



## Agenda Report for Decision

**Meeting Date: 5 October 2023**

<b>Item Name</b>	State Commission Assessment Panel (SCAP) Decision Review Request: 22 Flagstaff Road, Flagstaff Hill (Development Application 23011894)
<b>Presenters</b>	Margaret Smith and Troy Fountain
<b>Purpose of Report</b>	Decision
<b>Item Number</b>	5.1
<b>Strategic Plan Reference</b>	4. Discharging Statutory Obligations
<b>Work Plan Reference</b>	4.3 Ensure the State Commission Assessment panel continues to operate effectively
<b>Confidentiality</b>	Not Confidential (Release Immediately)
<b>Related Decisions</b>	N/A

### Recommendation

It is recommended that the State Planning Commission (the Commission) resolves to:

1. Approve the designation of this item as Not Confidential (Release Immediately).
2. Note the Decision Review Request from Mr Dylan Furnell on behalf of Zaina Stacey Development Consultants (the Applicant) to the Commission (**Appendix A**).
3. Note Development Application DA 23011894 documentation by the Applicant for Restricted Development – Torrens-title land division comprising the division of one (1) allotment into three (3) allotments to create two (2) additional allotments at 22 Flagstaff Road, Flagstaff Hill (**Appendix B**).
4. Note the Assessment Report and Minutes from the SCAP meeting held on 26 July 2023 (**Appendix C**).
5. Affirm the decision of the SCAP to refuse to proceed to assess DA 23011894 under section 110 of the *Planning, Development and Infrastructure Act 2016* (the Act).
6. Authorise the Chair of the Commission to sign the letter to the Applicant advising of the Commission's decision not to proceed to assess DA 23011894 (**Attachment 1**).
7. Authorise the Chair of the Commission to sign the letter addressed to the Presiding Member of the SCAP, advising of the Commission's decision to not proceed to assess DA 23011894 (**Attachment 2**).
8. Authorise the Chair to make any minor amendments to the letters as required.

## Background

On 4 July 2023, the Applicant lodged a development application seeking Planning Consent and Land Division Consent for the proposed division of one (1) existing allotment into three (3) allotments, intended to be used for residential / semi-rural residential living purposes. The subject site at 22 Flagstaff Road, Flagstaff Hill is an irregular shaped allotment on the western side of Flagstaff Road, located in a semi-rural area.

The application was categorised as Restricted Development for Land Division in the Hills Face Zone, according to Table 4 of the Planning and Design Code (the Code). Applications for Restricted Development are assessed by the Commission as the relevant authority, in accordance with section 110 of the *Planning, Development and Infrastructure Act 2016* (the Act). The decision was delegated to the SCAP in accordance with section 30(3) of the Act.

Pursuant to Section 110 (14) of the Act, the SCAP must first decide whether to proceed with an assessment of the Restricted Development application or to refuse the application without proceeding to an assessment.

Section 5 of the Commission's *Practice Direction 4 Restricted Development* (the Practice Direction) dated December 2022, prescribes the circumstances under which the Commission would assess restricted development:

*For the purposes of section 109(1)(a)(i) of the Act, the Commission, acting through its delegate under section 30(3) of the Act, will proceed to assess an application for restricted development unless it appears to the delegate that there is no reasonable prospect of a favourable assessment.*

The site is located in the Hills Face Zone of the Code. The Desired Outcomes (DOs) of the Zone seek to maintain the western slopes of the South Mount Lofty Ranges as an important natural asset of Greater Adelaide by limiting development to low-intensity agricultural activities and public and private open space. The natural character of the zone will be preserved, enhanced and re-established to:

- a) Provide a natural backdrop to the Adelaide Plain and contrast to the urban area
- b) Preserve biodiversity and restore locally indigenous vegetation and fauna habitats close to metropolitan Adelaide
- c) Provide for passive recreation in an area of natural character close to the metropolitan area
- d) Provide a part of the buffer area between metropolitan districts and prevent the urban area extending into the western slopes of the Mount Lofty Ranges.

The SCAP considered that the application had no reasonable prospect of a favourable assessment, having regard to the relevant policies of the Hills Face Zone within the Code. Accordingly, on 26 July 2023 the SCAP refused the application without proceeding to an assessment (**Appendix C**).

On 23 August 2023, the Applicant submitted a request for the Commission to review the SCAP decision as permitted under section 110(15) of the Act (**Appendix A**).

## Discussion

The Assessment Report that was presented to the SCAP on 26 July 2023 recommended that the application should not proceed to an assessment (refer to **Appendix C**). Following a review of the proposal the SCAP formed the view that the application should not proceed to an assessment for the following reasons:

- a) *The proposed additional allotments for new residential development is incompatible with the intent to limit development in the zone to low-intensity agricultural activities and public and private open space; and*
- b) *The fragmentation and development of the land will not preserve, enhance and re-establish the natural character of the Hills Face Zone.*

The applicant considers that the SCAP's decision, concluding that the proposal has no reasonable prospect of a favourable assessment against DO 1 and PO 14.1 of the Hills Face Zone, could not be made accurately without a full assessment being undertaken. The applicant has explained that if the application was to proceed to an assessment, further information would be provided, including dwelling plans, siteworks and drainage plans and vegetation clearance plans that would show that the Code policies can be met to a sufficient level. The applicant's review of the SCAP's decision and reasons why they believe this decision should be overturned is contained in **Appendix A**.

Pursuant to section 110(18) of the Act, the Commission may either affirm the decision of the SCAP or refer the matter back to the SCAP with a direction that the application for planning consent and land division consent be assessed.

In accordance with section 110(19) of the Act, no appeal to the Environment, Development and Resources Court lies against the decision of the SCAP to refuse the application without proceeding to an assessment or the review decision made by the Commission.

## **Conclusion**

The SCAP, having regard to the Code, Practice Direction 4, and the Act, determined that the application to create two additional allotments for residential purposes at 22 Flagstaff Road, Flagstaff Hill, had insufficient planning merit to have a reasonable prospect of a favourable assessment. In accordance with the Applicant's request, the Commission is tasked with the administrative review of this decision.

Should the Commission affirm the decision of the SCAP to refuse to proceed to assess DA 23011894, draft letters to the Applicant and Presiding Member of the SCAP advising of the Commission's decision not to proceed to assess DA 23011894 are provided for consideration (**Attachments 1 and 2**).

## Procedural matters

### *Delegation*

Under section 110(15) of the Act, a review of a decision by the Commission's delegate must be undertaken 'by the Commission itself'.

### *Procedures for a review*

Under section 110(17) of the Act, on an application for review, the Commission may adopt such procedures as the Commission thinks fit and is not bound by the rules of evidence and may inform itself as it thinks fit.

**Attachments:**

1. Suggested letter from the State Planning Commission to the Applicant (#20651311)
2. Suggested letter from the State Planning Commission to the Presiding Member, SCAP (#20651789)

**Appendices:**

- A. Decision Review Request by the Applicant to the State Planning Commission, dated 23 August 2023 (#20652790)
- B. Development Application 23011894 Documentation (#20652858)
- C. SCAP Assessment Report and Meeting Minutes 26 July 2023 (#20653016)

Prepared by: Damon Huntley

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Endorsed by: Margaret Smith


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Date: 21 09 2023

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20651311

11 October 2023

Mr Dylan Furnell  
Zaina Stacey Development ConsultantsLevel 10  
83 Pirie Street  
Adelaide SA 5000GPO Box 1815  
Adelaide SA 50011800 752 664  
saplanningcommission@sa.gov.auBy email: 

Dear Mr Furnell

**Decision Review Request – Development Application 23011894 – Proposed Land Division of One Allotment into Three Allotments at 22 Flagstaff Road, Flagstaff Hill SA 5159**

I refer to your request dated 23 August 2023 for the State Planning Commission (Commission) to review a decision of the State Commission Assessment Panel (SCAP) to refuse Development Application (DA) 23011894 without proceeding to make an assessment, pursuant to section 110(14) of the *Planning, Development and Infrastructure Act 2016* (the Act).

At its meeting held on 5 October 2023, the Commission reviewed the decision of the SCAP (from its meeting held on 26 July 2023), taking into consideration your decision review request, the original Development Application documentation, the SCAP Assessment Report and the Commission's *Practice Direction 4 – Restricted Development*:

*For the purposes of section 109(1)(a)(i) of the Act, the Commission, acting through its delegate under section 30(3) of the Act, will proceed to assess an application for restricted development unless it appears to the delegate that there is no reasonable prospect of a favourable assessment.*

Following this review, the Commission resolved to affirm the decision of the SCAP not to proceed to assess DA 23011894.

Pursuant to section 110(19) of the Act, there is no appeal to the Environment, Resources and Development Court against this decision to refuse the application without making an assessment, either against the initial decision by the SCAP or the subsequent decision by the Commission.

Yours sincerely

**Craig Holden**  
Chair

20651789


11 October 2023

Ms Rebecca Thomas  
Presiding Member  
State Commission Assessment Panel

Level 10  
83 Pirie Street  
Adelaide SA 5000

GPO Box 1815  
Adelaide SA 5001

1800 752 664  
saplanningcommission@sa.gov.au

By email: 

Dear Ms Thomas

**Decision Review Request – Development Application 23011894 – Proposed Land Division of One Allotment into Three Allotments at 22 Flagstaff Road, Flagstaff Hill SA 5159**

On 23 August 2023, the State Planning Commission (the Commission) received a request from Mr Dylan Furnell on behalf of Zaina Stacey Development Consultants (the Applicant) to review a decision of the State Commission Assessment Panel (SCAP) to refuse Development Application 23011894 (DA) without proceeding to make an assessment, pursuant to section 110(14) of the *Planning, Development and Infrastructure Act 2016* (the Act).

At its meeting held on 5 October 2023, the Commission reviewed the decision of the SCAP, taking into consideration the following from the Commission's *Practice Direction 4 – Restricted Development*:

*For the purposes of section 109(1)(a)(i) of the Act, the Commission, acting through its delegate under section 30(3) of the Act, will proceed to assess an application for restricted development unless it appears to the delegate that there is no reasonable prospect of a favourable assessment.*

As a result of the review, the Commission can advise that it resolved to affirm the decision of the SCAP not to proceed to assess DA 23011894.

I have written to the Applicant to advise them of the Commission's decision.

Yours sincerely



**Craig Holden**  
Chair

## Huntley, Damon (DTI)

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**From:** Dylan Furnell [REDACTED]  
**Sent:** Wednesday, 23 August 2023 10:52 AM  
**To:** Huntley, Damon (DTI)  
**Subject:** 22 Flagstaff Road Flagstaff Hill - 23011894  
**Attachments:** Application\_to\_Assessment\_Panel\_-\_Version\_2.pdf; Planning Statement.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

You don't often get email from approved@certifiedpd.au. [Learn why this is important](#)

Hi Damon,

Hope you are well.

Please find attached our application for review of the SCAP decision not to proceed with the assessment of the development at 22 Flagstaff Road Flagstaff Hill. CPD is lodging this on behalf of Zaina Stacey and their client Meri Pappas.

I have also provided a brief statement as to the reasons why the refusal should be overturned and the development proceed through for full assessment.

Could you please process this request? Please note that we wish to have attendance of the review if possible with myself, Meri and Alexi all attending the meeting.

If you require anything further from my end please let me know. Please advise how we are to pay the lodgement fee for the review in due course.

Kind Regards,

**Dylan Furnell**  
Director + Principal Planner

[REDACTED]  
1 George Street,  
Parkside SA 5063

0477 485 844  
[REDACTED]

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# APPLICATION TO ASSESSMENT PANEL <sup>1</sup>

## Decision Review Request

Prescribed form pursuant to section 203(1) for review of a decision of an Assessment Manager under section 202(1)(b)(i)(A) of the *Planning, Development and Infrastructure Act 2016* (Act)

<b>Applicant details:</b>	Name: <a href="#">Zaina Stacey C/- Certified Planning and Development</a> Phone: <a href="#">0477 485 844</a> Email: <span style="background-color: black; color: black;">[REDACTED]</span> Postal address: <a href="#">PO Box 1000 Torrens Park SA 5062</a>
<b>Development Application Number:</b>	<a href="#">23011894</a>
<b>Subject Land:</b>	<a href="#">22 Flagstaff Road Flagstaff Hill</a>
<b>Date of decision of the Assessment Manager:</b>	<a href="#">27 July 2023</a>
<b>Decision (prescribed matter) for review by Assessment Panel:</b>	<a href="#">Refused</a>
<b>Reason for review:</b>	<a href="#">Reasons for Refusal are not reasonable.</a>
<b>Do you wish to be heard by the Assessment Panel?</b>	Yes, both consultant and client.
<b>Date:</b>	<a href="#">23 August 2023</a>
<b>Signature:</b>	

1

This application must be made through the relevant facility on the SA planning portal. To the extent that the SA planning portal does not have the necessary facilities to lodge this form, the application may be lodged—  
(i) by email, using the main email address of the relevant assessment panel; or  
(ii) by delivering the application to the principal office or address of the relevant assessment panel.  
This form constitutes the form of an application to an assessment panel under section 202(1)(b)(i)(A) of the *Planning, Development and Infrastructure Act 2016*, determined by the Minister for Planning and Local Government, pursuant to regulation 116 of the *Planning, Development and Infrastructure (General) Regulations 2017*. Last amended: 31 July 2020





23 August 2023

State Commission Assessment Panel  
GPO Box 1815  
ADELAIDE SA 5001

**Application:** 23011894  
**Proposal:** Torrens Title Land Division comprising the division of one (1) allotment into three (3) allotments to create two (2) additional allotments.  
**Location:** 22 Flagstaff Road Flagstaff Hill SA  
**Decision:** REFUSED (prior to full assessment)

Dear Sir/Madam,

I have been engaged by the applicant Zaina Stacey Development Consultants and their client to assist in lodgement of a review of the decision by the State Commission Assessment Panel. The decision was not to proceed with a full assessment of the development for a 'Torrens Title Land Division comprising the division of one (1) allotments into three (3) allotments to create two (2) additional allotments at 22 Flagstaff Hill Flagstaff Hill SA.

Please find below a full review of the decision not to proceed with the assessment of the development and associated reasons for refusal listed within the Decision Notification Form. We strongly believe that the Panel should have elected to proceed with assessment. In turn this would have allowed our client to provide further information to show that the development could be undertaken in a manner which is sufficiently consistent with the relevant desired and performance outcomes of the Planning and Design Code.

The proposal was ultimately refused for the following reasons of refusal:

*There is no reasonable prospect of a favourable assessment of the proposed development having consideration for the relevant Planning and Design Code policies, DO 1 and PO 14.1 of the Hills Face Zone, specifically:*

- a) *the proposed additional allotments for new residential development is incompatible with the intent to limit development in this zone to low-intensity agricultural activities and public and private open space; and*
- b) *the fragmentation and development of the land will not preserve, enhance and re-establish the natural character of the Hills Face Zone.*

It is our strong opinion that the decision concluding that the proposal has no reasonable prospect of meeting both DO 1 and PO 14.1 could be made accurately without further information being requested and a full assessment being undertaken. Please find below our full review of this decision and reasons for why we believe this decision should be overturned and a full assessment undertaken.



Desired Outcome 1 (DO 1) of the Hills Face Zone states the following:

*To maintain the western slopes of the South Mount Lofty Ranges as an important natural asset of Greater Adelaide by limiting development to low-intensity agricultural activities and public and private open space. The natural character of the zone will be preserved, enhanced and re-established to:*

- (a) *provide a natural backdrop to the Adelaide Plain and a contrast to the urban area*
- (b) *preserve biodiversity and restore locally indigenous vegetation and fauna habitats close to metropolitan Adelaide*
- (c) *provide for passive recreation in an area of natural character close to the metropolitan area*
- (d) *provide a part of the buffer area between metropolitan districts and prevent the urban area extending into the western slopes of the Mount Lofty Ranges.*

*'Natural character' refers to the natural topography, native vegetation and colours, such as greens and browns of non-reflective earthen tones, normally associated with a natural landscape. Additionally, natural character refers to the open character of the land in those areas of the zone where open grazing currently predominates.*

How can the Panel make an accurate decision that the proposal has no reasonable prospect of meeting desired outcome criteria (a) through (d) without provision of indicative plans on each proposed allotment. We are confident through provision of these plans our client will be able to demonstrate that all four requirements of desired outcome 1 can be met:

- (a) The proposed allotment can house dwellings which are lower than Flagstaff Road and will not be visible from the Adelaide Plains below. By tiering development similar to the existing dwelling on proposed lot 101, new dwellings will be integrated in to the hill side and will not impact the natural backdrop of the Hills Face Zone. The client is well versed in the requirements of dwelling construction in the Hills Face Zone through the construction of the existing dwelling, and understands the increased costs of development that can occur.
- (b) The property is a former mine site and as such the majority of the site was not vegetated prior to purchase of the client several decades ago. New vegetation is mixed, featuring both native and non-native plantings. The gully area which is to be retained in lot 101 features remnant vegetation which is not impacted by the proposal. Any future dwelling will be located towards Flagstaff Hill and only recent plantings would be required to be removed as part of the development.
- (c) Passive recreation areas are not impacted by the proposal. Although there are large expanses of property which is generally unused, passive recreation does not occur due to the property being private property. This desired outcome is therefore not realistic to uphold on private property owners.
- (d) By retaining the majority of the site as undeveloped land, a clear buffer is retained between the metropolitan area and the peri-urban areas beyond the site. It is also important to recognise that there is urban development directly adjacent the property on the eastern side of Flagstaff Road which is a much higher density than the current proposal. The client has no intentions of further urbanisation of the site, and wishes to only construct two dwellings for family homes.

Importantly the proposal is clearly consistent with the wider themes of the Desired Outcome 1 to protect the environmental features and limit urban development creeping into regional areas. This proposal, with further plans, is clearly on the right path. Limiting development to two new dwellings and locating these appropriately within the former mine site so as to reduce the impact on the higher quality environmental areas below in the gully. The proposal seeks to protect areas which are worth protecting and develop areas which are generally not suitable for activities described within DO 1.

The reasons for refusal also point to Performance Outcome 14.1 as a key provision which has no reasonable prospect of being met. PO 14.1 states the following:

*Land division does not result in the creation of an additional allotment.*

Whilst it is acknowledged that there is no possible way for the proposal to meet PO 14.1, it is considered that on balance the proposal could sufficiently meet the other requirements of the Planning and Design Code. Through provision of further information such as dwelling plans, site works and drainage plans, vegetation clearance plans among others would show that the Planning and Design Code can be met to a sufficient level. Not allowing land division simply due to one performance outcome where the proposal meets the wider requirements of the code is not the intent of the Code, and should not be treated as such. An assessment on the entirety of the code should be undertaken to assess whether the development sufficiently meets the Code.

Furthermore reason a) within the refusal reasons in regard to the development being incompatible with the intent to limit development the zone into low intensity agricultural activities and open space is somewhat conflicting. The property is very unsuitable for agricultural activities due to its steep slope and poor ground quality. As the land is private and the land sloping, open space uses are also unsuitable even for those private in nature. This reason for refusal is therefore considered to be unreasonable in the context of the site in question.

Refusal reason b) explains the intention to preserve the land from fragmentation and enhance the natural character of the Hills Face Zone. Given this development will take place next to Flagstaff Hill Road, adjacent to existing urban development it could be argued that the land is already lacking in natural character. This is particularly the case given that the site was a former mine site. Division of the land would result in some additional development, out of view from the plains and without damaging the pockets of native vegetation throughout the lower portions of the site. With submission of further documentation, further evidence can be demonstrated that shows this reason for refusal is also not reasonable.

Providing full indicative plans of future dwellings on the site was always the intention of the applicant, after a full assessment had been assured. By not proceeding with a full assessment the commission has missed the opportunity to properly understand the clients intentions for the land so that it can be confident in protection of those characteristics described within Desired Outcome 1. Keeping in mind that any formal dwelling application would be under strict assessment of the code to ensure that it complies with requirements to limit impacts to the Hills Face Zone, the plains below and the wider environment.

Our client is attempting to propose a reasonable development in the context of the locality with an eye on providing accommodation options for their family. The proposal carefully balance the impacts on the environment and zone, and with additional information submitted will be able to further strengthen the argument for why the full proposal is acceptable. By allowing the proposal to proceed to a full assessment, the Panel will be allowing the client to further demonstrate that the proposal can fit with the desired outcomes of the zone. Importantly, this will not commit the Commission to ultimately issuing Planning Consent unless they are satisfied with the indicative plans proposed.

We hope that the Assessment Panel can consider the application thoroughly once more to assess whether or not they do agree that there is no possible way that this proposal can sufficiently meet the requirements of the Planning and Design Code. I urge Panel Members to keep an open mind when assessing this proposal which is unique and may not fit neatly within the black and white of the design code requirements. The site has a complex history and attributes which make assessing this proposal admittedly difficult without further information being provided. However, we are confident we can work through these issues through a full assessment with provision of further information. Ultimately, some additional development of the site will not detriment the wider locality, nor the environmental qualities within the context of the site itself.

I look forward to seeing your decision on this review and hope that you can see the development in a different lens on this occasion. If you wish to discuss the proposal further please do not hesitate to contact me on [REDACTED] or via email to [REDACTED]

Kind Regards,

A handwritten signature in blue ink, appearing to read 'Dylan Furnell', is positioned above the typed name.

**Dylan Furnell**  
Director + Principal Planner  
Certified Planning and Development

Attachments:

- Assessment Panel Review Form



**ANNOTATIONS**

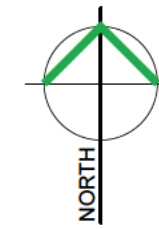
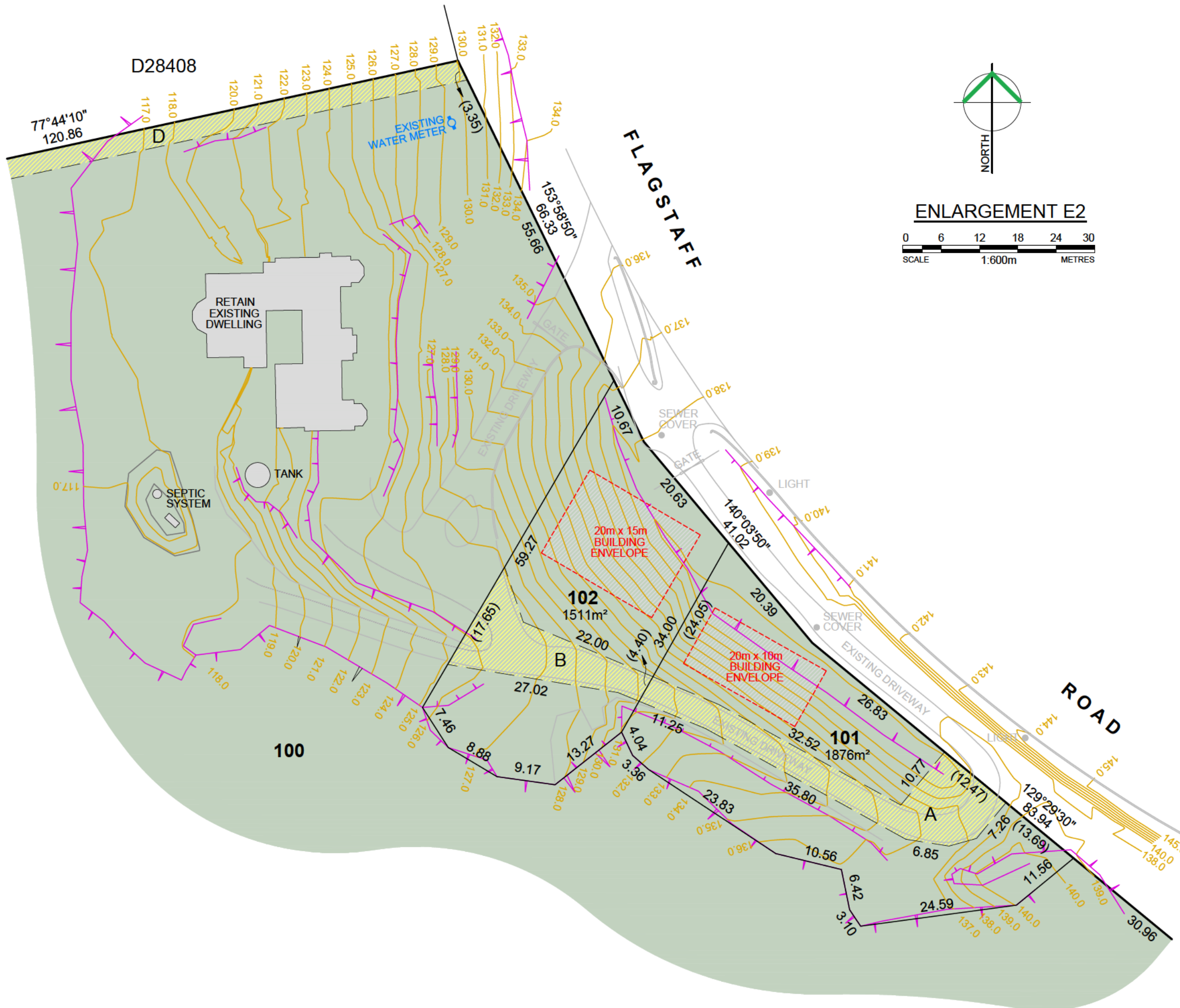
All measurements in metres unless shown otherwise. Do not scale drawing. Original sheet size is A3. All measurements are subject to survey and final plan of division. Always check the current certificate(s) of title for any easement(s) and annotation(s) that affect the within land.

Portion of lot 100 marked D is subject to a long form easement to the Council for the area (T 2822374).

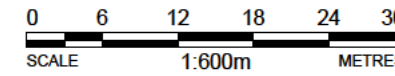
Portion of allotment 101 marked A is to be subject to free and unrestricted right(s) of way appurtenant to allotments 100 and 102.

Portion of allotment 102 marked B is to be subject to free and unrestricted right(s) of way appurtenant to allotments 100 and 101.

There are no regulated or significant trees on proposed allotments 101 or 102.



**ENLARGEMENT E2**



**PLAN VERSIONS**

DRAFTER: DMS

15/03/2023	Issued for initial planning discussion
28/03/2023	Issued for planning consent
A 24/04/2023	Proposed boundaries amended (client)
B 24/04/2023	Easement C removed
C 26/04/2023	Number of lots corrected



REAL PROPERTY ACT, 1886



The Registrar-General certifies that this Title Register Search displays the records maintained in the Register Book and other notations at the time of searching.



## Certificate of Title - Volume 5099 Folio 586

Parent Title(s) CT 4385/194  
Creating Dealing(s) CONVERTED TITLE  
Title Issued 07/12/1992 Edition 11 Edition Issued 21/02/2018

### Estate Type

FEE SIMPLE

### Registered Proprietor

MERI PAPPAS  
OF 22 FLAGSTAFF ROAD FLAGSTAFF HILL SA 5159

### Description of Land

ALLOTMENT 165 DEPOSITED PLAN 28445  
IN THE AREA NAMED FLAGSTAFF HILL  
HUNDRED OF NOARLUNGA

### Easements

SUBJECT TO EASEMENT(S) OVER THE LAND MARKED D TO THE COUNCIL FOR THE AREA (T 2822374)

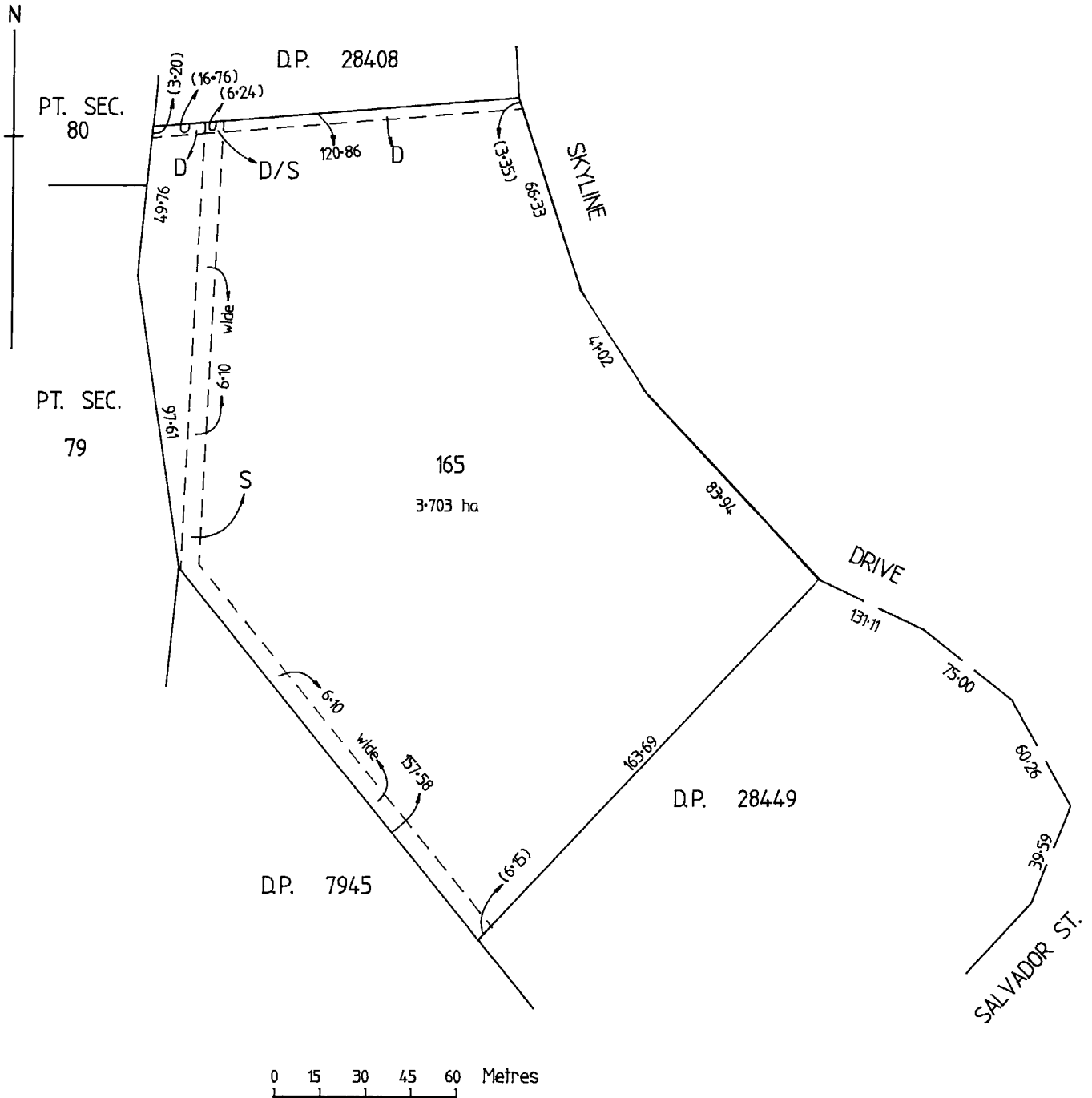
SUBJECT TO EASEMENT(S) OVER THE LAND MARKED S TO THE MINISTER OF PUBLIC INFRASTRUCTURE (T 2822375)

### Schedule of Dealings

Dealing Number	Description
11194747	MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA

### Notations

Dealings Affecting Title	NIL
Priority Notices	NIL
Notations on Plan	NIL
Registrar-General's Notes	NIL
Administrative Interests	NIL



## Certificate of Title

**Title Reference:** CT 5099/586  
**Status:** CURRENT  
**Parent Title(s):** CT 4385/194  
**Dealing(s) Creating Title:** CONVERTED TITLE  
**Title Issued:** 07/12/1992  
**Edition:** 11

## Dealings

Lodgement Date	Completion Date	Dealing Number	Dealing Type	Dealing Status	Details
31/01/2018	21/02/2018	12870295	CHANGE OF NAME	REGISTERED	MERI PAPPAS
21/07/2009	27/07/2009	11222122	APPLICATION DISCHARGING/ COURT ORDER/AGREEMENTS	REGISTERED	9210979
11/06/2009	30/06/2009	11194747	MORTGAGE	REGISTERED	COMMONWEALTH BANK OF AUSTRALIA
11/06/2009	30/06/2009	11194745	DISCHARGE OF MORTGAGE	REGISTERED	10467664
25/05/2006	05/06/2006	10467664	MORTGAGE	REGISTERED	ST.GEORGE BANK LTD. (ACN: 055 513 070)
25/05/2006	05/06/2006	10467663	DISCHARGE OF MORTGAGE	REGISTERED	9497912
25/05/2006	05/06/2006	10467662	DISCHARGE OF MORTGAGE	REGISTERED	8966430 9076792
24/12/2002	05/02/2003	9497912	MORTGAGE	REGISTERED	COMMONWEALTH BANK OF AUSTRALIA
14/02/2002	01/03/2002	9276688	WITHDRAWAL OF CAVEAT	REGISTERED	9257099
15/01/2002	22/01/2002	9257099	CAVEAT	REGISTERED	TOOP REAL ESTATE PTY. LTD.
06/11/2001	15/11/2001	9210979	GENERAL APPLICATION	REGISTERED	GEOFF SCLARE
09/04/2001	03/05/2001	9076792	MORTGAGE	REGISTERED	COMMONWEALTH BANK OF AUSTRALIA
09/04/2001	03/05/2001	9076791	DISCHARGE OF MORTGAGE	REGISTERED	7377789
25/09/2000	06/11/2000	8966430	MORTGAGE	REGISTERED	COMMONWEALTH BANK OF AUSTRALIA

Lodgement Date	Completion Date	Dealing Number	Dealing Type	Dealing Status	Details
12/09/2000	26/10/2000	8959703	WITHDRAWAL OF CAVEAT	REGISTERED	8525974
12/09/2000	26/10/2000	8959702	WITHDRAWAL OF CAVEAT	REGISTERED	8955016
01/09/2000	24/10/2000	8955016	CAVEAT	REGISTERED	COMMONWEALTH BANK OF AUSTRALIA
01/06/2000	24/10/2000	8901018	CHANGE OF NAME	REGISTERED	MERI PAXINOS
01/06/2000	18/10/2000	8901019	MORTGAGE	TEMPORARILY WITHDRAWN	COMMONWEALTH BANK OF AUSTRALIA
21/07/1998	29/07/1998	8525974	CAVEAT	REGISTERED	BERNARD H. BOOTH PTY. LTD. (ACN: 110 638 714)
01/10/1992	10/12/1992	7377789	MORTGAGE	REGISTERED	STATE BANK OF SOUTH AUSTRALIA
01/10/1992	10/12/1992	7377788A	DISCHARGE OF MORTGAGE	REGISTERED	6904700
24/04/1990	01/02/1991	6904700	MORTGAGE	REGISTERED	

Meri Pappas  
PO Box 132  
Glenelg SA 5045  
0421 028 428

Damon Huntley  
State Planning Commission  
08 7133 2370

26 June 2023

Dear Damon,

**Re: Request for additional documentation concerning the below application for an initial decision whether to proceed to assessment.**

**Application ID:** 23011894

**Consent:** Planning and Land Division Consent

**Proposed Development:** Land Division (1 into 3) Conventional

**Subject Land:** 22 FLAGSTAFF RD FLAGSTAFF HILL SA 5159

**Title ref.:** CT 5099/586 **Plan Parcel:** D28445 AL165 **Council:** CITY OF ONKAPARINGA

Thank you for your request for additional documentation – including the purpose of the proposed division and planning considerations that apply to the development – to determine whether Application 23011894 can progress to assessment.

#### **Purpose of proposed division**

The primary purpose of the proposed division is to provide sustainable housing accommodation to allow for our multi-generational family to live close to one another. As an elderly paraplegic, I am becoming increasingly reliant on support to undertake general day-to-day activities such as washing, cleaning, grocery shopping, and cooking, and having my children near will provide much-needed support in these areas.

I have owned this property since 1989 and built the house in 1991 and have maintained it in a good condition. I have a strong attachment to this area and its natural beauty. However, due to personal circumstances, I am hoping to provide the opportunity for my children to build houses on the property to help care for me in my old age.

The proposed subdivision would create two additional allotments of approximately 1,500m<sup>2</sup>-1,900m<sup>2</sup> each, with one new dwelling on each allotment. The subdivision will not affect the scenic natural landscape, amenity, biodiversity, water quality, or fire risk of the area, but rather will provide an opportunity for my children to build a dwelling each to reside with their families alongside me.

The Code states that the Hills Face Zone aims to "protect and enhance the natural environment and scenic qualities of the Adelaide Hills Face" and to "accommodate low intensity and low impact

development that is compatible with the desired character of the zone". I contend that my proposed subdivision is consistent with these aims, as it would not compromise the natural environment or scenic qualities of the zone, nor would it introduce any high intensity or high impact development. The subdivision would also respect the desired character of the zone, which is "predominantly rural residential in nature with large allotments and generous setbacks from property boundaries".

### **Intent of the Zone (Subzone and Overlay)**

The Hills Face Zone Desired Outcome is to maintain the western slopes of the South Mount Lofty Ranges as an important natural asset of Greater Adelaide by limiting development to low-intensity agricultural activities and public and private open space. The natural character of the zone – that is, the natural topography, native vegetation and colours, such as greens and browns of non-reflective earthen tones, normally associated with a natural landscape – will be preserved, enhanced and re-established to:

- provide a natural backdrop to the Adelaide Plain and a contrast to the urban area
- preserve biodiversity and restore locally indigenous vegetation and fauna habitats close to metropolitan Adelaide
- provide for passive recreation in an area of natural character close to the metropolitan area
- provide a part of the buffer area between metropolitan districts and prevent the urban area extending into the western slopes of the Mount Lofty Ranges.

### **Factors for Consideration**

We submit that the site dimensions and the built form of the proposed dwellings will be in keeping with the natural environment so as to have minimal impact. The dwellings are not expected to be materially visible from the Adelaide plains, due to the angle of the area in which the development is proposed.

The dwellings will be planned with appropriate hazard risk minimisation.

### **Planning considerations applicable to the development (outside of the Code)**

Whilst the proposed development is on a Restricted-Development, Hills Face Zone, there are several considerations outside of the Code applicable to the development worth noting.

- 1. Existing use of land, or pattern of development in the locality that might not fit the intent of the Zone**
  - a. The lower of area of Flagstaff Road from Flagstaff Hotel to the end of Ellie Court has all been developed already.
  - b. Land from 24 Flagstaff Road to Blacks Road has all been developed.
  - c. The land opposite 22 Flagstaff Road (on Main South Road Access), which is also zoned Hills Face, has been developed with two homes on their land.
  - d. Our neighbour at 24 Flagstaff Road has very recently erected a granny flat.
- 2. Impacts the proposed development may have on adjacent properties, or on the locality, and how they be appropriately managed or mitigated**
  - a. There will be limited impact to surrounding properties and locality as the development will be in keeping to blend in with the natural environment using the latest technologies and planning knowledge. We would seek advice from Council or the relevant Planning authority as to what would be appropriate. Construction will be landscaped with native plants.

**3. Aspects of the locality or existing land uses that should be considered in the context of the proposal**

- a. A number of existing facilities are already in place:
  - i. Utilities already in place on location
  - ii. Mains Water meter is already in place and merely needs to be extended
  - iii. Sewer will be on environ-cycle for both new allotments
  - iv. Ability to install large rainwater tank or swimming pool or sprinkler system for fire protection
  - v. NBN already in place
  - vi. Easements on all properties will not change
  - vii. No current cost for road access from government. Existing dirt road only needs bitumen. Cars can be garaged at top entrance paddock gates so there is no need for vehicles to access the lower road at all.

**4. Aspects of the proposal that respond to a need or demand in the locality that is not recognised by the Code**

- a. 24% of respondents in the *2019 Onkaparinga Community Survey* desired a change to improve residential planning and development practices.
- b. Alignment to *The 30-Year Plan for Greater Adelaide*:
  - i. Objective 1.1: "by 2045, 85% of new residential growth will be built within the established urban areas"
  - ii. Objective 5: Urban green cover is increased by 20% in metropolitan by 2045"
- c. Alignment to *Onkaparinga Community Plan 2030* objectives
  - i. Encourage sustainable residential development that improves our cities liveability, values our natural areas, and protects our Aboriginal and built heritage.
  - ii. Manage water resources for environmental benefit and to create and maintain green spaces.
  - iii. Provide opportunities for people to maintain and improve their health and wellbeing in ways that suit their preferences and abilities.
- d. Alignment to *Our Housing Future 2020-2030 Strategy*:
  - i. Objectives:
    - 1. Put the housing customer at the centre of decision-making, service provision and planning
    - 2. Build better and easier pathways for South Australians to access appropriate housing options
    - 3. Develop a more coordinated, transparent and efficient approach to housing and service provision across the housing continuum
    - 4. Improve the conditions for investors to invest in creative housing solutions across the housing spectrum
    - 5. Encourage new partnerships and collaborations where partners share a common vision and generate and share new ideas
    - 6. Focus efforts and resources on solutions that are strategic, adaptive and sustainable for generations to come.
  - ii. Strategy 1: Create conditions for a well-functioning housing market that meets the housing needs of all South Australians
    - 1. Aims to benefit low and moderate income home buyers (Alexandra)

2. People living with a disability (Meri)

**5. Aspects of the proposal that provide social, economic or environmental benefit to the current or future community**

- a. The two new developments would increase in revenue to council re Torrens title.
- b. The *2019 Onkaparinga Community Survey* showcased that 81% of residents believe the best thing about living in the area is the diverse and unique natural environment, including proximity to beaches, vineyards, hills, and national parks.
- c. Addressing housing shortage:
  - i. Growth in net migration to South Australia of 1.4% (highest since World War II). As a result, interstate and international investors and workers – on interstate and international salaries – are purchasing houses in South Australia driving the cost up for local South Australians and contributing to the housing shortage within the state.
  - ii. 31,000 people relocated to South Australia from other states and territories in the year ended 30 June 2022. An additional net 12,000 people moved to South Australia from overseas in the same period.
  - iii. My daughter is currently renting and this subdivision will provide her with an opportunity to have a home, and open up a rental property for someone else.
  - iv. The subdivision will provide an opportunity for my son and daughter to build on the proposed allotments, reducing the upfront costs of purchasing land (boosting the supply of affordable land/housing) as per “*Our Housing Future 2020-2030*”.
- d. Support jobs through development and construction.

**6. The new development will comply with the Planning & Design Code and its amendments.**

- a. The South Australian Government is introducing building requirements for new homes that will boost energy efficiency and introduce new liveability standards.
- b. From October 2024, new home designs will be more accessible, including improved entry and spaces inside homes, such as wider doors and corridors and step-free access, making it easier for people with disability and older South Australians to find suitable housing and for all South Australians to visit family and friends. As a person living with a disability, the homes will be designed in a manner consistent with these objectives.
- c. Requirements to reinforce a bathroom and toilet wall during construction will also reduce the cost of future modifications, such as installing handrails, enabling residents to continue living in their home as they age.
- d. Higher energy efficiency standards for newly constructed homes will also reduce energy use and lower power bills for homeowners and rental tenants, which is predicted to offset initial construction costs.
- e. The majority of new homes will need to achieve a 7-star energy efficiency rating, up from 6 stars, seeking to lower greenhouse gas emissions and provide year-round comfort in the home.
- f. The location is only visible from a small section of metro Adelaide – this is not an example where it is visible from the entire Adelaide Plains. Also, the second block may be barely visible as it points more toward the South-West.

**Concluding Remarks**

We submit that the proposed subdivision is sufficiently in keeping with the objectives of the Hills Face Zone and in light of the crisis level housing shortages and the minimal impact on the hills face and the stated purpose of the subdivision to provide for two dwellings for my children to care for me in my old age, we submit that the proposed subdivision should be approved.

Please let me know if you require any further information or clarification.

Kind regards,

Meri Pappas

# Meri Paxinos C/- Zaina Stacey Development Consultants

Land division comprising the division of one allotment into three allotments

22 Flagstaff Road, Flagstaff Hill SA 5159

Development Application 23011894



## OVERVIEW

<b>DEVELOPMENT NO.:</b>	23011894
<b>APPLICANT:</b>	Zaina Stacey Development Consultants
<b>ADDRESS:</b>	22 Flagstaff Road, Flagstaff Hill SA 5159
<b>NATURE OF DEVELOPMENT:</b>	Torrens-title land division comprising the division of one (1) allotment into three (3) allotments to create two (2) additional allotments
<b>ZONE:</b>	Hills Face Zone
<b>OVERLAYS:</b>	Airport Building Heights (Regulated) Hazards (Bushfire - High Risk) Hazards (Flooding - Evidence Required) Native Vegetation Prescribed Wells Area Regulated and Significant Tree Traffic Generating Development Urban Transport Routes Water Resources
<b>LODGEMENT DATE:</b>	4 July 2023
<b>ASSESSMENT PATHWAY:</b>	Restricted Development
<b>STATUTORY REFERRALS:</b>	Nil
<b>NOTIFICATION:</b>	N/A
<b>PLANNING &amp; DESIGN CODE VERSION:</b>	Version 2023.9 (dated 29 June 2023)
<b>RELEVANT AUTHORITY:</b>	State Planning Commission (the Commission) – Section 94(1)(b) of the <i>Planning, Development and Infrastructure Act 2016</i>
<b>DELEGATION:</b>	State Commission Assessment Panel (SCAP) Delegations Policy – Delegation 5.2.7
<b>RECOMMENDING OFFICER:</b>	Damon Huntley - Planning Officer

## CONTENTS

**ATTACHMENT 1:** Application Documents

## EXECUTIVE SUMMARY

Zaina Stacey Development Consultants have applied for Planning and Land Division Consent for a proposed land division comprising one (1) allotment into three (3) allotments (Torrens Title) at 22 Flagstaff Road, Flagstaff Hill.

The subject site is located in the Hills Face Zone. Table 4 of the Hills Face Zone identifies that 'land division' is classified as Restricted Development.

The State Commission Assessment Panel (SCAP) must first decide whether to proceed with an assessment of the proposed development or refuse the application without proceeding to an assessment pursuant to Section 110(14) of the *Planning, Development and Infrastructure Act 2016* (the Act).

The key planning matter related to the proposal at this stage is the alignment of the proposal with the direction provided through the Desired Outcomes for the Hills Face Zone. The fragmentation of the land through the creation of new allotments for residential development will not preserve, enhance and re-establish the natural character of the Hills Face Zone.

It is considered that there is no reasonable prospect of the proposal receiving a favourable assessment. As such, it is recommended that the SCAP decline to proceed with an assessment of the proposal.

## **DETAILED DESCRIPTION OF PROPOSAL**

The applicant seeks planning consent and land division consent for the proposed division of one (1) existing allotment into three (3) allotments, intended to be used for residential / semi-rural residential living purposes (refer to Figure 1). The subject site forms an irregular shaped allotment situated on the western side of Flagstaff Road, located in a semi-rural area of Flagstaff Hill.

Proposed allotment 100 would comprise a site area of 3.36 hectares with two separated frontages to Flagstaff Road, measuring 30.9 metres at the south and 49.04 metres at the north side of the site. Allotment 100 is to accommodate the existing residence, including the ancillary domestic structures surrounding the dwelling.

Portion of proposed allotment 100 marked 'D' on the plan of division is subject to a long form easement to the local Council (T 2822374). Portion of allotment 100 marked S is subject to a long form easement to the Minister of Public Infrastructure (T 2822375).

Proposed allotment 101 would comprise a site area of 1,869 square metres with a frontage to Flagstaff Road of approximately 73.3 metres. Proposed allotment 102 would comprise a site area of 1,523 square metres with a frontage to Flagstaff Road measuring approximately 29.6 metres.

Portion of allotment 101 marked A is to be subject to free and unrestricted right(s) of way appurtenant to allotments 100 and 102. Portion of allotment 102 marked B is to be subject to free and unrestricted right(s) of way appurtenant to allotments 100 and 101.

Table 4 of the Hills Face Zone identifies that 'land division' is classified as Restricted Development. The land division proposal does not meet an exclusion under Table 4.



**Figure 1:** Proposed Plan of Division prepared by DMS of Zaina Stacey

**SUBJECT LAND & LOCALITY**

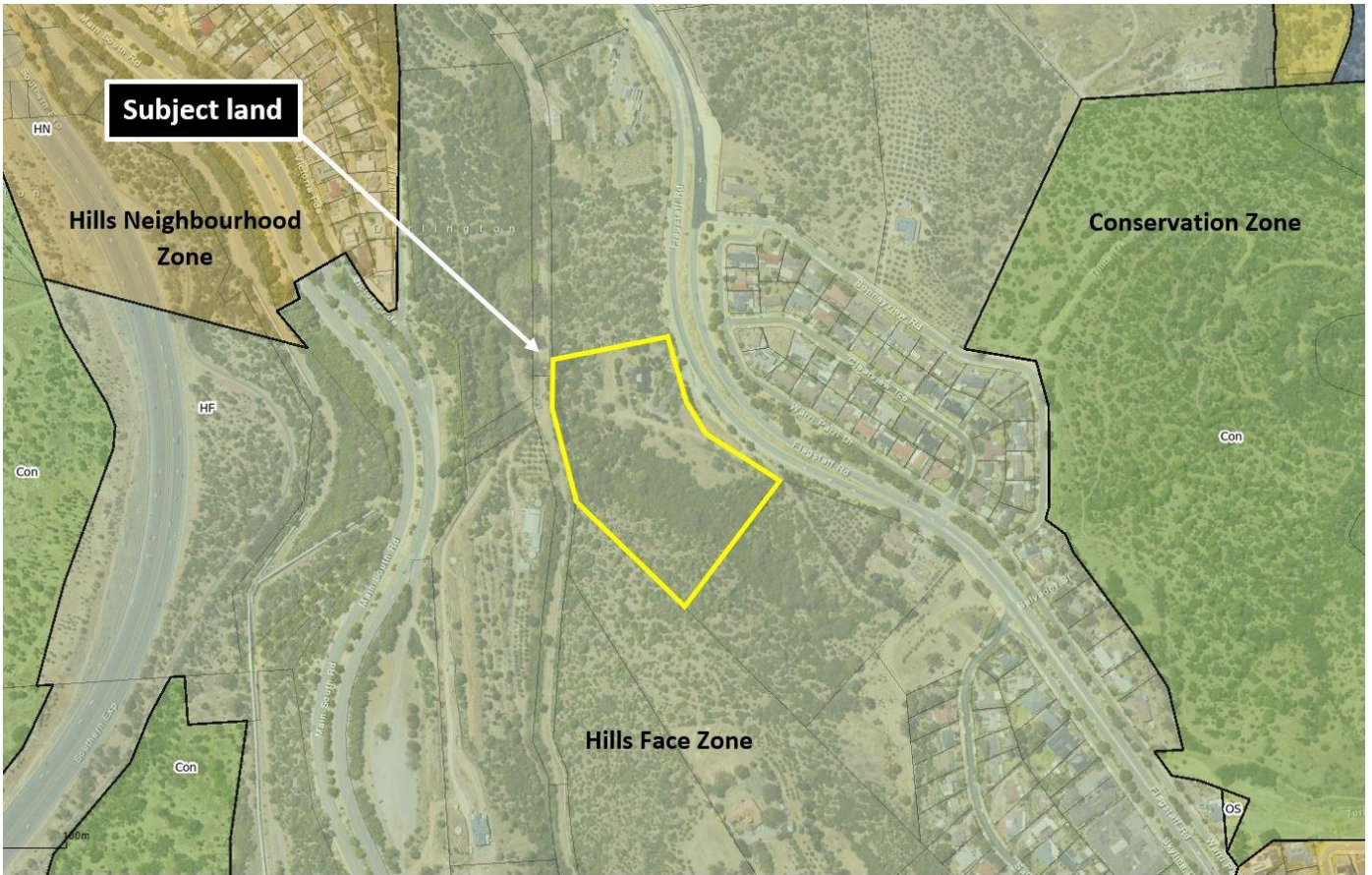
**Location reference:** 22 Flagstaff Road, Flagstaff Hill SA 5159

**Title ref.:** CT 5099/586    **Plan Parcel:** D28445 AL165    **Council:** City of Onkaparinga

**Site Description**

The subject land is an irregular shaped allotment situated within the Hills Face Zone, located on the western side of Flagstaff Road in the suburb of Flagstaff Hill. The allotment measures a depth of 163.6 metres and a frontage in the order of 191.2 metres, forming a site area of 3.703 hectares. Land levels fall from the front to the rear of the site in an east-west direction. The site features a maximum slope in the order of 1-in-1 and a minimum slope of approximately 1-in-26. The site is situated 1.1 kilometres to the south of the intersection of Flagstaff Road, Main South Road, and Marion Road.

The subject land is outlined in Figure 2 below.



**Figure 2:** Satellite aerial image of the subject site and surrounds (Source: SAPPA)



**Figure 3:** Streetview image towards the subject land and Flagstaff Road facing north-west (Source: Google Street View dated January 2021)

As shown in Figure 2 above, the vast majority of the site hosts native bushland. An existing dwelling and ancillary domestic structures are located in the north-eastern corner of the site. Access to the property is gained from two separate points of entry from the front boundary of the site. As shown in Figure 3, the upper eastern portion of the subject site is generally exposed to views from a wide area across the Adelaide Plains but given the topography of the area, exposure of the entire site is more localised.

## Locality

The immediate locality is characterised by steeply sloping topography and influenced by the nature and function of Flagstaff Road and further to the west, Main South Road with its high volumes of traffic travelling north and south.

The locality is zoned Hills Face, wedged between substantial tracts of Conservation zoned land. The strategic relevance of this continued and substantial conservation/hills face land-holding is its proximity to the planned Glenthorne National Park, a coordinated park across several significant parcels of land including the Glenthorne property, O'Halloran Hill Recreation Park, Marino Conservation Park, Hallett Cove Conservation Park, Happy Valley Reservoir and areas of the Field River Valley.

The surrounding area is predominantly made up of large-sized allotments, particularly on the western side of Flagstaff Road. To the direct east of the subject site, there is a small network of residential streets (Warri Parri Drive, Clearview Terrace, and Bonneyview Road) which form a historical pattern of suburban settlement. Further to the east of Bonneyview Road, the heavily treed and bush covered terrain falls in the direction of the Sturt Gorge. Further to the south, there is an existing pattern of residential settlement that follows Skyline Drive and Salvador Street. The allotment pattern in the immediate and wider locality has remained unchanged within the Hills Face Zone. Several land divisions have been refused or withdrawn in the broader locality including a proposal on Bonneyview Road that proposed similar sized allotments to those sought in the current division.



**Figure 4:** Location of subject land and historical rural living subdivision refused circa 2015 (purple linework)

## RESTRICTED DEVELOPMENT PRINCIPLE

Section 5 of the State Planning Commission Practice Direction 4 Restricted Development (the Practice Direction), Version 2 dated 15 December 2022, prescribes the circumstances under which the Commission will assess restricted development:

- (1) *For the purposes of Section 109 (1)(a)(i) of the Act, the Commission, acting through its delegate under section 30(3) of the Act, will proceed to assess an application for restricted development unless it appears to the delegate that there is no reasonable prospect of a favourable assessment.*

*(2) A decision to refuse to proceed with an assessment of a restricted development must include the reasons for refusal.*

The SCAP must first decide whether to proceed with an assessment of the proposed development or refuse the application without proceeding to an assessment pursuant to Section 110 (14). The purpose of this initial decision is to identify if a proposal has a 'fatal flaw' in terms of its planning merit.

## *DISCUSSION*

The key planning matter related to the proposal at this stage, is the alignment of the proposal with the direction provided through the Desired Outcomes for the Hills Face Zone.

### Hills Face Zone

The site is located in the Hills Face Zone (Figure 2) of the Code.

The Desired Outcome (DO) 1 of the Hills Face Zone seeks to maintain the western slopes of the South Mount Lofty Ranges as an important natural asset of Greater Adelaide by limiting development to low-intensity agricultural activities and public and private open space. The natural character of the zone will be preserved, enhanced and re-established to:

- (a) Provide a natural backdrop to the Adelaide Plain and contrast to the urban area
- (b) Preserve biodiversity and restore locally indigenous vegetation and fauna habitats close to metropolitan Adelaide
- (c) Provide for passive recreation in an area of natural character close to the metropolitan area
- (d) Provide a part of the buffer area between metropolitan districts and prevent the urban area extending into the western slopes of the Mount Lofty Ranges.

The proposed creation of the two additional allotments (measuring between 1,869 square metres and 1,523 square metres) to provide allotments for new residential development, is contrary DO 1, which is explicit in limiting development to low-intensity agricultural activities and public and private open space. Furthermore, the fragmentation of the land through the creation of new allotments will not preserve, enhance and re-establish the natural character of the Hills Face Zone.

In this circumstance, it is considered that the proposal cannot reasonably attain a favourable assessment. As such, it is recommended that the Commission delegate decline to proceed with an assessment of the proposal.

## **MATTERS IF THE DEVELOPMENT PROCEEDS TO ASSESSMENT**

Though the purpose of this report is to determine whether to proceed with an assessment of the proposed development, an overview of the key planning matters is provided should the SCAP determine to proceed with an assessment:

- Appropriateness of the division of land within the Hills Face Zone and preservation of the natural character, topography and scenic qualities of the Hills Face Zone as a backdrop to the Adelaide Plains;
- The configuration of allotment boundaries considers the physical characteristics of the land (i.e., existing buildings, locally indigenous vegetation and fauna habitats etc);
- Allotments incorporate safe and convenient vehicle access to a trafficable public road;

- Allotments incorporate safe and convenient vehicle access to a trafficable public road including safe access and egress for CFS firefighting vehicles;
- Hazards (Bushfire – High Risk) Overlay: Future habitable buildings are located away from areas that pose an unacceptable bushfire risk to life and property;
- Minimise the need for inappropriate levels of excavation and filling of land outside townships and urban areas to preserve the natural form of the land;
- Future development avoids unacceptable risk of soil movement, landslip or erosion;
- Minimisation of right-of-way easements through the future rear garden spaces of proposed allotments; and
- Future residential development is serviced by appropriate essential infrastructure (i.e., water / sewer mains).

#### Agency Referrals Required

- City of Onkaparinga Council
- SA Country Fire Service
- Native Vegetation Council (if Level 3 or 4 clearance is proposed).

Restricted development must be publicly notified pursuant to Section 110(2) of the Act.

#### **OFFICERS RECOMMENDATION**

Pursuant to Section 110(14) of the *Planning, Development and Infrastructure Act 2016*, the State Commission Assessment Panel resolves to REFUSE TO PROCEED TO ASSESS Development Application 2301189 by Zaina Stacey Development Consultants for the following reasons:

#### **REASONS FOR REFUSAL**

- 1) There is no reasonable prospect of a favourable assessment of the proposed development having consideration for the relevant Planning and Design Code policies, DO 1 and PO 14.1 of the Hills Face Zone, specifically:
  - a) the proposed additional allotments for new residential development is incompatible with the intent to limit development in this zone to low-intensity agricultural activities and public and private open space; and
  - b) the fragmentation and development of the land will not preserve, enhance and re-establish the natural character of the Hills Face Zone.

#### **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 (the Commission). An application for review must be made in a manner and form determined by the Commission and must be made within **one (1) month** of this notice. The prescribed form is contained in Attachment 1 of Practice Direction 4. [Practice Direction 4](https://plan.sa.gov.au/resources/planning/practice%20directions/practice%20direction%204%20restricted%20and%20impact%20assessed%20development%202019)  
[https://plan.sa.gov.au/resources/planning/practice directions/practice direction 4 restricted and impact assessed development 2019](https://plan.sa.gov.au/resources/planning/practice%20directions/practice%20direction%204%20restricted%20and%20impact%20assessed%20development%202019)

Further information, including the appropriate form and submission instructions, can be found on the PlanSA website under the Decisions and Appeals Guide section.



Minutes of the 162<sup>nd</sup> Meeting of the  
State Commission Assessment Panel  
held on Wednesday 26<sup>th</sup> July 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**

Members	Rebecca Rutschack (Deputy Presiding Member) John Eckert Paul Leadbeter David Altmann Jenny Newman Don Donaldson
Secretary	Jaclyn Symons, Governance Officer
DTI Staff	Troy Fountain Margaret Smith Jeremy Wood (2.2.1, 2.2.2) Damon Huntley (2.2.1, 2.2.2) Gabrielle McMahon (3.2.1) Greg Ahrens (3.2.1) Hannah Connell (2.2.1, 2.2.2) Joanne Reid (2.2.1, 2.2.2)

**1.3. APOLOGIES** Rebecca Thomas (Presiding Member)

## 2. SCAP APPLICATIONS

### 2.1. DEFERRED APPLICATIONS

### 2.2. NEW APPLICATIONS

#### 2.2.1 David Schultz C/- Planning Studio

22031775

#### 2A Fulford Terrace, Littlehampton

Land division comprising the division of one allotment into two allotments.

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

#### Applicant

- Kieron Barnes (Planning Studio)
- Emma Herriman (Herriman Legal)
- David Schultz
- Tegan Schultz

#### Agency

- Caren Siegfriedt (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 22031775, by David Schultz C/- Planning Studio is granted Planning Consent subject to conditions:

#### 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 Minister for the time being administering the *River Murray Act 2003*

###### Condition 2

During any works or construction activities associated with the land division, the subject land must be managed to prevent erosion and pollution of the site and the environment, including keeping the area in a tidy state and ensuring any waste materials are appropriately contained, to ensure no pollutants (including excavation or fill material) enter the River Murray system.

##### Conditions imposed by South Australian Country Fire Service

###### Condition 3

#### DECISION

**The SA Country Fire Service has no objection to the proposed land division at Lot 24 (2A), Fulford Tce, Littlehampton, to create one (1) additional allotment for residential development.**

The SA Country Fire Service **seeks** to comment on any subsequent development applications on the land division pursuant to Schedule 9 of the *Planning, Development and Infrastructure (General) Regulations 2017*.

## ADVISORY NOTES

### Planning Consent

#### Advisory Note 1

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 2

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 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 Notes imposed by Minister for the time being administering the *River Murray Act 2003*

#### Advisory Note 4

The applicant is reminded of the General Duty of Care under Section 23 of the *River Murray Act 2003*, which requires that a person must take all reasonable measures to prevent or minimise any harm to the River Murray through his or her activities.

#### Advisory Note 5

Prior to the clearance of native vegetation (including reeds) for any purpose, 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

Any fencing required to identify allotment boundaries should avoid the unnecessary removal of native vegetation and disturbance of soil, to minimise the risk of soil erosion and subsequent impacts on water quality through increases in siltation, nutrient loading and turbidity.

#### Advisory Note 7

The applicant is encouraged to incorporate locally indigenous plant species into any landscaping, screen planting or revegetation activities at the site to enhance the natural character of the locality, stabilise soils and provide habitat for native species. For information on appropriate species to be planted, please contact State Flora at Bremer Road, Murray Bridge on telephone 8539 2105, or within Belair National Park on telephone 8278 7777 or visit: <http://www.stateflora.sa.gov.au>.

#### Advisory Note 8

Under the *Landscape South Australia Act 2019*, it is prohibited to move or sell declared plants or material, such as the seeds from plants, without obtaining a permit. It is therefore recommended that an appropriate Biosecurity Plan be prepared to ensure that declared plant material and seeds are not moved

or sold as a consequence of development activities. Biosecurity guidelines can include wash down procedures to remove any contaminated soil or weed material from vehicles and machinery before entering the property and/or if landfill is required, ensure weed free soil is delivered or removed from the site. For further information visit: <http://www.landscape.sa.gov.au/mr/pest-plants-animals/pest-plants>.

#### Advisory Note 9

Effective measures should be implemented during the works and on-going use of the land in order to prevent soil, silt, sediments or other pollutants leaving the site and entering adjoining properties, roads, water bodies and drains, including (but not limited to):

- use of erosion and sediment control measures such as catch/diversion drains, filter fences, sediment fences, sediment traps and basins, re-vegetation and straw bale barriers;
- stockpiling topsoil carefully so it is not susceptible to wind erosion;
- cover all exposed faces and spoil on and around scarred areas with suitable ground cover;
- control dust arising from construction and other activities, so as not to be a nuisance to residents or occupiers on adjoining or nearby properties;
- ensure vehicles leaving the site do not transfer soil or mud onto adjacent roadways;
- ensure that there are post construction arrangements for on-site pollutant and contaminant management in accordance with EPA Guidelines.
- Guidance on pollution prevention from construction sites can be found in the '*Handbook for pollution avoidance on commercial and residential building sites*' and the '*Stormwater pollution prevention code of practice*', which can be accessed at: <http://www.epa.sa.gov.au>.

#### Advisory Note 10

The River Murray and many of its tributaries and overflow areas have abundant evidence of Aboriginal occupation and Aboriginal sites, objects or remains may be present on the subject land. Under section 20 of the *Aboriginal Heritage Act 1988* (the Act), an owner or occupier of private land, or an employee or agent of such an owner or occupier, must report the discovery on the land of any Aboriginal sites, objects or remains to the Minister responsible for the administration of the Act, as soon as practicable, giving the particulars of the nature and location of the Aboriginal sites, objects or remains. It is an offence to damage, disturb or interfere with any Aboriginal site or damage any Aboriginal object or remains (registered or not) without the authority of the Minister for Aboriginal Affairs and Reconciliation (the Minister). If the planned activity is likely to damage, disturb or interfere with a site, object or remains, authorisation of the activity must be first obtained from the Minister under Section 23 of the Act. Penalties may apply for failure to comply with the Act. For further information visit: <http://taawika.sa.gov.au>.

#### 2.2.2 Zaina Stacey Development Consultants

23012894

##### 22 Flagstaff Road, Flagstaff Hill

Torrens-title land division comprising the division of one (1) allotment into three (3) allotments to create two (2) additional allotments.

Rebecca Rutschack declared a conflict of interest due her employment with the council in the area of this proposal and was not present for this agenda item.

David Altmann, Acting Presiding Member, chaired this agenda item.

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

#### Applicant

- Dylan Furnell (Zaina Stacey Development Consultants)
- Alexendra Paxinos

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 2301189 by Zaina Stacey Development Consultants for the following reasons:
  1. There is no reasonable prospect of a favourable assessment of the proposed development having consideration for the relevant Planning and Design Code policies, DO 1 and PO 14.1 of the Hills Face Zone, specifically:
    - a) the proposed additional allotments for new residential development is incompatible with the intent to limit development in this zone to low-intensity agricultural activities and public and private open space; and
    - b) the fragmentation and development of the land will not preserve, enhance and re-establish the natural character of the Hills Face Zone.

**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 (the Commission). An application for review must be made in a manner and form determined by the Commission and must be made within **one (1) month** of this notice. The prescribed form is contained in Attachment 1 of Practice Direction 4. [Practice Direction 4](https://plan.sa.gov.au/resources/planning/practice_directions/practice_direction_4_restricted_and_impact_assessed_development_2019)  
[https://plan.sa.gov.au/resources/planning/practice\\_directions/practice\\_direction\\_4\\_restricted\\_and\\_impact\\_assessed\\_development\\_2019](https://plan.sa.gov.au/resources/planning/practice_directions/practice_direction_4_restricted_and_impact_assessed_development_2019)

Further information, including the appropriate form and submission instructions, can be found on the PlanSA website under the Decisions and Appeals Guide section.

2.3. **RESERVED MATTERS**

3. **CROWN DEVELOPMENTS (ADVISORY ITEMS)**

3.1. **DEFERRED APPLICATIONS**

3.2. **NEW APPLICATIONS**

3.2.1 **BESS Officer Pty Ltd C/- Enhar Pty Ltd (Sponsored by DEM)**

292/V047/22

**8 Yelki Road, One Tree Hill**

Construction of a Battery Energy Storage System and associated infrastructure.

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

**Applicant**

- Chris Alderton (Enhar Pty Ltd)
- Javier Garcia (Gransolar Group)
- Ignacio Oleaga (Gransolar Group)
- Daniel Jeon (Gransolar Group)
- Seth Argar (Gransolar Group)

The State Commission Assessment Panel discussed the application.

**RESOLVED**

- 1) That the State Commission Assessment Panel provide its recommendation in confidence (published in the SCAP Confidential Minutes – 26 July 2023) to the Minister for Planning.

*Note: A Decision Notification Form will be forwarded to all representors once the Minister has made a decision on the application.*

4. **MAJOR DEVELOPMENTS – VARIATIONS**

5. **REPORTING**

6. **COURT COMPROMISE**

7. **BRIEFINGS**

8. **PROCEDURAL MATTERS**

9. **OTHER BUSINESS**

10. **NEXT MEETING**

- 10.1. Wednesday 9 August 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 Deputy Presiding Member thanked all in attendance and closed the meeting at 12.30pm.

Confirmed 26/07/2023



.....  
Rebecca Rutschack  
DEPUTY PRESIDING MEMBER



.....  
David Altmann  
ACTING PRESIDING MEMBER (for item 2.2.2 only)