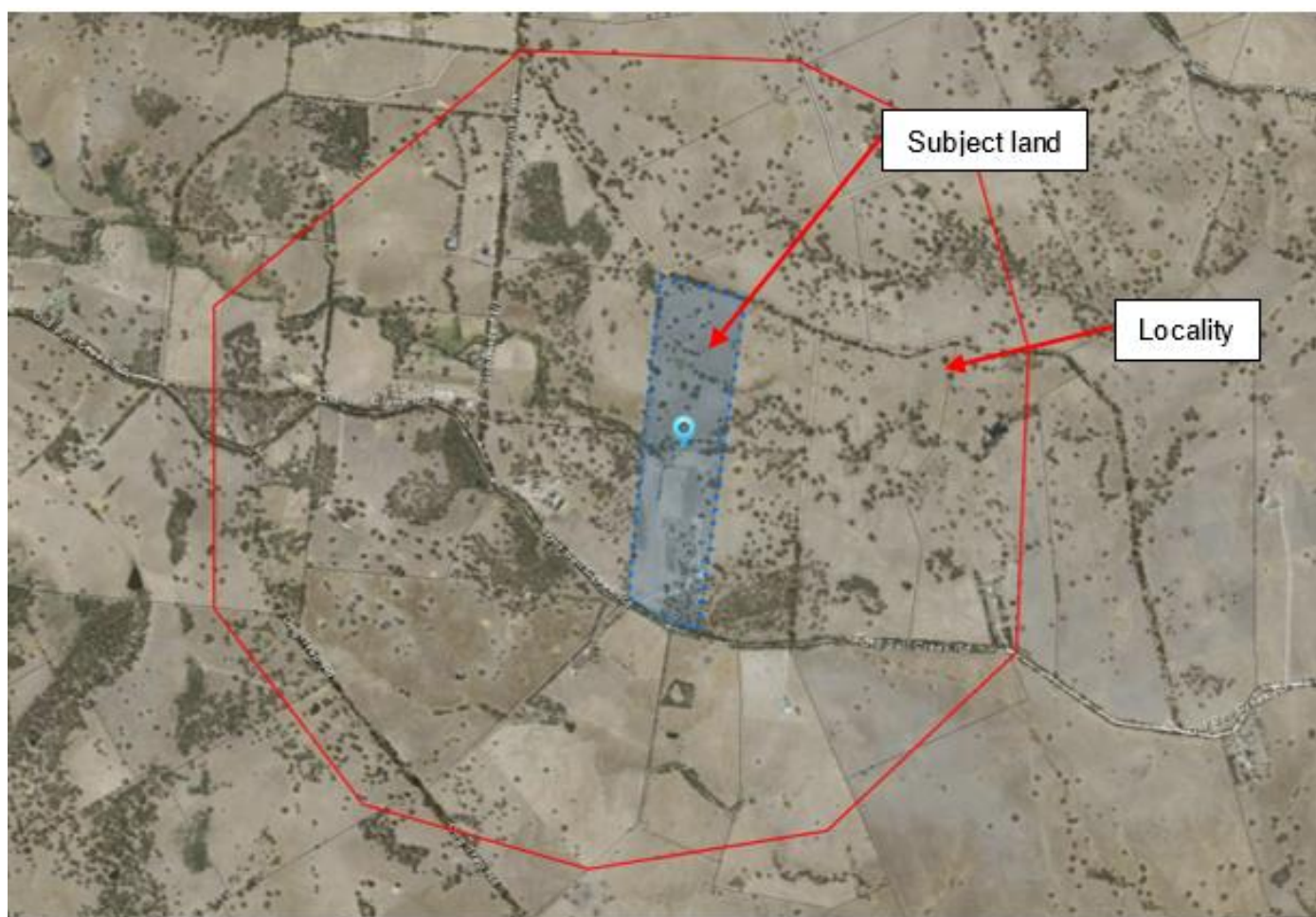


Figure 1 – Subject land and locality

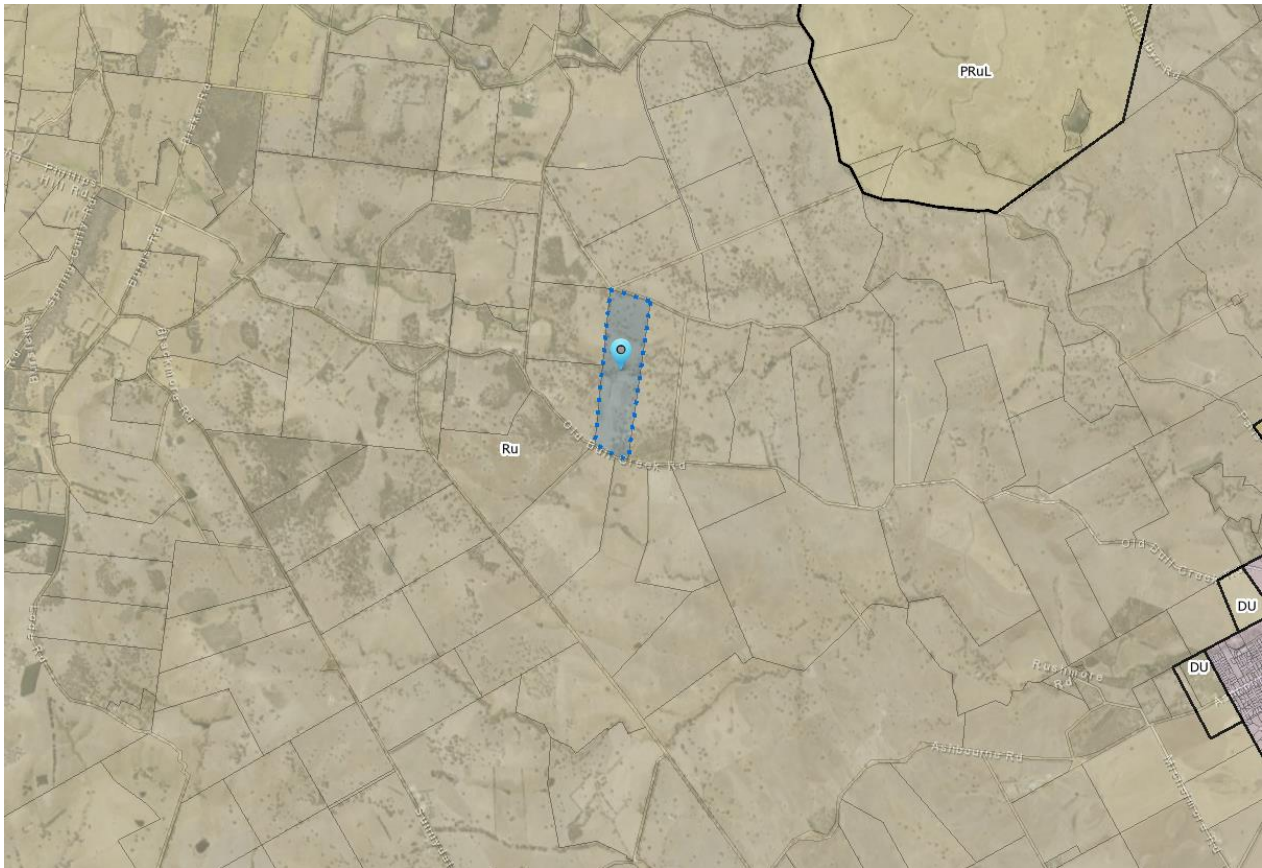


Figure 2- Planning and Design Code zoning

Key: R – Rural Zone, PRuL – Productive Rural Landscape Zone, N – Neighbourhood Zone, DU – Deferred Urban Zone

Subject Land and Locality Photographs



Figure 3 – The subject site with approximate 100 metre buffer



Figure 4 – Existing shed viewed from the north east corner of the lawn looking south.



Figure 5 – Existing shed as improved viewed from the west driveway looking north.



Figure 6 – Existing shed as improved viewed from the east of the driveway (bus drop off) looking south-west.

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**

Change of use: Code Assessed – Performance Assessed

Function Centre: Code Assessed – Performance Assessed

Other Commercial/industrial – Ablutions block: Code Assessed – Performance Assessed

- **OVERALL APPLICATION CATEGORY:**

Code Assessed - Performance Assessed

- **REASON**

Planning & Design Code – No elements are listed as Accepted, Deemed-to-Satisfy or Restricted, therefore defaults to Performance Assessed.

PUBLIC NOTIFICATION

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 is not listed as exempt within Table 5 of the Rural Zone and the proposed development is not considered to be minor in nature from a notification perspective.

As such, the proposed development was notified between 4 May and 24 May 2023.

During the public notification period, two (2) representations were received, with one (1) representations in support of the proposal and one (1) representations opposing the proposal. One (1) of the representors have indicated a desire to be heard by the Panel in support of their submission.

Representations Received

Representations received		Support / Opposed	Wish to be heard?
1.	Steve Glasgow	Support	No
2.	David Beelitz	Opposed	Yes

Location of Representors (where known – numbers correspond with representors listed above)



Figure 7: The location of representations within the locality of the proposed development

Summary of Issues Raised and the Applicant's Response

Summary of Issues Raised	Applicant's response
<u>Use / Zoning</u>	<p>The existing structure was approved as a farm building.</p> <p>The land owners have submitted this development application to formalise the use that currently occurs at very low frequency without any formal consent.</p> <p>This application does not involve a re-zoning</p>
<u>Number of events</u>	<p>Function events are proposed to be limited to a maximum of 30 events per year however this will likely be less in reality as the applicants to reside on the property</p>

FLEURIEU REGIONAL ASSESSMENT PANEL

<u>Traffic</u>	Traffic volumes produced from the function events will be generally limited to weekends and would be concentrated prior to and at the conclusion of an event. Vehicles would not be frequently coming and going.
<u>Nuisance (dust & noise)</u>	The nature of how primary production related vehicles utilising the public road would be relatively similar to the proposed use such that it is considered that this proposed use would not create excessive dust or noise.
<u>Security</u>	Patrons of function events are to remain within the curtilage and grounds of the function event. There is no reason for patrons to venture afield and will enter and exit the site via a vehicle.
<u>Property Value</u>	<p>The Planning and Design Code makes no reference to the matter of property values, therefore, property values and the possible effect development may have on them cannot influence the determination of an application.</p> <p>Past ERD court judgments have reinforced this. Reference: Meyer and Northern Areas Council and Broughton Hills No. ERD – 98 – 15 Judgment No. OE471 [1998] SAERDC 471 (7 April 1998) and; St Raphael's School v Unley City Council [1995]</p>

A full copy of the representations 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

Department/Division	Comment
Engineering - Traffic	<p>No concerns have been raised.</p> <p>There is ample car parking on site for the proposed use without having any impact on Old Bull Creek Rd.</p>

PLANNING ASSESSMENT

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

Land Use

The Rural Zone supports a diverse range of farming and value-adding activities (DO 2). A function centre use, while not specifically listed within DPF 1.1, is a form of development contemplated within the Zone, noting the Zone provides specific policy guidance for the assessment of function centres. Further, PO 1.1 seeks to support, protect and maintain the productive value of rural land for a range of primary production while still considering associated value adding activities. The range of activities in the Zone that may be contemplated as 'value adding' that are not specifically listed in DPF 1.1 are reflected in the range of policies

FLEURIEU REGIONAL ASSESSMENT PANEL

specific to different uses. For reference relating to the different uses envisaged, the following PO's and their corresponding DPF's (Designated Performance Features) guide the assessment of different uses within the Zone.

PO/DPF 4.1 – 4.3	– Rural Industry
PO/DPF 6.1 – 6.6	– Shops, Tourism and Function Centres
PO/DPF 7.1	– Offices

Fundamentally, the proposed 'function centre' land use is an anticipated use within the Rural Zone.

Specific Zone policies that directly relate to the proposed Function Centre are discussed further within this report.

Building Height

Rural Zone DPF 6.6 (d) indicates that a function centre should not exceed a building height of 9.0 metres above natural ground level. In context, the Zone policy DPF 12.1 (c) does also contemplate agricultural buildings not exceeding 10.0 metres in height above natural ground level.

With the application proposing a partial change of land use (inclusive of the building) and the only additional built form being an ablutions block to the south-east of the existing building, the height of the existing and proposed buildings is well within the policy provisions and is considered acceptable as it would not compromise the character or amenity of the locality from a building height perspective.

Setbacks, Design & Appearance

Rural Zone DPF 6.6 (b) designates a minimum setback from all allotment boundaries of 40 metres. The existing building has a setback of approximately 12.5 metres which does fall short of the 40 metres sought. Giving consideration to the location of the existing shed and how the proposed use would impact the subject lands on-going primary productive value, it is acceptable that this siting would not prejudice Desired Outcome 1 of the zone. With all ancillary landscaping, existing and required driveways, parking and vehicle manoeuvring areas to the south east of the subject land near the existing established vegetation and sharing the existing driveway that also services the dwelling appropriately minimises productive land lost to the proposed use.

It is important to give regard to the nature of the proposal in-so-far that the application is not proposing a new building (with the exception of the ablutions block) and is seeking to formally repurpose an existing structure on the land. While the quantitative provisions of the Code for setbacks from boundaries are not achieved, the nature of this boundary and the proposed interface and treatment (planting/landscaping) is such that a lesser setback is not considered to prejudice the potential or actual development of the adjoining land. Another reality that should be realised is that the subject land is still predominantly used for low intensity farming such that the continuation of this use adds to the viability and desired setting for this form of use being situated within the picturesque rural hills setting just outside of Strathalbyn. For these reasons, it is considered that the development achieves PO 6.6, such that the proposed development, its siting, design and scale will maintain a pleasant rural amenity and not compromise the function of adjoining rural land.

The building appearance will continue to reflect its original approved built form as a farm shed and would not have any visual impact on the locality as it is completely shielded from the public road and any existing adjoining neighbours. In consideration of the adjoining land with no current occupants, it is near impossible to contemplate where development may occur given the unique constraints that apply to building on the subject and adjoining site (such as Bushfire risk, access, vegetation interface etc.) however, when applying the provisional setback requirement of DPF 6.6(c) which requires a setback of 100 metres from a sensitive receiver in other ownership, the situation of the structure and use would not unreasonably implicate where development may occur on the adjoining land to the east (see figure 3).

Function

The maximum capacity proposed is 140 persons for a standing event and 120 for seated events. DPF 6.5 speaks to a capacity of 75 persons. The applicant has demonstrated through the provision of an acoustic report and the reasonable provision of parking, that the maximum capacity proposed would not be significant such that the capacity would not create any unreasonable nuisance within the locality by way of noise or traffic. Furthermore, the physical footprint that the use would require to function is considered to still be reasonably be incidental to and associated with the existing land use as sought by PO 6.5 and 6.6. of the Zone.

Traffic Impact, Access and Parking

Old Bull Creek Road is an unsealed public road which is part of Council's regular maintenance program. Council's Traffic engineer did not raise any issues with regards to the traffic that may be generated by the proposal. Considering the nature of vehicles that would utilise the road to access the site, the impact of the individual vehicles or busses would be similar or lesser that the agricultural vehicles or implements that these roads typically see.

The internal access road is well formed and suitable for cars and busses to easily and appropriately access and manoeuvre around the subject site with no concerns identified by Council's traffic engineer.

The applicant has demonstrated the provision of 18 delineated carparks and approximately 23 unmarked spaces within an overflow area. The Code is silent on specific carpark numbers for this type of land use. Given the size of the land and general availability for informal parking on the property, the number of 'formalised' car parks is considered to be sufficient.

It is worth noting that typically these type of uses would see the majority of persons arrive via busses or carpool due to the nature of the event.

Environmental Factors

Security

The proposed site of the function centre is contained within a defined portion of the land which is fenced from the balance of the subject and adjoining lands. It is not expected that visitors would wander from the venue and associated grounds, with all entry and exit from the site being by private or group vehicles. The rural setting would not generally see visitors arrive by walking or other means. As the proponents also reside in the dwelling to the north of the proposal, there is a degree of on-site accountability with respect to enforcing appropriate behaviour and ensure compliance with any conditions that may be imposed such as noise, hours of operation etc. A degree of competent management of the facility should be assumed.

Bushfire Risk

The subject land is located within a Hazards (Bushfire – Medium Risk) Area Overlay and the subject land borders the High Overlay to the west. While the proposed development is not referred to the CFS for comment, the applicant in the details provided have demonstrated a reasonable degree of compliance with respect to the relevant provisions of the Overlay including access, egress, water supply etc. The building rules assessment would need to consider what the Bushfire Attack Level (BAL) is to ensure the building uses suitable methods of construction to achieve compliance. This however does not form part of the planning assessment.

Noise Emissions

The applicant engaged Echo Acoustic Consulting to undertake an investigation and submitted their report dated 6th of March 2023 as part of the application. This report directly refers to the most appropriate provisions of the General Development Policy, Interface between Land Uses, specifically the 'Activities Generation Noise or Vibration' section (refer PO/DPF 4.1 – 4.6).

By demonstrating that the relevant noise criteria of the code can be achieved with the management of significant noise generating sources (in house speaker system) the applicant demonstrates that they can or will achieve DPF 4.6 and can therefore reasonably achieve the corresponding PO relating to music and the amenity of the nearest sensitive receivers.

As is summarised in the report, echo concludes that *'the function venue can reasonably and practicably achieve the relevant standards required by the Planning and Design Code at all dwellings where music outside is restricted to background levels and music inside is only played through a calibrated in-house speaker system which is limited to the nominated times of use and music levels in this assessment.* Management of noise in accordance with the acoustic report is to form a condition on this recommendation which should suitably limit the impact of the noise element of the proposal on the amenity of the locality.

Waste Management

Food provisions are to be brought in by caterers or food trucks. Management of any wastes derived from the function centre have not been specified but should be dealt with and managed separately from the domestic pickup associated with the dwelling on the land.

Approval for the installation of an on-site wastewater management system in association with the proposed wet areas (bathroom facilities and bar plumbing) is to form a reserved matter on this recommendation.

Signage

No signage was nominated as part of this application. Any future signage will be the subject of further applications except as exempted under legislation.

CONCLUSION

The proposed development has been assessed against the most relevant provisions of the Code as it applies to the subject land.

Function centres continue to be an emergent theme of development in rural areas, particularly because of the attractive scenic landscapes that are on offer. The Applicant has demonstrated that the proposed development can operate without detrimental impact to the existing rural amenity, and the scale and frequency of the operation is limited in such a manner that the proposed land use can reasonable co-exist with surrounding land uses.

On balance, the proposal has demonstrated an ability to reasonably comply with the most relevant Desired Outcomes and Performance Outcomes of the Code.

It is considered that the proposal would, with the imposition of appropriate on-going conditions, not detrimentally diminish the rural character and amenity that exists within the locality. As such, it is considered that there is a sufficient degree of merit to warrant to granting of Planning Consent with conditions and reserve matters

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 23010056, by Ms Sarah Maidment - Quince Brook is GRANTED Planning Consent subject to the following reasons/conditions/reserved matters:

RESERVE 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:

- Lodgement and approval of a Wastewater Works Application

An Application for Wastewater Works must be completed in full and lodged with Council, along with supporting documentation dependant on what is being applied for (i.e. site plan, underfloor plumbing plan).

The waste control application form can be found at the following web link: https://www.alexandrina.sa.gov.au/data/assets/pdf_file/0036/196389/Alexandrina-WASTEWATER-WORKS-APPLICATION-May-2013.pdf

Once you have obtained approval for the waste control system, please upload a copy of your waste control approval to the PlanSA Portal to satisfy this Reserved Matter.

Development Approval will not be issued until Wastewater Works Approval has been granted and any outstanding reserve matters are met.

Further information regarding wastewater management in Alexandrina Council can be found at the following web link: <https://www.alexandrina.sa.gov.au/live/waste/community-wastewater-management-systems>

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

CONDITIONS

Assessment Panel

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).
2. The acoustic attenuation measures recommended in the Quince Brook Environmental Noise Assessment, dated 6 March 2023 by echo Acoustic Consulting, shall be fully incorporated into the building rules documentation to the reasonable satisfaction of the relevant authority.

Such acoustic measures shall be made operational prior to the occupation or use of the development.

- 3. Hours of operation shall be restricted between 11am and 12 am (Midnight) for all events. Music shall cease at 11.30pm with all guests to be cleared from the site by 12 am**

Reason: to ensure the development will not have an unreasonable impact on amenity within the locality

- 4. The maximum number of patrons shall not exceed 140 persons for all functions/events.**

•

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

- 5. Waste generated from the function centre shall be disposed in an appropriate manner separate from any existing waste arrangement for the private residence on the subject land.**

Reason: to ensure the development does not place undue burden upon public waste management services.

- 6. The delineated car parking areas shown on the detailed site plan dated 6.3.23 sheet 5 of 5 of the submitted plans including the disabled access carparks shall conform with Australian Standards with individual car parking bays to be permanently delineated prior to the occupation or use of the development herein approved.**

Reason: To ensure that the proposed development meets the requirements of the relevant Australian Standards.

- 7. All car parking spaces, driveways and manoeuvring areas shall have a firm surface (compacted rubble or similar) providing stability and traction in both wet and dry conditions, with grasses maintained so as to not create a bushfire risk.**

Reason: To provide adequate, safe and efficient off-street parking for users of the development and ensure the car parking area does not create an unreasonable bushfire risk.

- 8. The garden along the eastern boundary of the site shown on the detailed site plan dated 6.3.23 sheet 5 of 5 of the proposed development shall be established with suitable native vegetation that will be of a species appropriate to the area and mature to such a height to reduce the visual impact of the development. The vegetation shall be maintained in a healthy condition at all times.**

Reason: To ensure the subject land is landscaped so as to enhance the visual and environmental amenity of the locality.

- 9. 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.**

Reason: To ensure that floodlighting does not cause nuisance or danger to adjoining occupiers or road users thereby reducing the amenity of the locality and/or making road use unsafe.

ADVISORY NOTES

1. The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).
2. No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
3. This consent or approval will lapse at the expiration of 24 months from its operative date (unless this period has been extended by the Authority).
4. 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.
5. Allotment boundaries will not be certified by the Authority. 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.
6. 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>.

ITEM 5. CONFIDENTIAL REPORTS

NIL

ITEM 6. ADMINISTRATIVE REPORTS

NIL

ITEM 7. GENERAL ITEMS FOR DISCUSSION

ITEM 8. Next meeting

Next meeting is scheduled for Tuesday 15 August 2023 commencing at 11:00am