



STATE COMMISSION ASSESSMENT PANEL

A COMMITTEE OF THE STATE PLANNING COMMISSION

Minutes of the 158th Meeting of the
State Commission Assessment Panel
held on Wednesday 10th May 2023 commencing at 9.30am
Level 9, 83 Pirie Street Adelaide / Microsoft Teams video conferencing

1. OPENING

1.1. ACKNOWLEDGEMENT OF COUNTRY

The Presiding Member acknowledged the traditional custodians of the land on which the State Commission Assessment Panel meets, and paid respect to Elders past, present and emerging.

1.2. PRESENT

Presiding Member	Rebecca Thomas
Members	Rebecca Rutschack (Deputy Presiding Member) John Eckert Emma Herriman Paul Leadbeter David Altmann
Secretary	Jaclyn Symons, Governance Officer
DTI Staff	Margaret Smith Brett Miller Jeremy Wood (2.2.2) Ben Scholes (2.2.1) Damon Huntley (2.2.2) Maria Klimenchuk

1.3. APOLOGIES

Grant Pember

2. SCAP APPLICATIONS

2.1. DEFERRED APPLICATIONS

2.2. NEW APPLICATIONS

2.2.1 Graham Mulvihill

23005920

4619 Victor Harbor Road, Hindmarsh Valley

Restricted Development – Land Division (1 allotment into 3) for Rural Living purposes.

The State Commission Assessment Panel discussed the application.

RESOLVED

1) Pursuant to section 110(14) of the *Planning, Development and Infrastructure Act 2016*, to REFUSE TO PROCEED TO ASSESS development application 23005920 by Graham Mulvihill for land division (1 allotment into 3) for Rural Living purposes within the Limited Land Division Overlay at 4619 Victor Harbor Road, Hindmarsh Valley, for the following reasons:

- a) The proposed development does not meet the intent of the State Planning Policies or desired outcomes for the Rural Zone.
- b) The size of the additional allotments may create a context for future land division proposals of a similar nature in the Rural Zone, contrary to primary production objectives.

ADVISORY NOTES

If you are aggrieved by this decision, you have a right to seek a review of this decision by the State Planning Commission. An application for review must be made in a manner and form determined by the State Planning Commission and must be made within one month of this notice.

The prescribed form is contained in Attachment 1 of [Practice Direction 4 – Restricted Development](#). Further information can be found on the PlanSA website on the 'Decisions and appeals' webpage.

2.2.2 Clements Architecture C/- Masterplan

22038446

39 Emmett Road, Crafers West

Two storey detached dwelling incorporating a deck (maximum height 4.5 metres), carport, roof-mounted solar panels, retaining walls (maximum height 3.2 metres), and associated earthworks and landscaping.

The Presiding Member welcomed all in attendance to the State Commission Assessment Panel hearing:

Applicant

- Ben Clements (Clements Architecture)
- Lucia Clements (Clements Architecture)
- Greg Vincent (Masterplan)
- Charlie Dubois (Masterplan)

Representation

- Helen Alexander and Guillaume Backé

Agency

- Annie Pomeroy (CFS)

The State Commission Assessment Panel discussed the application.

RESOLVED

- 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 22038446, by Clements Architecture C/- Masterplan is granted Planning Consent subject to the following conditions and reserved matters:

RESERVED MATTERS

Planning Consent

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

Reserved Matter 1

A final detailed Stormwater Management Plan shall be prepared in consultation with the Adelaide Hills Council and submitted to the satisfaction of the State Planning Commission.

Reserved Matter 2

An updated Landscaping Plan shall be prepared in accordance with CFS requirements and submitted to the satisfaction of the State Planning Commission.

CONDITIONS

Planning Consent

Condition 1

The development authorisation granted herein shall be undertaken in accordance with the stamped approved plans, drawings, specifications and other documents submitted to the State Planning Commission, except where varied by conditions below (if any).

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

Condition 2

The 'Planning and Design Code' Hazards (Bushfire – High Risk) Overlay (Performance Outcome 3.2) details the mandatory requirements for extensions to buildings, outbuildings and other ancillary structures are sited and constructed using materials to minimise the threat of fire spread to residential and tourist accommodation (including boarding houses, hostels, dormitory style accommodation, student accommodation and workers' accommodation) in the event of bushfire.

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

Condition 3

ACCESS TO HABITABLE BUILDING

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.

Turn Using Public Road

SA CFS has no objection to utilising the driveway and the public road for a 'T' shaped turnaround 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.
- The 'T' shaped turning area, (utilising the public road) shall be a minimum formed length of 11 metres (for each 'leg') with a minimum internal radii of 9.5 metres on bends, including bends connecting private access to public roads.
- Vegetation overhanging the access road shall be pruned to achieve a minimum vehicular clearance of not less than 4 metres in width and a vertical height clearance of 4 metres.

Condition 4

WATER SUPPLY & ACCESS (to dedicated water supply)

Ministerial Building Standard MBS008 "Designated bushfire prone areas - additional requirements" 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 a pumping system, pipe-work and fire-fighting hose(s) in accordance with MBS008.

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

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 location for the dedicated water supply as detailed on drawing named SITE PLAN dated at last revision 21/10/2022, providing the outlet is positioned to comply with the following conditions:

- The water supply outlet shall be easily accessible and clearly identifiable from the access way and is no greater than 60m path of travel to the furthestmost point of the building, to enable fire services to reach all parts of the building with no more than two lengths of hose from the hardstand area.
- The dedicated water supply and its location should be identified with suitable signage (i.e. blue sign with white lettering "FIRE WATER").
- A gravity fed water supply outlet may be remotely located from the above ground tank to provide adequate access.
- Provision shall be made adjacent the water supply outlet 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.
- Access to the dedicated water supply shall:
 1. be of all-weather construction, with a minimum formed road surface width of 3 metres; and
 2. have a gradient of not more than 16 degrees (1-in-3.5) at any point; and
 3. the transition area between the road and the driveway shall have a gradient of not more than 7 degrees (1-in-8); and
 4. provide overhead clearance of not less than 4.0m horizontally and vertically between the driveway surface and overhanging branches or other obstructions, including building and/or structures.
- SA CFS appliance's inlet is rear mounted; therefore the outlet shall be positioned so that the SA CFS appliance can easily connect to it rear facing.

- All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.
- All water supply pipes for draughting purposes shall be capable of withstanding the required pressure for draughting.

Condition 5

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 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:
 1. The number of trees and understorey plants existing and to be established within the APZ 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%'.
 2. Reduction of vegetation shall be in accordance with SA Native Vegetation Act 1991 and SA Native Vegetation Regulations 2017.
 3. Trees and shrubs shall not be planted closer to the building(s) than the distance equivalent to their mature height.
 4. Trees and shrubs must not overhang the roofline of the building, touch walls, windows or other elements of the building.
 5. 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.
 6. Grasses within the zone shall be reduced to a maximum height of 10 cm during the Fire Danger Season.
 7. 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).
 8. 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
 9. The APZ shall be maintained to be free of accumulated dead vegetation.

ADVISORY NOTES

Planning Consent

Advisory Note 1

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent or Development Approval. 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 ERD Court if wishing to appeal. The ERC Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).

Advisory Note 2

This consent or approval will lapse at the expiration of 24 months from its operative date (unless this period has been extended by the State Planning Commission).

Advisory Note 3

The approved development must be substantially commenced within 24 months of the date of Development Approval, and completed within 3 years from the operative date of the approval, unless this period has been extended by the relevant authority.

Advisory Note 4

The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause environmental harm.

Advisory Note 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, which may include the provision of a Significant Environmental Benefit. 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 contact the Native Vegetation Council on telephone 8303 9777 or visit: <http://www.nvc.sa.gov.au>.

Advisory Note 6

All Council, utility or state-agency maintained infrastructure (i.e. roads, kerbs, drains, crossovers, footpaths etc) that is demolished, altered, removed or damaged during the construction of the development shall be reinstated to Council, utility or state agency specifications. All costs associated with these works shall be met by the proponent.

Advisory Note 7

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. For further information about appropriate management of construction site, please contact the relevant Local Government Authority.

Advisory Note 8

The approved development must be substantially commenced within 24 months of the date of Development Approval, and completed within 3 years from the operative date of the approval, unless this period has been extended by the relevant authority.

Advisory Note 9

A person who has made a representation on a development classified as restricted development may appeal the decision. Such an appeal must be lodged at the Environment Resource and Development Court within 15 business days after the date of the decision.

Advisory Note 10

The applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works require the removal, alteration or repair of an existing boundary fence or the erection of a new boundary fence, a 'Notice of Intention' shall be served to adjoining owners. Please contact the Legal Services Commission for further advice on 1300 366 424 or refer to their web site at www.lsc.sa.gov.au.

Advisory Note 11

It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.

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

Advisory Note 12

BUILDING CONSIDERATIONS

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

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

A site Bushfire Attack Level (BAL) assessment was conducted in accordance with the NCC and Australian Standard™3959 (AS3959) "Construction of Buildings in Bushfire Prone Areas".

Category of Bushfire Attack Level: **BAL Flame Zone**

This BAL rating is conditional upon the establishment and maintenance of a 20 metre Asset Protection Zone, in accordance with the Asset Protection Zone – Vegetation Management condition of consent placed on the planning consent with the same application reference.

SA CFS notes that achieving a lower Bushfire Attack Level is restricted by the proximity of the habitable building to the allotment boundaries.

This result is considered relevant at the date of assessment with respect to the elevations detailed on proposed Site Plan, dated 21/10/2022 and shall not be considered as SA CFS endorsement of any subsequent development.

2.3. RESERVED MATTERS

3. CROWN DEVELOPMENTS (ADVISORY ITEMS)

3.1. DEFERRED APPLICATIONS

3.2. NEW APPLICATIONS

4. MAJOR DEVELOPMENTS – VARIATIONS

5. REPORTING

6. COURT COMPROMISE

7. BRIEFINGS

8. PROCEDURAL MATTERS

9. OTHER BUSINESS

10. NEXT MEETING

- 10.1. Wednesday 24 May 2023 at Level 9, 83 Pirie Street, Adelaide SA 5000/ Via Microsoft Teams video conferencing.

11. REVIEW OF SCAP INSTRUCTIONS TO STAFF AND UPCOMING AGENDA ITEMS

12. CONFIRMATION OF THE MINUTES OF THE MEETING

13. MEETING CLOSE

- 13.1. The Presiding Member thanked all in attendance and closed the meeting at 11.02am.

Confirmed 10/05/2023



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Rebecca Thomas
PRESIDING MEMBER