

Notice of Council Assessment Panel Meeting

Tuesday 15 December 2020

MEMBERSHIP

Mr M Adcock
Ms B Merrigan
Mr G Salmon
Mr J Rutt
Mr D Wyld

Independent Member (Presiding Member)
Independent Member
Independent Member
Independent Member
Elected Member

NOTICE is given pursuant to Sections 87 and 88 of the Local Government Act 1999 that the next **COUNCIL ASSESSMENT PANEL MEETING** will be held by **ELECTRONIC MEANS ONLY** on **TUESDAY 15 DECEMBER 2020** commencing at **10:00AM**.

A copy of the Agenda for the above meeting is supplied.

Council is committed to providing greater community access to Council meetings during the COVID-19 pandemic. Under current directions at the time of printing, this meeting will be conducted in a fully format electronic. Members of the community are welcome to listen and observe meetings via [Council's website](#).

Council may restrict or limit access to members of the public physically attending the meeting to ensure compliance with current restrictions. Priority will be given to members of the public who wish to speak in the Public Forum and Deputation section of the agenda and have obtained prior approval from Council.



JOHN MOYLE
CHIEF EXECUTIVE OFFICER

Dated: 09 December 2020



Naturally Better

CITY OF TEA TREE GULLY
COUNCIL ASSESSMENT PANEL MEETING
15 DECEMBER 2020

AGENDA

1. Attendance Record:

- 1.1 Present
- 1.2 Apologies

2. Minutes of Previous Meeting

That the Minutes of the Council Assessment Panel Meeting held on 17 November 2020 be confirmed as a true and accurate record of proceedings.

3. Business Arising from Previous Minutes - Nil

4. Reports and Recommendations

- 4.1 CAP.070/119231/2020 - Single Storey Dwelling with Associated Earthworks and Landscaping, Horse Keeping with Associated Horse Shelters, Horse Arena, Fencing, Earthworks and Landscaping, Outbuilding (Shed and Carport) and Water Storage Tank (Non-Complying) at 117E Range Road North Upper Hermitage5**

Recommended to Grant Development Plan Consent

Deputation(s):

- Representative of W Baker (Representor)
- N Simos (Applicant)

5. Other Business

5.1 E.R.D. Court Matters Pending

- 5.1.1 CAP.070/118168/2019 - Land Division (1 Allotment into 2) Torrens Title at 104 Green Valley Drive, Greenwith**

Outcome: This matter was heard at a (further) Directions Hearing on 20 October 2020 and is pending judgement of the Court.

5.2 Policy Considerations

Planning Policy Considerations will be recorded in the minutes following discussion by Members.

5.3 Pending State Commission Assessment Panel Concurrence - Nil

6. Information Reports - Nil

7. Date of Next Meeting

19 January 2021

REPORT NO: CAP.070/119231/2020

RECORD NO: D20/105102

TO: COUNCIL ASSESSMENT PANEL MEETING - 15 DECEMBER 2020

FROM: Henry Beesley
Planning Officer

SUBJECT: CAP.070/119231/2020 - SINGLE STOREY DWELLING WITH ASSOCIATED EARTHWORKS AND LANDSCAPING, HORSE KEEPING WITH ASSOCIATED HORSE SHELTERS, HORSE ARENA, FENCING, EARTHWORKS AND LANDSCAPING, OUTBUILDING (SHED AND CARPORT) AND WATER STORAGE TANK (NON-COMPLYING) - 117E RANGE ROAD NORTH UPPER HERMITAGE

SUMMARY

Applicant: Nick Simos of SA Urban and Regional Planning

Nature of Development: Single storey dwelling with associated earthworks and landscaping, horse keeping with associated horse shelters, horse arena, fencing, earthworks and landscaping, outbuilding (shed and carport) and water storage tank (non-complying)

Address: 117E Range Road North UPPER HERMITAGE

Application No: 070/119231/2020

Lodgement Date: 5 July 2020

Development Plan: Consolidated 27 December 2018

Zone and Policy Area: Hills Face Zone (No Policy Area)

Relevant Development Plan Provisions:

- Objectives
- Animal Keeping: 1, 2
- Crime Prevention: 1
- Design and Appearance: 1
- Energy Efficiency: 1
- Hazards: 1, 5
- Interface between Land Uses: 1
- Landscaping, Fences and Walls: 1
- Natural Resources: 1, 8, 10, 13
- Residential Development: 1
- Siting and Visibility: 1
- Sloping Land: 1
- Transportation and Access: 2
- Waste: 1
- Hills Face Zone: 1, 3

Principles of Development Control

- Animal Keeping: 1, 2, 3, 4, 5, 6
- Crime Prevention: 2
- Horse Keeping: 7, 8, 9, 10
- Design and Appearance: 1, 3, 5, 12, 14, 15, 16, 22
- Energy Efficiency: 1, 2, 3, 4, 5
- Hazards: 1, 8, 9, 10
- Interface between Land Uses: 1, 2, 4, 5
- Landscaping, Fences and Walls: 1, 2, 3, 4
- Natural Resources: 1, 2, 7, 8, 14, 30, 31
- Residential Development: 1, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13
- Siting and Visibility: 1, 2, 3, 4, 5, 8
- Sloping Land: 1, 2, 3, 4, 8
- Transportation and Access: 22, 31, 45
- Waste: 1, 3, 7, 13, 14
- Hills Face Zone: 1, 2, 3, 10, 11, 13, 14, 15, 16, 17, 20, 25, 26.

Public Notification: Category 3

Representations:

Number of Properties Notified: 10
 Number of Representations Received: 3
 Names and Addresses of Representors:
 Mr John Drexel
 23 Range Road North, Upper Hermitage

 Mr William Baker
 117C Range Road North, Upper Hermitage

 Mr Brenton Jordan
 117F Range Road North, Upper Hermitage

Number of Representors wishing to be heard: 1 (by a third party)

Schedule 8 Referral: N/A

Was a request for additional information made? Yes

Issues: Non-complying dwelling design, non-complying earthworks, non-complying driveway length and access, and horse keeping

Recommendation: Grant Development Plan Consent

1. PROPOSAL

The applicant seeks to construct a single storey detached dwelling with associated balcony, earthworks and retaining walls. In addition, they seek to undertake horse keeping with associated horse arena, stables, fencing, earthworks and outbuilding.

The dwelling is a single storey conventional styled dwelling with external walls comprising a mix of weatherboard cladding finished in 'Greyology 6' (a medium grey), and feature natural stonework to the dwellings primary (southern) elevation. The dwelling roof consists of a pre-coloured steel finish in a 'Basalt' colour (a dark grey). The main roof has an inverted pitch of 22.5 degrees.

The design of the dwelling has a single finished floor level applied throughout, resulting in external wall heights that exceed 3m above finished ground level. The dwelling includes a triple width garage under the main roof that presents to the common driveway to the south. The design also incorporates an under main roof alfresco to the north of the dwelling and a verandah with decking to the eastern side of the dwelling.

The dwelling is located approximately 110m from the western boundary, 149m from the southern boundary, 98m from the eastern boundary, and 138m from the northern boundary.

Horse keeping is also proposed to be undertaken on the site. The applicant has applied to keep a maximum of three horses on the property and also seeks approval for a horse arena (60m by 20m) with associated fencing, and three stables (4m by 4m; 2.4m post height and 3.54m total height) with associated holding yards and fencing.

An outbuilding (part garage and part carport) is to be constructed to the east of the proposed horse arena. The outbuilding will be 16.1m in length by 12.1m in width and has a maximum height of 3.9m. The outbuilding will be pre-coloured steel finished in a 'Wallaby' colour (dark grey).

The dwelling, horse arena, outbuilding and stables are all to be located directly north of the established common driveway on top of a ridge line, which is the flattest portion of the site.

Minor earthworks are required to accommodate the dwelling and associated driveway, outbuilding and associated driveway, horse shelters and associated holding yards. However, up to 1.4m of fill and 1.2m of cut is proposed to accommodate the finished level of the horse arena, with the earthworks requiring development approval in its own right. Retaining walls will be used to support earthworks however they do not exceed 1m in height and therefore do not require approval.

The dwelling will be serviced by an on-site waste water system comprising a septic tank and soakage area, and is to be sited to the north of the proposed horse arena.

All stormwater associated with the development will be captured via three water tanks with a combined capacity of 50,000L, with 5,000L of this dedicated for firefighting purposes.

Open sided post and rail fencing is proposed in association with the holding yards and the horse arena and is to be constructed using timber posts up to 1.8m in height. The owner has mentioned that post and wire fencing will be constructed throughout the site, however this in its own right does not constitute development.

2. PROCEDURAL MATTERS

The Hills Face Zone assigns a dwelling as a non-complying form of development except where it achieves all of the following criteria:

- (a) *It will not result in more than one dwelling on an allotment and:*
 - (i) *no other dwelling exists on the allotment*
 - (ii) *no valid development authorisation to erect a dwelling on that allotment exists*
 - (iii) *no other development application has been made for a dwelling on that allotment and has yet to be determined.*

- (b) *The scale and design is such that:*
 - (i) *the vertical distance between any point at the top of any external wall and the finished ground level immediately below that point on the wall is less than three metres, other than gable ends of the dwelling where the distance is less than five metres*
 - (ii) *there is no floor level directly above another floor level, except where the upper floor level is located wholly at or below finished ground level*
 - (iii) *the depth of excavation and/or height of filling of land is less than 1.5 metres*
 - (iv) *access to a new dwelling is provided by a private vehicular access track that is less than 30 metres in length and which has a gradient of less than 16 degrees (1-in-3.5) at any point*
 - (v) *it does not involve the clearance of native vegetation comprising trees and/or shrubs.*

The proposal does not satisfy all of the above criteria as the proposed dwelling has walls which will exceed 3m in height, and access to the dwelling is provided by a vehicular access track which is more than 30m in length. As such, the development is considered to be a non-complying form of development.

In addition, earthworks (fill) associated with the horse arena exceeds 1m in height which also triggers the non-complying development process.

Upon review of the proposal, the applicant was advised by email on 6 August 2020 that Council had determined to proceed to assess the non-complying application, pursuant to regulation 17(3)(b) of the *Development Regulations 2008* ('the Regulations').

This determination was made under delegation having regard to the fact that the application proposes a residential development and ancillary structures in the Hills Face Zone on a vacant allotment. Additionally, horse keeping in isolation would be considered a merit form of development within the Hills Face Zone. The development is not considered to be seriously at variance with the Development Plan.

Subsequently, a Statement of Effect has been submitted by the applicant which has specific regard to the criteria of regulation 17 of the Regulations (Attachment 7).

3. PUBLIC NOTIFICATION

Section 38(2) (a) of the *Development Act 1993* ('the Act') states that the Regulations or a Development Plan may assign different forms of development to a category for the purposes of public notification.

No assignment to a category is made under Parts 1 or 2 of the Regulations, nor does the Development Plan provide an assignment for a non-complying form of development. The application may therefore only be considered as a Category 3 form of development.

In this case, the application could not be considered under the minor clause and as such the application underwent Category 3 public notification.

A total of ten properties were directly notified, with two representations received objecting to the proposal

The representations received were submitted by Mr John Drexel (on behalf of the North Eastern Sports Shooting Club Inc. (NESSCI) of 23 Range Road North, Upper Hermitage, and Mr William Baker of 117C Range Road North, Upper Hermitage & Mr Brenton Jordan of 117F Range Road North, Upper Hermitage (Attachment 8).

The issues raised by the representors are:

- Concern over present state of the common road way and further deterioration that would result from machinery associated with construction and additional day to day traffic
- Interface issues between the proposed dwelling and associated horse keeping and the lawfully existing operations of the NESSCI, which is in close proximity to the proposal
- Clarification sought regarding the separation distance between the proposed dwelling and associated structures within proximity of the existing right of way
- Concerns raised over fill required to facilitate horse arena and its impacts on the current topography of the site noting that the site is particularly steep
- Concerns raised as to how the proposed development and the keeping of horses will impact upon kangaroos that presently frequent the site.

The applicant, Nick Simos of 'SA Urban and Regional Planning' provided the following response to the representations received (Attachment 9):

- Responded to concerns regarding fill in relation to the horse arena by justifying that the impacts of the fill will be minimised due to the horse arena being a flat, open area, and landscaping treatment will soften impacts. Notes that fill is unavoidable due to the need for horse arena to be a flat space whereas the site is notably steep.
- Supplied additional document that provides setback detail of the proposed dwelling and associated structures to the existing right of way.
- Acknowledges concerns regarding existing kangaroo population and notes that fencing to be used will be kangaroo friendly so as not to jeopardise the kangaroos movement through and around the subject site
- Responded to concerns regarding the common road way by confirming any damage caused during construction will be remediated by the owners.
- Responded to concerns raised by the NESSCI by stating that the owners are fully aware of the gun clubs operations next door and the resulting noise impacts, and still wish to proceed with their development despite this. Owners provided a written letter addressed to the gun club noting that their horses are accustomed to loud noises and don't foresee this as a concern.

4. SITE AND LOCALITY

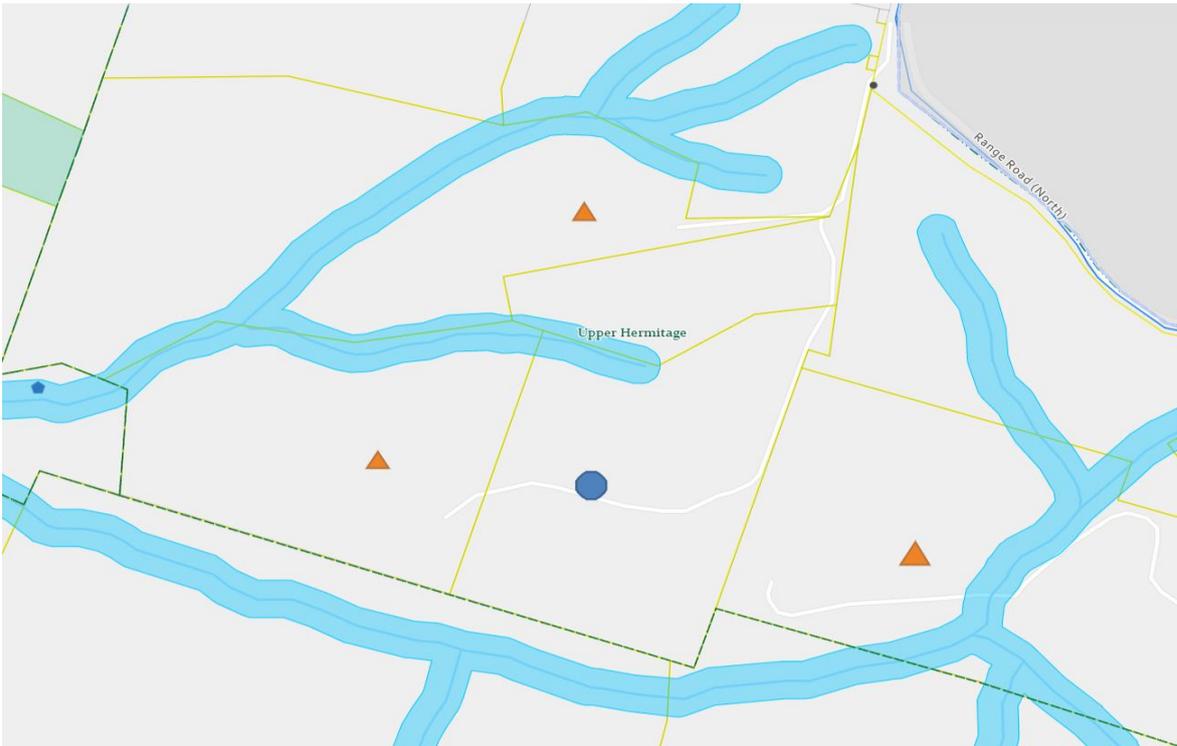


Figure 1: Location Map
Blue circle indicates subject site and orange triangles indicate location of representors



Figure 2: Aerial image of site of development
Blue circle indicates subject site and orange triangles indicate location of representors

The subject site is known as 117E Range Road North, Upper Hermitage, and is located entirely within the Hills Face Zone.

The subject land is irregular in shape, with a total site area of approximately 84,900m² / 8.49 hectares. The allotment does not have frontage to a public road, with access gained via a right of way that enters the allotment from the north eastern corner of the site and continues to the adjoining allotment to the west.

The land comprises steep and heavily vegetated terrain, with limited access throughout a majority of the allotment. A watercourse runs parallel to the northern boundary of the subject site, whilst another watercourse runs parallel to the southern boundary of the site. The site is relatively open to the north of the right of way, with a moderate level of intact native vegetation existing to the south of the right of way.

The subject land is located in a Medium Bushfire Risk Area.

The locality surrounding the subject site is made up of varying sized allotments within the Hills Face Zone sharing similar characteristics in respects to topography, terrain, vegetation and watercourses. A majority of the surrounding sites consist of single storey dwellings and associated outbuildings, characterised by the era they were constructed in, or vacant allotments. It is noted that lawfully existing non-residential uses operate to the east and the south east, in the form of a recreational shooting club and a plant nursery.

The locality also consists of very steep terrain and the natural character of the landscape has generally been maintained.

5. PLANNING ASSESSMENT

5.1 Land Use

Hills Face Zone Principle of Development Control (PDC) 1 seeks development in the form of low intensity agricultural activities, open space, or a single storey detached dwelling and associated outbuildings on a single allotment.

This application seeks the construction of a single storey dwelling with associated outbuildings and horse keeping on a vacant allotment. This is consistent with the intent of the above provision and is therefore considered to be an appropriate use for the land.

Whilst low intensity agricultural activity isn't clearly defined, farming is defined by the Regulations as 'the use of land for any purpose of agriculture, cropping, grazing or animal husbandry'.

It is considered that the scale of the horse keeping proposed, which consists of three horses, stables and associated horse arena, is considered to be akin to a low intensity agricultural activity. Additionally, the structures associated with the horse keeping activity are comparable to domestic outbuildings in size and scale, and therefore the act of horse keeping and its associated structures are considered to appease the intent of the above provision.

Representations received raised concerns regarding the proposed dwelling and associated horse keeping, mainly in respect to future interface conflicts between the proposed development and an existing lawful shooting club to the east

(Operated by the NESSCI). The specific concerns questioned how the noise generated by the gun club will impact the proposed horse keeping activities and the potential for increased use of the existing right of way.

The applicant has sought to address concerns relating to the interface between the land uses by directly responding to the NESSCI confirming that the horses are acclimatised to loud noises. Additionally, the future occupants are aware of the gun clubs lawful existence and are comfortable with the impacts of this use, see Attachment 9.

In accordance with the above provision, single dwellings are listed as an envisaged use in the zone, and as such residential traffic movements and any temporary impacts during construction cannot be avoided.

The subject site is not considered to impose an unreasonable impact on adjoining land by way of the proposed residential use and associated small scale horse keeping activity, nor the increased use of the existing right of way, and as such does not warrant refusal on either basis.

5.2 Built Form and Design

Design and Appearance PDC 1 states that buildings should be designed to reflect the desired character of the locality and have regard to design elements such as building height, external materials and roof form.

In addition, **Hills Face Zone PDC 14** seeks buildings to be unobtrusive and not detract from the desired natural character of the zone. It also states that buildings should be single storey and that the mass of buildings should be minimised by having separate vehicle storage areas.

The proposed dwelling is a conventional styled single storey dwelling. The dwelling adopts a single finished floor level throughout, which results in an increase in the wall height and overall building height to the north western corner of the dwelling.

Whilst it is noted that certain design techniques (such as a split level) could be employed to reduce wall heights to below 3m in maximum height, this would still result in a similar visual outcome to what is currently proposed having regard to the size and location of the house. As such, the design and built form proposed is considered to be in keeping with the abovementioned provisions.

The built form is also considered appropriate for the locality having regard to the use of weatherboard panels and natural stonework for the walls, and the pre-coloured steel roof sheeting. These are commonly used residential materials and not highly reflective.

The colours to be used for the dwelling are mid to dark greys, natural stone and white trim for window and door frames. The external finish of the dwelling in predominantly darker greys is considered to allow the dwelling to blend in with the natural surrounds. This is consistent with **Design and Appearance PDC 3**.

The associated structures included in this application, being the outbuilding and stables, are considered to be of an appropriate size and scale in relation to the dwelling. They are also to be finished in pre coloured steel and timber cladding, with colours to be applied being 'basalt' and 'wallaby' – both dark grey

finishes. The materials and colours to be used for the outbuilding and stables are also considered to appease **Design and Appearance PDC 3**.

Hills Face Zone PDC 11 states that development should not be undertaken if it is likely to result in a loss of amenity to adjoining land or surrounding localities from the visual impact of buildings, structures or earthworks.

Hills Face Zone PDC 21 states that any fencing required should be sited to minimise their visual impact and should be of post and wire or other materials which can be seen through. The post and rail fencing located around the perimeter of the horse arena and holding yards is see through, in accordance with the abovementioned provision whilst the wooden profile of the fence reinforces the natural attributes of the locality.

Having regard to the single storey built form, appropriate materials and limited earthworks associated with the dwelling and associated structures, the proposal is considered to achieve this zone provision.

5.3 Setbacks

This subject site is located in the Hills Face Zone which does not have any quantitative setback requirements that can be applied to this development, and additionally the site lacks any direct frontage to a public road so it has no impact on the nearby streetscape.

Design and Appearance PDC 22 states that the setbacks of buildings from public roads are to be similar to, or compatible with, setbacks on adjoining land and other buildings in the locality.

The proposed dwelling is located approximately 98m from the nearest property boundary, one that is shared with another allotment in the Hills Face Zone. This neighbouring property comprises a non-residential use (the North Eastern Sports Shooting Club Inc.).

Additionally, the proposed dwelling is setback >100m from all remaining property boundaries to the north, west and south. The proposed dwelling is located approximately 195m from the nearest neighbouring residential property located west of the subject site at 117F Range Road North.

It is therefore considered appropriate that the dwelling be generously set back from all property boundaries having regard to the pattern of setbacks in the wider locality. The location also reflects the applicant's intent to locate the dwelling and associated structures on the flattest portion of land to minimise the need for earthworks.

The associated outbuilding is setback approximately 14m from the eastern side boundary, and >100m from the remaining boundaries. The horse shelters are setback a minimum of 46.5m from the western side boundary and >100m from all remaining boundaries. In addition to these setbacks, it is noted that both the outbuilding and horse shelters respectively will be partly obscured from view by the topography of the land combined with existing vegetation. As such, the setbacks of these ancillary structures are considered to be suitable.

The location of the development in relation to boundaries on this sloping allotment is therefore considered appropriate.

5.4 Car Parking and Access

Transportation and Access PDC 31 and **Table TTG/2** seek vehicle parking for a detached dwelling to be one undercover vehicle park and one visitor's park.

The dwelling includes a triple garage accommodating three undercover vehicle parks. Furthermore, the extensive length of the driveway, outbuilding and on-site turn around areas ensure there is more than sufficient space on this large rural allotment for covered and visitor vehicle parking, and access for emergency service vehicles.

The driveway length exceeds 30m which is an additional reason for the application to be assessed as non-complying, however it is recognised that the driveway within the site is already existing. The applicant proposes to utilise the existing configurations, with only minimal earthworks required to accommodate access to the proposed dwelling, outbuilding and an on-site turning circle.

The representation received from the property owner at 117C Range Road North raised concerns regarding the condition and ongoing maintenance of the right of way that services 117A to 117F Range Road North. It is noted that this is a long standing right of way and the ongoing maintenance of this is a civil matter between parties.

The car parking and access arrangements satisfy the above provisions and are therefore considered acceptable.

5.5 Site Works

Hills Face Zone PDC 3 seeks excavation and filling be kept to a minimum outside of township and urban areas, and that it is limited to a maximum depth or height of 1.5 metres so as to preserve the natural form of the land and native vegetation. Further, excavation and filling should only be undertaken in order to reduce the visual impact of buildings and should only be undertaken if the resultant slope can be stabilised.

The proposed dwelling is to be sited on a ridgeline which is the flattest portion of the subject site. To accommodate the proposed benched level of the dwelling, approximately 600mm of cut is required.

Rather than filling in order to accommodate a flat surface for the benched level of the dwelling, the dwelling proposes to retain the existing ground levels. In effect, this results in minimal fill being required, but in turn results in a greater building height to the north western corner of the proposed dwelling.

Whilst the building height to the north eastern corner is not ideal, and also one of the triggers for non-complying, it is noted that a similar built form outcome would occur if the proposal were to incorporate fill to achieve the benched area required. As the dwelling seeks to cut to the south eastern corner, it will reduce its visual presence from the common driveway.

No retaining walls are proposed to facilitate the benched area for the dwelling, however battered slopes that will be suitably landscaped have been employed in order to stabilise earthworks.

Additionally, approximately 1.2m of cut and 1.4m of fill are required to accommodate the finished floor level of the proposed horse arena, with all earthworks associated with this to be battered and landscaped.

The amount of fill associated with the proposed horse arena was raised as a concern by the representators, and the potential impact this would have on the natural topography of the land.

The proposed horse arena is a large, open area to be used for the exercising of horses, with open style fencing 1.8m in height located around the perimeter.

It is considered that the proposed earthworks, in particularly the proposed fill required to accommodate the horse arena, will not detrimentally impact the Development Plan emphasis on preserving the zone's natural attributes. This is particularly due to the open nature of the horse arena.

Additionally, both cut and fill are kept to under 1.5m in height and are to be appropriately battered and landscaped, with landscaping to be applied around the entire outer perimeter of the arena.

Finally, it is noted that minor earthworks will be employed as part of the siting of the proposed outbuilding, water tanks, horse stables and associated yards, driveways and turning circles.

For the most part, these earthworks will be battered down to natural ground level and appropriately landscaped. Some retaining walls are employed to accommodate the outbuilding (750mm in cut) and the rainwater tanks located under the dwellings balcony (900mm in fill). Of note, the 900mm walls to be positioned in fill will be obscured from view by the water tanks and the dwelling.

The extent of site works will have limited visibility outside of the site, and with the significant distance of the development from all site boundaries, any direct impact on adjoining properties will be limited.

The applicant is not intending to remove any native vegetation as part of this development, and as such the development is consistent with **Hills Face Zone PDC 25**. It is noted that a series of olive trees will be removed where the outbuilding is to be positioned.

The degree of earthworks satisfies the above provision and is considered to be appropriate.

5.6 Horse Keeping

Animal Keeping Objective 2 envisages that animal keeping development be sited and designed in a manner that avoids adverse effects on adjoining developments.

The proposal seeks approval for the keeping of three horses on the site. Horse keeping is defined by the Regulations as the following:

Horse keeping means the keeping or husbandry of horses where more than 1 horse is kept per 3 hectares of land used for such purposes or where hand feeding of a horse is involved

The configurations of the proposed horse keeping triggers the need for approval of the use in its own right, as the applicant seeks to keep three horses on approximately 8.49 hectares of land noting that the horses will be confined to a portion of the subject lands total size. The applicant has confirmed that the keeping of horses on site will be for private use only.

Three holding yards 8m x 8m in size are proposed to accommodate the horses, each consisting of a horse shelter which is a 4m x 4m partially enclosed structure 2.4m in height. Additionally, a 60m x 20m horse arena is proposed to allow for the horses to be trained and exercised.

Both the horse shelters and associated yards, and the horse area, are sited at least 50 metres from any watercourse and on land with a slope no greater than 1 in 10, in keeping with **Horse Keeping PDC 7**.

The horse shelter and holding yards are to be appropriately landscaped to the north, and suitably vegetated to allow for water to be absorbed during wash down of these yards. This satisfies **Horse Keeping PDC 8**.

Additionally, the three proposed horse shelters and associated yards are sited at least 30m from any dwelling on the site and from the adjoining allotment boundaries to preserve the amenity of the owners and adjoining residence.

It is noted that the horse shelters are set back a minimum of 45m from the proposed dwelling and approximately 46.5m from the western site boundary. Whilst the horse arena itself is located within 30m of the proposed dwelling, it is noted that this arena will be used infrequently and the surface of this will be made of bark chips and sand to prevent erosion and dust. As such, the proposal is considered to satisfy **Horse Keeping PDC 9**.

A series of conditions in relation to the number of horses to be kept on the site, the management of the proposed yards, and the management of manure produced will be applied to ensure that amenity and an appropriate standard of hygiene are maintained.

It should be noted that the 'Appendix D' of the Statement of Effect (Attachment 7) nominates that the allotment will be divided up into 8 paddocks, each with its own holding yard, however this refers to a previous iteration of the proposal. The proposal has since been amended to reposition and reduce the total amount of holding yards.

Any additional fencing proposed excluding post and wiring fencing will require approval in accordance with the Regulations. An advisory note reminding the applicant of these obligations will be applied to any decision issued.

As such, it is considered that the scale and configuration of horse keeping are in keeping with the abovementioned provisions and objections and are therefore considered to be appropriate.

5.7 Stormwater Management

The proposal seeks to manage stormwater on site, with the proposed dwelling and hardstand areas to be collected and distributed to the rear (north) of the development via two 10,000L water tanks.

Additionally, a 30,000L tank (20,000L of retention and 5,000L for bushfire fighting purposes) is proposed to collect and distribute stormwater from the proposed outbuilding and ancillary hardstand areas.

Stormwater run-off generated by hardstand areas and/or tank overflow will be directed to the rear (north) of the dwelling, and associated structures via two spreader pipes and multiple swales in the direction of a watercourse adjacent the northern boundary of the subject site.

Council's Civil Engineering department have reviewed the proposed stormwater configurations and is satisfied that stormwater is managed in an orderly and safe manner, noting that adjoining sites will not be adversely impacted by the proposed stormwater configurations.

Natural Resources PDC 5 seeks that development be designed to maximise conservation, minimise consumption and encourage re-use of water resources.

The size of the tank enables stormwater from the development to be appropriately managed, as well as provides a significant opportunity for water reuse on the land. This is particularly important given no mains water connection is present on the subject site.

The applicant has confirmed that water run-off will not impact adjoining properties, and a condition is proposed within the recommendation below to reinforce this requirement.

5.8 Wastewater Management

The subject site is not connected to mains sewer nor Council's Community Wastewater Management System. As such, a self-contained waste system is required.

The proposal demonstrates an on-site septic tank and wastewater irrigation area confined within the boundaries of the site. The irrigation area is appropriately distanced away from the dwelling on site and the nearest neighbouring dwelling, as well as being within a cleared area of the land, thus satisfying **Waste PDCs 13 and 14**.

Council's Environmental Health team have reviewed the proposed self-contained waste system configurations on multiple occasions during the course of the

assessment and have confirmed that they have no objections with the configurations of the proposed self-contained waste system.

The final design of the waste system is subject to approval under the SA *Public Health (Wastewater) Regulations 2013* and is currently under assessment with Council's Environmental Health team.

Whilst the development meets the above requirements of the Development Plan for the provision of an on-site system, the recommendation below includes an advisory note regarding the obligation of the applicant to finalise the wastewater approval process.

5.9 Bushfire Hazards

The subject site is located within a Medium Bushfire Risk area in accordance with **Bushfire Risk BPA Map TTG/1**. Having regard to **Hazards PDC 8**, this application should have regard to the bushfire protection principles listed in the Development Plan.

Hazards PDC 9 requires development to be undertaken in accordance with the *Ministers Code: Undertaking development in Bushfire Protection Areas*.

PDC 10 seeks buildings to be located away from areas that pose an unacceptable bushfire risk as a result of vegetation, poor access, rugged terrain, inadequate building protection zone, and inadequate supply of water for fire-fighting purposes.

The dwelling exceeds the minimum requirement of 2,000L dedicated water for fire-fighting by having a minimum of 5,000L of water dedicated for firefighting purposes within a 30,000L non-combustible water tank ancillary to the outbuilding. The driveway and vehicle access areas are of a suitable grade and width, and includes the required turning bay.

The proposed dwelling and ancillary structures are to be located on the flattest portion of the site, is not proposed to be impacted by vegetation, and utilises an existing access point with substantial access to water for firefighting purposes.

The proposal has therefore demonstrated the above bushfire hazard provisions are able to be met and the Minister's Code is satisfied.

6. CONCLUSION

Notwithstanding the non-complying status of this application, the proposed development is considered to be consistent with the pattern of development and envisaged use of land within the Hills Face Zone.

The reasons for being a non-complying form of development relate to the dwelling comprising external wall heights exceeding 3m, using a driveway with a length exceeding 30m, and fill associated with the horse arena exceeding 1m in height above natural ground level.

However, it has been demonstrated that the scale and appearance of the development is appropriate in the context of the locality, and that the dwelling and associated structures have been positioned in the most suitable location to minimise earthworks. Earthworks required to enable the development to proceed are all to be undertaken in a

manner that seeks to reinforce the natural attributes of the locality, through the use of battered slopes and comprehensive landscaping.

Additionally, the size and scale of the proposed horse keeping proposed to occur on the site is also considered to be appropriate in the context of the locality. The horse keeping and its associated structures are suitably setback from boundaries, watercourses adjoining dwellings and land uses to ensure that no adverse amenity impacts will occur.

The development is considered to adequately satisfy the qualitative and quantitative provisions of the Development Plan and is of an appropriate built form and land use for the site and locality.

It is considered that concerns raised by the representors in relation to excessive fill, land use interface and the maintenance of the existing right of way have been adequately addressed by the applicant in their response.

Development Plan Consent is therefore considered to be warranted, noting that a recent change to the legislation no longer requires the concurrence of the State Commission Assessment Panel for this non-complying application.

7. RECOMMENDATION

That pursuant to the authority delegated to the Council Assessment Panel by Council, the Council Assessment Panel:

- A. RESOLVES that the proposed development is not seriously at variance with the policies in the Tea Tree Gully (City) Development Plan.
- B. RESOLVES to GRANT Development Plan Consent to the application by Nick Simos of SA Urban and Regional Planning to construct a single storey dwelling with associated earthworks and landscaping, horse keeping with associated horse shelters, horse arena, fencing, earthworks and landscaping, and an outbuilding (shed and carport) and water storage tank (non-complying) at 117E Range Road North, Upper Hermitage as detailed in Development Application No. 070/119231/2020 subject to the following conditions and advisory notes:
 - (1) The development shall be undertaken, completed and maintained in accordance with the plan(s) and information detailed in Application No. 070/119231/2020 except where varied by any condition(s) listed below.
 - (2) The entire dwelling, outbuilding, horse shelters and water storage tank must be finished in an unobtrusive, natural, earthy colour. The paintwork or pre-coloured steel finish shall be maintained in good condition at all times. This condition must be complied with within 2 months of the erection of the dwelling, outbuilding and horse shelters.
Reason: To preserve and enhance the amenity of the site and locality.
 - (3) The materials used on the external surfaces of the buildings and the pre-coloured steel finishes or paintwork must be maintained in good condition at all times. All external paintwork must be completed within 2 months of the erection of the fencing.
Reason: To preserve and enhance the amenity of the site and locality.

- (4) All driveways, parking and manoeuvring areas must be formed and properly drained. They shall be maintained in good condition thereafter.
Reason: *To ensure useable and safe access and carparking.*
- (5) Free and unrestricted access must be available to the driveway and this area shall be available for parking at all times.
Reason: *To ensure appropriate off street carparking is provide at all times.*
- (6) All stormwater generated from the proposed dwelling and associated hardstand areas must be appropriately managed on site and all stormwater runoff directed away from neighbouring properties.
Reason: *To ensure stormwater is appropriately disposed of in a controlled manner.*
- (7) The applicant must provide a dedicated water supply available at all times for fire-fighting purposes in accordance with the *Ministers Specifications SA78 - Additional requirements in designated bushfire prone areas (May 2011)*. This is in addition to the 1000 litre rainwater tank required by the Building Code of Australia
Reason: *To ensure appropriate measures of protection against bushfire attack.*
- (8) The planting and landscaping identified on the site location plan and the site plan submitted with the application must be completed in the first planting season concurrent with or following commencement of the use of the dwelling. Such planting and landscaping must not be removed nor the branches of any tree lopped and any plants which become diseased or die must be replaced by suitable species
Reason: *To maintain the amenity of the site and locality.*
- (9) All scarring or physical disturbances of the land surface during any excavation work must be restricted to only that which is required for building work and/or access purposes. All resultant exposed faces must be covered in topsoil and planted with suitable ground cover to the reasonable satisfaction of Council
Reason: *To maintain the amenity of the site and locality.*
- (10) The maximum number of horses to be kept is three (3).
Reason: *To ensure amenity and an appropriate standard of hygiene is maintained.*
- (11) All horse manure, straw and similar material must be collected daily and stored in a fly proof container and be removed from the premises not less than once a week. After being emptied, the container shall be sprayed with an insecticide prior to re-use.
Reason: *To ensure amenity and an appropriate standard of hygiene is maintained.*
- (12) Bedding material of straw, sand, sawdust or similar must be used in the stables and be changed at regular intervals.
Reason: *To ensure amenity and an appropriate standard of hygiene is maintained.*

- (13) The exercise yards must be watered prior to each day on which they are used, to control dust.
Reason: To minimise impact of dust.
- (14) The inside of the stable must be sprayed with insecticide at regular intervals.
Reason: To ensure amenity and an appropriate standard of hygiene is maintained.
- (15) Feed must be kept in sealed containers and stored in a rodent proof storage area.
Reason: To ensure amenity and an appropriate standard of hygiene is maintained.

Note(s):

- (1) The cost of rectifying any damage or conflict with existing services or infrastructure arising out of this development will be borne by the applicant.
- (2) This consent does not obviate the need to obtain any other necessary approvals from any/ all parties with an interest in the land.
- (3) All earthworks shall be confined to and contained entirely within the property boundaries and shall not encroach on or over the roadside verge/reserve.
- (4) This application involves development located on the boundary or within close proximity to the boundary of the allotment. To ensure that the proposed development is constructed within the allotment, it is recommended that a site survey be undertaken to confirm the location of the relevant boundaries.
- (5) Please be advised that any retaining walls exceeding one metre in height and any fencing on the land requires Development Approval from Council by way of a separate application.
- (6) The applicant is reminded of their obligations under the *SA Public Health (Wastewater) Regulations 2013* to obtain approval for the proposed on-site wastewater system. Further advice regarding this requirement can be obtained from Council's Environmental Health team on 8397 7444.
- (7) The driveway as proposed, whilst accessible is considered to be extremely steep, as such, particular care must be taken at the construction stage to ensure satisfactory slopes and non-slip finish.

Attachments

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| 1.↓ | Aerial Photograph | 23 |
| 2.↓ | Development Application Form | 24 |
| 3.↓ | Certificate of Title | 29 |
| 4.↓ | Site and Civil Plans | 37 |
| 5.↓ | Floor Plan..... | 40 |
| 6.↓ | Elevation Drawings..... | 41 |
| 7.↓ | Statement of Effect..... | 47 |
| 8.↓ | Representations | 71 |
| 9.↓ | Response to Representations | 76 |

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|---|-----------|
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