

## Agenda Report for Decision

**Meeting Date: 2 February 2023**

<b>Item Name</b>	Decision Review Request – SCAP refusal to assess Development Application 22022965
<b>Presenters</b>	Margaret Smith, Troy Fountain and David Storey
<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), with the exception of the final paragraph under 'Background' within this report which is designated as Confidential (Draft Advice or Documents) and to be redacted
<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), with the exception of the final paragraph under 'Background' within this report which is designated as Confidential (Draft Advice or Documents) and to be redacted.
2. Note the Decision Review Request from the Applicant to the Commission (**Appendix A**).
3. Note Development Application (DA) 22022965 documentation by Deb Hoey and Simon Meathrel (the Applicant), C/- Craig Rowe and Associates, for the development of a land division creating and additional allotment, Back Valley (**Appendix B**).
4. Note the Assessment Report and Minutes from the State Commission Assessment Panel (SCAP) meeting held on 12 October 2022 (**Appendix C**).
5. Affirm the decision of the SCAP to refuse to proceed to assess DA 22022965.
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 22022965 (**Attachment 1**).
7. Authorise the Chair to sign the letter to the Presiding Member of SCAP advising of the Commission's decision to not to proceed to assess DA 22022965 (**Attachment 2**).

8. Authorise the Chair to make any minor amendments to the letters as required.
9. Note the Confidential (Draft Advice or Documents) information provided in the final paragraph under 'Background' within this report.

## Background

### Development Application 22022965 (353 Back Valley Road, Back Valley)

On 15 September 2022, a DA for land division to create an additional allotment (one into two) at 353 Back Valley Road, Back Valley was lodged by Deb Hoey and Simon Methreal. The purpose of the application was to separate the existing detached dwelling and tourism accommodation buildings on individual allotments within the Limited Land Division Overlay in the Rural Zone (refer to Figure 1 below).



*Figure 1 – The Subject Site.*

Land division within the Limited Land Division Overlay is not encouraged where additional allotments are created. Table 4 of the Rural Zone identifies this type of development as a Restricted Development that is to be assessed by the Commission in accordance with section 110 of the *Planning, Development and Infrastructure Act 2016* (the Act).

Following a review of the development proposal, Planning and Land Use Services (PLUS) assessed that the proposed land division serves no significant social, economic or environmental benefit to the current or future community and, on this basis, prepared a report for SCAP's consideration at its meeting held on 12 October 2022, which recommended that the SCAP refuse the proposal without proceeding to assess the application.

A copy of the Assessment Report and Minutes from the 12 October 2022 SCAP meeting are provided at **Appendix C** for the Commission's reference.

On 2 November 2022 (and received by the Commission on 6 November 2022), the Applicant applied for a review of the decision made by SCAP, as delegate of the Commission, pursuant to section 110(15) of the Act (**Attachment 1**).

An application to review a decision by SCAP to refuse to proceed to make an assessment is now subject to the review by the Commission.

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

Clause (5)(3) of *Practice Direction 4 – Restricted Development* (Practice Direction 4) stipulates that a decision to refuse a restricted DA without proceeding to make an assessment is, on application by the applicant, subject to review by the Commission itself.

Pursuant to section 110(19) of the Act, there is no appeal to the Environment, Development and Resources Court should the Commission affirm the decision of its delegate not to proceed to assessment.

[REDACTED]

**Discussion**

Although amendments to Practice Direction 4 were endorsed by the Commission in December 2022, this review request is made against the previous version of Practice Direction 4 that was in effect at the time of the application being made. At this time, Practice Direction 4 provided two broad tests in providing guidance to the Commission for consideration of the proposal to proceed. The original officer’s report, including its attachments, presented to the SCAP includes the justification for the recommendation to not proceed with an assessment (**Appendix C**).

The Commission is now required to make a decision on the request to review the decision of the SCAP to not proceed with an assessment of the application.

Conclusion

In conclusion, it is considered that the development of the proposed land division serves no significant social, economic or environmental benefit to the current or future community.

The demand for new allotments in the area is low, with available land and suitable zoning occurring in and around Encounter Bay and Victor Harbor. The proposal is inconsistent with the policy intent for the location and would erode the desired outcomes for the locality.

Draft letters to the Applicant and to the Presiding Member of SCAP advising of the Commission’s decision not to proceed to assess DA 21025912 are provided for consideration at (**Appendix C**), and (**Appendix C**), respectively.

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(15)*

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 (#19533591).
2. Suggested letter from the State Planning Commission to the Presiding Member, SCAP (#19533592).

**Appendices:**

- A. Decision Review Request by the Applicant to the State Planning Commission, dated 2 November 2022 (#19533449).
- B. Development Application 22022965 documentation (#19533916).
- C. SCAP Meeting Minutes and Assessment Report, 12 October 2022 (#19533917).

Prepared by: David Storey and Troy Fountain

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Endorsed by: Margaret Smith

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Date: 25 January 2023

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19533591

9 February 2023

Level 10  
83 Pirie Street  
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Adelaide SA 50011800 752 664  
saplanningcommission@sa.gov.au

Ms Deb Hoey &amp; Mr Simon Meathrel

By email: [dhoey249@gmail.com](mailto:dhoey249@gmail.com)

Dear Ms Hoey &amp; Mr Meathrel

**Decision Review Request – Development Application 22022965 – Proposed Land Division at 353 Back Valley Road, Back Valley**

I refer to your request dated 2 November 2022 (received on 6 November 2022) to review a decision of the State Commission Assessment Panel (SCAP) to refuse Development Application (DA) 22022965 without proceeding to make an assessment, pursuant to section 110(14) of the *Planning, Development and Infrastructure Act 2016* (the Act).

At its meeting of 2 February 2023, the Commission reviewed the decision of the SCAP, taking into consideration the following from the Commission's *Practice Direction 4 – Restricted and Impact Assessed Development 2019* (Practice Direction 4):

- Whether the proposal provides a social, economic or environmental benefit to the current or future community.
- Whether the development responds to a demonstrated need or demand for the proposed land use in the locality.

It should be noted that the Commission recently endorsed amendments to Practice Direction 4 which came into effect on 15 December 2022. However, the Commission reviewed your request against the previous version of Practice Direction 4 which was in effect at the time of the application being made.

As a result of the review, the Commission affirms the decision of the SCAP not to proceed to assess DA 22022965.

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

Cc Craig Rowe, C L Rowe and Associates Pty Ltd

19533592

9 February 2023

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Ms Rebecca Thomas  
Presiding Member  
State Commission Assessment Panel

By email: [scapadmin@sa.gov.au](mailto:scapadmin@sa.gov.au)

Dear Ms Thomas

**Decision Review Request – Development Application 22022965 – Proposed Land Division at 353 Back Valley Road, Back Valley**

On 6 November 2022, the State Planning Commission (the Commission) received a request from Ms Deb Hoey and Mr Simon Meathrel (the Applicant) to review a decision of the State Commission Assessment Panel (SCAP) to refuse Development Application 22022965 (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 of 2 February 2023, the Commission reviewed the decision of the SCAP, taking into consideration the following from the Commission's *Practice Direction 4 – Restricted and Impact Assessed Development 2019* (Practice Direction 4):

- Whether the proposal provides a social, economic or environmental benefit to the current or future community.
- Whether the development responds to a demonstrated need or demand for the proposed land use in the locality.

It should be noted that the Commission recently endorsed amendments to Practice Direction 4 which came into effect on 15 December 2022. However, the Commission reviewed the Applicant's request against the previous version of Practice Direction 4 which was in effect at the time of the application being made.

As a result of the review, the Commission can advise that it affirms the decision of the SCAP not to proceed to assess DA 22022965.

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

Yours sincerely



**Craig Holden**  
Chair

## APPLICATION TO THE STATE PLANNING COMMISSION

### DECISION REVIEW REQUEST

**Review of a decision of the State Commission Assessment Panel (as delegate of the State Planning Commission) to refuse a restricted development application without proceeding to make an assessment pursuant to section 110(14) of the *Planning, Development and Infrastructure Act 2016*.**

Applicant:	Deb Hoey and Simon Meathrel
Development Number:	22022965
Nature of Development:	Land division creating an additional allotment (1 into 2) within the Limited Land Division Overlay
Zone/Sub-zone/Overlay:	Rural Zone/Limited Land Division Overlay
Date development application lodged:	15 September 2022
Date of decision of the State Commission Assessment Panel (SCAP):	12 October 2022
Reasons in support of the proposed development proceeding to assessment:	Refer attached
Date:	2 November 2022
Signature:	 

## ATTACHMENT

### Reasons in support of the proposed development proceeding to assessment

1. The proposed land division seeks to divide the subject land so as to provide individual titles in respect to the two existing lawful land uses (i.e. residential and tourist accommodation).
2. Whilst the subject land is located in a Rural Zone and Limited Land Division Overlay, it is only 6,604m<sup>2</sup> in area and, as such, has limited (if any) potential for any primary production use on an economically viable basis.
3. The subject land has not been utilised for primary production purposes for at least seventy-five (75) years.
4. The subject land exhibits long-established buildings which are associated with the two existing lawful land uses (i.e. a dwelling and tourist accommodation).
5. The proposed land division will not serve to change or intensify the existing land uses, nor will it afford the opportunity for additional residential development and/or additional dwellings.
6. The proposed division of the subject land will have no detrimental impact upon the use and/or appearance of the subject land; the productivity of the subject land and/or the locality in general; the character and/or amenity of the locality; or the use/enjoyment of any neighbouring properties.
7. The proposed allotments will be readily accessed via existing entry points on Back Valley Road; and will have independent waste control systems and potable water supplies.
8. The subject land division will not impact on any existing vegetation (native or otherwise).
9. The proposed allotments are similar in size to the existing adjoining allotment to the west (allotment 671) which is only approximately 3,024m<sup>2</sup> in area.
10. Section 7(18)(a) of the Planning Development and Infrastructure Act 2016 (PDI Act) excludes tourist accommodation from the definition of "residential development". This being the case, the creation of an additional allotment to separate the existing tourist accommodation land use from the residential/rural living use of the subject land is not subject to the provisions of Section 7(5) of the PDI Act, as they relate to the Environment and Food Production Areas (EFPA).
11. Information provided on the Plan SA website indicates that the EFPA provisions only affect development proposals for land division for new housing. This being the case, the provisions of Section 7(5)(d) of the PDI Act should not apply to the subject land division.



12. Desired Objective 1 (Limited Land Division Overlay) seeks the long term use for primary production is to be maintained by minimising fragmentation through the division of land. The subject land exhibits no primary production land use; has not been utilised for primary production purposes for 75 or more years; and is only 6,604m<sup>2</sup> (i.e. too small to be utilised as an economically viable agricultural unit). In addition, Desired Outcome 1 only seeks to minimise (not prohibit) land division, thereby suggesting that land division may be suitable under some circumstances.
13. Practice Direction 4 (Restricted and Impact Assessed Development) identifies “criteria” for the Commission to consider during its deliberation whether to proceed to assess an application for restricted development. The subject land division proposal will not diminish the economic benefits associated with the continued use of the existing tourist accommodation land use (whether it is retained or sold by the applicants) through accommodation income and the expenditure of guests in regard to their day-to-day needs and activities. Further, the subject land division proposal should have no detrimental social and/or environmental impacts, simply because the existing land uses will not change nor intensify.

As for the need for “the development to respond to the demonstrated need or demand for the proposed land use in the locality”, again it is noted that the subject land exhibits two lawful land uses which will not change or intensify as a consequence of the proposed land division; and the subject development proposal seeks the division of land not a change in land use. In respect to the latter, it is suggested the cited “criteria” strictly relates to proposed land uses and, as such, is not relevant to the subject land division proposal.

14. Given the extraordinary circumstances pertaining to the size and use of the subject land (both past and present); the lack of any likely impacts as a consequence of the proposed land division; and the ambiguous nature of the relevant Planning and Design Code provisions and the provisions of part 5(2) of Practice Direction 4 (Restricted and Impact Assessed Development), it is suggested that a comprehensive assessment of the subject land division is both warranted and required.

# PLANNING REPORT

**Deb Hoey and Simon Meathrel**

**Proposed land division,  
353 Back Valley Road, Back Valley**

Prepared by  
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September 2022

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## 1. INTRODUCTION

This preliminary report has been prepared for Deb Hoey and Simon Meathrel and relates to the proposed division of the land at 353 Back Valley Road, Back Valley, into two (2) allotments.

According to the Planning and Design Code (the Code), the Limited Land Division Overlay relates to the subject land. This being the case, the division of land is a "Restricted" form of development.

This report provides a description of the proposed development; details pertaining to the subject site and the locality; and a preliminary assessment of the proposed development against the relevant provisions of the Code

## 2. SUBJECT LAND AND LOCALITY

The subject land is described as number 353 (allotment 31) Back Valley Road, Back Valley, and is the land to which Certificate of Title Volume 6182 Folio 676 refers.

The site:

- is rectangular in shape;
- is only approximately 6,604m<sup>2</sup> in area;
- slopes gently from the front to the rear (north to south);
- has a frontage of 60.35 metres to Back Valley Road;
- exhibits a number of established native trees scattered across the property; and
- exhibits two (2) detached dwellings (one being approved tourist accommodation) and a number of sheds, garden areas and rainwater tanks.

The perimeter fencing is of post and wire construction; and site access is gained via a Back Valley Road.

Photograph 1: Original dwelling (tourist accommodation)



Photograph 2: Second dwelling



The visual appearance and physical features of the subject land are evident in Aerial Photograph 1.

Aerial Photograph 1: Subject land



The immediate and wider localities comprise undulating rural land which exhibits farming (cropping and grazing), and rural living land uses on allotments of various sizes and configurations (refer Aerial Photograph 2).

Aerial Photograph 2: Subject land and general locality



### 3. BACKGROUND

In July 2015 the City of Victor Harbor Development Assessment Panel resolved to consent to the conversion of an existing dwelling (on the subject land) into a bed and breakfast tourist accommodation (2 - 4 people), and the construction of a new single-storey detached dwelling (refer DA 453/477/14). The then existing dwelling was previously the St Francis Church of England church which was first utilised for residential purposes in 1954. Development Assessment Commission concurrence was received in October 2015, and Development Plan Consent was issued on the 10th November 2015. The decision was appealed by a neighbour who had lodged a representation.

The applicants subsequently acquired additional land from a second neighbour and lodged a fresh application for essentially the same proposal, albeit on a larger allotment (6,604m<sup>2</sup> rather than the initial 3,000m<sup>2</sup>) and a slightly amended location for the proposed new dwelling (refer DA 453/096/16). This application received full development consent in October 2017.

The applicants successfully operated the tourism accommodation for a number of years but the advent of COVID 19 had significant impacts upon the economic viability of their tourism accommodation venture.

#### **4. PROPOSED DEVELOPMENT**

The applicants are seeking consent to divide the subject land into two allotments.

One of the proposed allotments will be approximately 4,196m<sup>2</sup> in area and will contain the existing (more recent) dwelling and the associated sheds and garden area. Access to this proposed allotment will be gained via an existing entry point on Back Valley Road.

The second (and smaller) of the proposed allotments will be approximately 2,408m<sup>2</sup> in area, and will contain the old dwelling (tourist accommodation) and all related sheds and open space/garden areas. It is proposed that access to this site will be via two existing entry points on Back Valley Road.

Both of the proposed allotments have existing waste control systems; and are provided with a potable water supply by way of the collection of stormwater in on-site rainwater tanks.

Despite previous contrary advice, no change in land use is proposed, with the tourist accommodation being retained as a commercial venture.

The proposed land division will effectively separate the existing residential and commercial land uses; will afford the applicants the opportunity to sell their tourist accommodation venture, should they so desire and/or should circumstances demand; and will secure the tenure of the applicant's family home.

#### **5. PRELIMINARY PLANNING ASSESSMENT**

According to the Code, the subject land lies within the Rural Zone. In addition, the following Code Overlays are deemed to be relevant.

- Environment and Food Production Areas
- Hazards (Bushfire - High Risk)
- Limited Land Division
- Native Vegetation

The General Development Policies, as they relate to "Land Division" are also considered to apply.

Brief comments and opinions, as they relate to the subject development proposal and key relevant primary provisions of the Code, are provided hereinafter.

## 5.1 Rural Zone

### *Desired Outcome 2:*

*A zone supporting diversification of existing businesses that promote value-adding such as industry, storage and warehousing activities, the sale and consumption of primary produce, tourist development and accommodation.*

The subject land exhibits two existing dwellings, one of which has been previously approved as tourist accommodation. Neither of the existing (lawful) land uses will be changed or intensified as a consequence of the proposed land division.

### *Performance Outcome 11.1:*

*Land division, including boundary realignments, promotes productive, efficient and sustainable primary production.*

### *Performance Outcome 11.2:*

*Land division, including boundary realignments, which facilitates the more intensive use of the land should occur only where:*

- (a) the allotments are of a size and configuration to support the existing and proposed land uses*
- (b) water of sufficient quality and quantity is available to sustain the proposed use*
- (c) the use will be compatible with adjacent or nearby uses of land.*

Whilst the subject land division proposal seeks to create an additional allotment, it is considered that the division of the subject land will be inconsequential in terms of the use and/or appearance of the subject land; the productivity of the subject land and/or the locality in general; and impacts upon the character and/or amenity of the locality.

Further comments regarding the issue of the division of land have been provided hereinafter (refer 5.4 Limited Land Division and 5.6 Land Division, page 8).

## 5.2 Environment and Food Production Areas

### *Desired Outcome 1:*

*Protection of valuable rural, landscape, environmental and food production areas from urban encroachment.*

The subject land is not considered to comprise "valuable" rural, landscape, environmental or food production land. It is only 6,604m<sup>2</sup> in area and exhibits two established non-agricultural land uses (including two dwellings and associated structures) which have previously been assessed and approved by both the City of Victor Harbor and the then Development Assessment Commission.

Given these circumstances, it is considered that the subject land has little or no potential and/or available space to accommodate any form of primary production or food production.



Further, it is suggested that the subject land has no extraordinary landscape appeal, nor does it contain any environmental features of significance. In addition, the proposed land division will not serve to change nor intensify the existing land uses and, as such, should have no detrimental impact upon the appearance or productivity of the subject land.

*Performance Outcome 1.1:*

*Land division undertaken in accordance with Section 7 of the Planning, Development and Infrastructure Act 2016.*

It is acknowledged that Section 7(5)(d) of the Planning, Development and Infrastructure Act 2016 (the PDI Act) requires the relevant planning authority to refuse to grant development authorisation to any proposal which seeks to create additional allotments for residential purposes.

However, according to the Plan SA website (Environment and Food Production Areas page) under the heading of "Effect of protected areas on development", it is stated that the EFPA is "*To help preserve and support rural areas which are vital to South Australia's success, new protections only affect development proposals for land division for new housing and do not affect development proposals for new buildings, structures or land division for other purposes.*" This advice is explicit, only development proposals for land division for new housing (not existing housing) are impacted by the EFPA legislative provisions.

Whilst the subject land division proposes to create allotments to accommodate residential and tourist accommodation land uses, these land uses already exist lawfully. As such, the proposed land division will not afford any opportunity for any further residential development to be established (either in regard to land use or additional buildings).

Further, it is noted that Section 7(18)(a) of the PDI Act seemingly excludes tourist accommodation (i.e. a "form of temporary residential accommodation for valuable consideration") from the definition of "residential development". This being the case, it is suggested that the creation of an additional allotment which incorporates the existing approved tourist accommodation land use may not be subject to the provisions of Section 7(5) of the PDI Act.

It is also noted that, should the applicants or any future owner of tourist accommodation desire to utilise the proposed allotment and/or existing structures for any purpose other than tourist accommodation, an application for a change of land use will have to be lodged, and the appropriateness thereof (or otherwise) will have to be assessed and determined by the relevant planning authority.

### 5.3 Hazards (Bushfire - High Risk)

#### *Desired Outcome 1:*

*Development, including land division is sited and designed to minimise the threat and impact of bushfires on life and property with regard to the following risks:*

- (a) potential for uncontrolled bushfire events taking into account the increased frequency and intensity of bushfires as a result of climate change*
- (b) high levels and exposure to ember attack*
- (c) impact from burning debris*
- (d) radiant heat*
- (e) likelihood and direct exposure to flames from a fire front.*

#### *Desired Outcome 2:*

*Activities that increase the number of people living and working in the area or where evacuation would be difficult is sited away from areas of unacceptable bushfire risk.*

#### *Desired Outcome 3:*

*To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.*

#### *Performance Outcome 5.1:*

*Land division for residential and tourist accommodation and habitable buildings for vulnerable communities (including boarding houses, hostels, dormitory style accommodation, student accommodation and ) is limited to those areas specifically set aside for these uses.*

#### *Performance Outcome 5.2:*

*Land division is designed and incorporates measures to minimise the danger of fire hazard to residents and occupants of buildings, and to protect buildings and property from physical damage in the event of a bushfire.*

#### *Performance Outcome 6.2:*

*Access to habitable buildings is designed and constructed to facilitate the safe and effective:*

- (a) use, operation and evacuation of fire-fighting and emergency personnel*
- (b) evacuation of residents, occupants and visitors.*

The two existing land uses are lawful and were the subject of comprehensive assessment (including Bushfire Protection) in 2014 and 2016. As part of the previous assessments, the CFS advised that it had no objection to the proposed (now existing) land use, including site access, subject to on-going access to 22,000 litres of water for firefighting purposes; the clearance/maintenance of vegetation so as to reduce the existence of flammable material; and the provision of a Bushfire Survival Plan. It is understood that the applicants have complied with these requirements.

It is also noted that Performance Outcome 5.1 seeks land division for residential and tourist accommodation to be limited to areas specifically set aside for these uses.

The provisions of the Rural Zone (refer Performance Outcome 1.1) envisage dwellings and tourist accommodation, and the existing residential and tourist accommodation uses of the subject land have previously been approved by relevant planning authorities. This being the case, it is concluded that the subject land is appropriately zoned and located for such land uses. Further, the provisions of Performance Outcome 5.1 seemingly infer that the division of the subject land (for continued residential and/or tourist accommodation use) may be appropriate.

#### **5.4 Limited Land Division**

*Desired Outcome 1:*

*The long term use of land for primary production is maintained by minimising fragmentation through division of land.*

*Performance Outcome 1.1:*

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

The subject land division proposal seeks to create an additional allotment. However, the subject land is only 6,604m<sup>2</sup> in area; has not been utilised for primary production purposes for many years (dating back to the opening of the St Francis Church of England church in 1947); exhibits lawfully existing residential and tourist accommodation land uses; and has limited (if any) potential for any primary production use on an economically viable basis. Given these circumstances, it is considered that the division of the subject land, as proposed, would have no detrimental impact upon the agricultural productivity of the subject land or the immediate and wider localities.

#### **5.5 Native Vegetation**

*Desired Outcome 1:*

*Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystem services, carbon storage and amenity values.*

*Performance Outcome 2.1:*

*Land division does not result in the fragmentation of land containing native vegetation, or necessitate the clearance of native vegetation, unless such clearance is considered minor, taking into account the location of allotment boundaries, access ways, fire breaks, boundary fencing and potential building siting or the like.*

The subject land division neither purports nor requires the removal of any existing vegetation, as the proposed allotment boundaries (and future fencing) will run in areas which exhibit no significant vegetation (native or otherwise).

## 5.6 Land Division

*Desired Outcome 1:*

*Land division:*

- (a) creates allotments with the appropriate dimensions and shape for their intended use*
- (b) allows efficient provision of new infrastructure and the optimum use of underutilised infrastructure*
- (c) integrates and allocates adequate and suitable land for the preservation of site features of value, including significant vegetation, watercourses, water bodies and other environmental features*
- (d) facilitates solar access through allotment orientation*
- (e) creates a compact urban form that supports active travel, walkability and the use of public transport*
- (f) avoids areas of high natural hazard risk.*

*Performance Outcome 1.1:*

*Land division creates allotments suitable for their intended use.*

The subject land has previously been deemed to be appropriate (by relevant planning authorities) to accommodate a detached dwelling (and associated outbuildings, infrastructure and open space) and tourist accommodation (in the form of a detached dwelling/renovated church building). The subject land division application does not seek to change nor intensify these land uses.

*Performance Outcome 1.2:*

*Land division considers the physical characteristics of the land, preservation of environmental and cultural features of value and the prevailing context of the locality.*

*Performance Outcome 2.1:*

*Land division results in a pattern of development that minimises the likelihood of future earthworks and retaining walls.*

The subject proposal simply seeks to divide the subject land in accordance with the existing land uses (including the existing buildings and structures). No additional building works or site works are proposed (or required).

*Performance Outcome 2.2:*

*Land division enables the appropriate management of interface impacts between potentially conflicting land uses and/or zones.*

The long-established uses of the subject land are small in scale and have been conducted for approximately seventy-five years (dwelling) and five years (tourist accommodation) without any conflict on-site, or any known impacts on neighbouring land uses. The proposed land division will have no direct impact upon the conduct of either land use, but may (in time) afford the opportunity for new owners to operate the tourist accommodation venture.

*Performance Outcome 3.1:*

*Land division provides allotments with access to an all-weather public road.*

The subject land has long been accessed via the local road network, including Back Valley Road which is a formed and sealed roadway.

*Performance Outcome 4.2:*

*Waste water, sewage and other effluent is capable of being disposed of from each allotment without risk to public health or the environment.*

Both of the proposed allotments exhibit existing approved waste control systems.

## **6. CONCLUSION**

The proposed land division seeks to divide the land at 353 Back Valley Road, Back Valley, into two (2) allotments, so as to provide individual titles in respect to the two existing land uses. According to the Code, the Limited Land Division Overlay applies to the subject land and, as such, the division of land is a "Restricted" form of development.

Having duly considered all aspects of the land division proposal and the relevant provisions of the Code, I have formed the opinion that the proposal exhibits sufficient merit to warrant the granting of consent. In forming this opinion I was mindful of the following.

- Whilst the subject land is located in a Rural Zone, it is only 6,604m<sup>2</sup> in area and, as such, has limited (if any) potential for any primary production use on an economically viable basis.
- The subject land has not been utilised for primary production purposes for at least seventy-five (75) years.
- The subject land exhibits long-established buildings which are associated with the two existing lawful land uses (i.e. a dwelling and tourist accommodation).
- The proposed land division will not serve to change or intensify the existing land uses, nor will it afford the opportunity for additional residential development and/or additional dwellings.
- Section 7(18)(a) of the PDI Act seemingly excludes tourist accommodation from the definition of "residential development". Should this be the case, the creation of an additional allotment to separate the existing tourist accommodation land use from the residential/rural living use of the subject land may not be subject to the provisions of Section 7(5) of the PDI Act, as they relate to the Environment and Food Production Areas.

- Information provided on the Plan SA website indicates that the EFPA provisions only affect development proposals for land division for new housing. This being the case, the provisions of Section 7(5)(d) of the PDI Act should not apply to the subject land division.
- The proposed division of the subject land will be inconsequential in terms of the use and/or appearance of the subject land; the productivity of the subject land and/or the locality in general; and impacts upon the character and/or amenity of the locality.
- The proposed allotments will be readily accessed via existing entry points on Back Valley Road; and will have independent waste control systems and potable water supplies.
- The subject land division will not impact on any existing vegetation (native or otherwise).

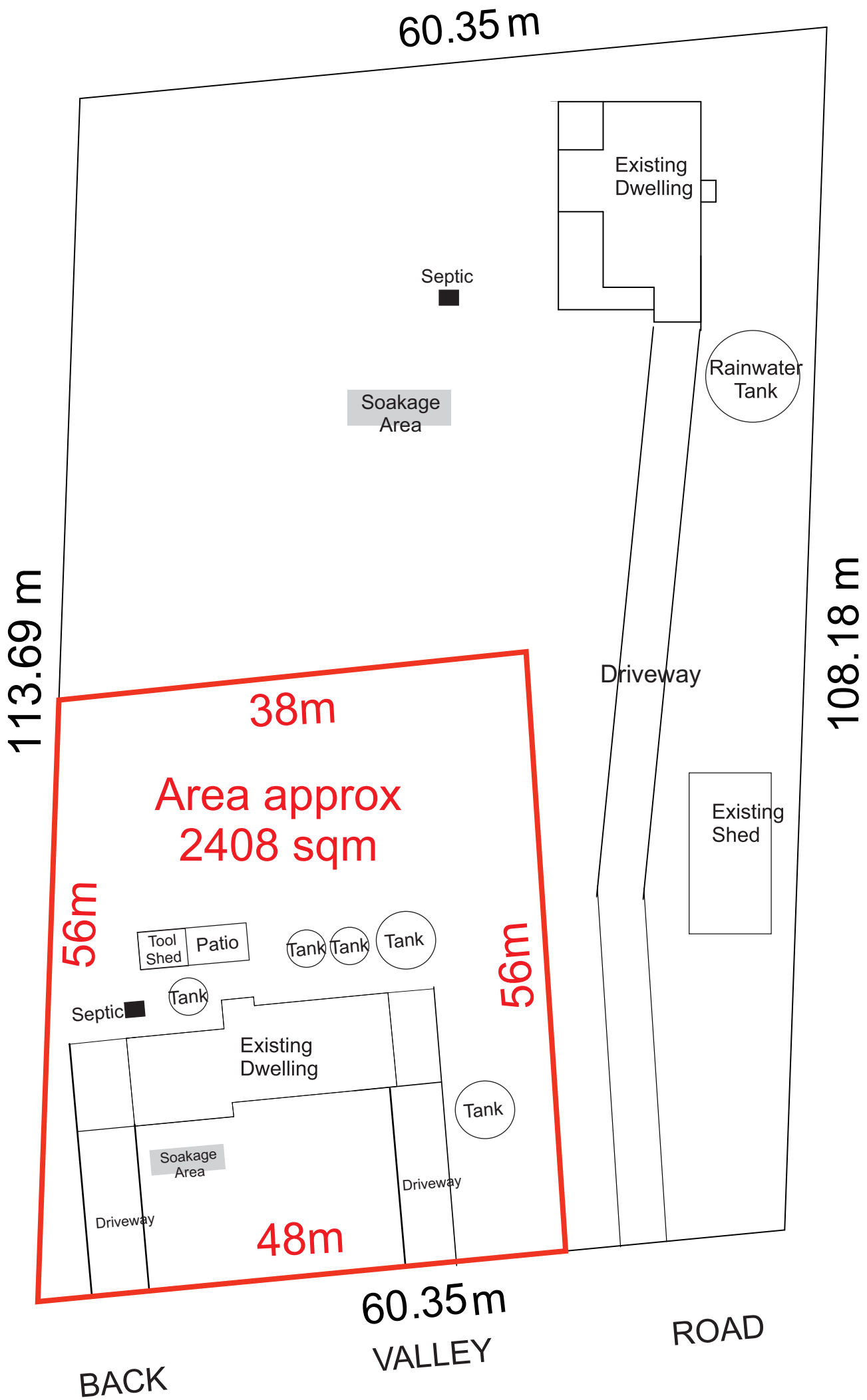
Given the aforementioned, it is considered that the proposed land division has a rational basis and should have no significant impacts.

I trust the comments and opinions presented herein will be of assistance to Council in its assessment of the subject land division proposal. However, should you require any additional information or wish to discuss the subject proposal, please do not hesitate to contact me on 0430 348377.

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

Craig Rowe MPA

**C L ROWE AND ASSOCIATES PTY LTD**





# STATE COMMISSION ASSESSMENT PANEL

**A COMMITTEE OF THE STATE PLANNING COMMISSION**

Minutes of the 147<sup>th</sup> Meeting of the  
State Commission Assessment Panel  
held on Wednesday 12<sup>th</sup> October 2022 commencing at 9.30am  
Level 9, 83 Pirie Street Adelaide / Microsoft Teams video conferencing

## 1. OPENING

### 1.1. ACKNOWLEDGEMENT OF COUNTRY

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

### 1.2. PRESENT

Presiding Member	Rebecca Thomas
Members	Rebecca Rutschack (Deputy Presiding Member) John Eckert Emma Herriman Paul Leadbeter Grant Pember David Altmann
Secretary	Jaclyn Symons, Governance Officer
DTI Staff	Nathan Grantham Margaret Smith (2.2.1, 2.2.4) Ben Scholes (2.2.1, 2.2.2) Marites Kelly (2.2.1) Karen Ferguson (2.2.3, 2.2.4) David Storey (2.2.4)

### 1.3. APOLOGIES

Nil

**Note:** Meeting procedures of the SCAP have been modified in the light of COVID-19 and State Government protocols. Where possible participation in this meeting has been undertaken remotely to minimise risks.



## 2. SCAP APPLICATIONS

### 2.1. DEFERRED APPLICATIONS

### 2.2. NEW APPLICATIONS

#### 2.2.1 Zamia Property Pty Ltd C/- URPS 21038927

##### **Lot 904 Fullarton Road, Glenside**

Staged development comprising construction of an 8-level residential flat building comprising two towers, 138 residential apartments, car parking, and associated communal facilities.

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

##### **Applicant**

- Phillip Harnett (URPS)
- Mark Pivovarov (Cedar Woods)
- Daniel Govier (Cedar Woods)
- Leon Gouws (Hames Sharley)
- Kathy Kralj (Hames Sharley)

##### **Agencies**

- Michael Queale (Heritage SA)
- Belinda Chan (ODASA)

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 21038927, by Zamia Property Pty Ltd is granted Planning Consent subject to the following conditions and reserved matters:

##### **RESERVED MATTER**

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

1. The applicant shall submit a final Acoustic Report to the satisfaction of the State Planning Commission, that details the specific attenuation measures that will be incorporated into the development to specifically address noise emissions and intrusion, to current industry standards.

This will include the measures being clearly referenced on the applicable plans. The attenuation measures will mitigate noise impacts to acceptable levels addressing:

##### **Environmental Noise**

- Continuous Noise, including mechanical plant and machinery
- Intermittent Noise

##### **Building Acoustics**

- Background Noise
- Sound Insulation

**General**

- Acoustic Sealants
- Cavity Infill
- Ceiling Overlay

**Traffic Noise**

**Sound Insulation**

- Residential Component
- Communal Area Component

2. Explore design options to improve the amenity for apartments 209 and 210 in building 10 with respect to occupant outlook and increased balcony sizes.

Pursuant to Section 127(1) of the *Planning, Development and Infrastructure Act 2016*, the State Planning Commission reserves its decision on the form and substance of any further conditions of Planning Consent that it considers appropriate to impose in respect of the reserved matters outlined above.

**CONDITIONS**

**Planning Consent**

1. The development granted Planning Consent 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).
2. The recommendations on page 17 of the Pre-development Arboricultural Impact Assessment V2 (dated 8 December 2021) shall be adopted and implemented to ensure the health of the significant tree is not detrimentally impacted during the construction and occupation phase of the development.

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

**Advisory Note 3**

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 Notes imposed by Minister responsible for the administration of the *Heritage Places Act 1993* under Section 122 of the Act**

**Advisory Note 4**

Please note the following requirements of the *Heritage Places Act 1993*.

- (a) If an archaeological artefact believed to be of heritage significance is encountered during excavation works, disturbance in the vicinity must cease and the SA Heritage Council must be notified.

- (b) Where it is known in advance (or there is reasonable cause to suspect) that significant archaeological artefacts may be encountered, a permit is required prior to commencing excavation works. For further information, contact the Department for Environment and Water.

Advisory Note 5

Please note the following requirements of the *Aboriginal Heritage Act 1988*.

- (a) If Aboriginal sites, objects or remains are discovered during excavation works, the Aboriginal Heritage Branch of the Aboriginal Affairs and Reconciliation Division of the Department of the Premier and Cabinet (as delegate of the Minister) is to be notified under Section 20 of the *Aboriginal Heritage Act 1988*.

2.2.2 **Phillip Brunning & Associates**

22020961

**144 Wakefield Street, Adelaide**

Demolition of existing building structures and construction of a 26 level building comprising hotel, tourist accommodation, restaurant and bar.

David Altmann declared a conflict of interest due to a family relationship and left the meeting for this agenda item.

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

**Applicant**

- Phil Brunning (Phillip Brunning & Associates)
- Craig Weaver
- Adrian Lanzilli
- Tom Jarrett (PACT Architects)
- Paul Froggat (Stantec)
- Nathan Lawry (Stantec)

**Agency**

- Aya Shirai-Doull (ODASA)
- Samuel Jeyaseelan (ODASA)

**Council**

- Dylan Grieve (City of Adelaide)

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 22020961, by Phillip Brunning & Associates for demolition of existing building structures, and construction of a 26 level building comprising hotel, tourist accommodation, restaurant and bar at 144 Wakefield Street, Adelaide, is REFUSED Planning Consent for the following reasons:
  - a) The development would not adequately satisfy the Planning and Design Code's expectations expressed in Capital City Zone (Building Height) PO 4.2 part (b) in respect of measures that would provide for substantial additional gain in sustainability, and part (b)(i) regarding development that would provide an orderly transition up to an existing taller building or prescribed maximum height in an adjacent Zone or building height area.

- b) The development would not achieve the outcome anticipated in the Planning and Design Code's General Development (Advertising) PO 3.1 which anticipates advertisements limited to information relating to the lawful use of land they are located on to assist in the ready identification of the activity or activities on the land and avoid unrelated content that contributes to visual clutter and untidiness.
- c) The development would rely upon waste collection occurring at the subject land's Wakefield Street frontage, contrary to the Planning and Design Code's General Development (Design in Urban Areas) PO 11.2 which recommends communal waste storage and collection areas located, enclosed and designed to be screened from view from the public domain and open space.
- d) The development would be expected to dominate, encroach on, or unduly impact on the setting of an adjacent Local Heritage Place contrary to recommendations of the Planning and Design Code's Heritage Adjacency Overlay.

### 2.2.3 Paul Bulley C/- Masterplan SA Pty Ltd

520/L016/21

#### Lot 3 Cape Hart Road, Porky Flat

Construction of three (3) tourist pods, 2 single storey and one two storey (a bushfire refuge building) with ancillary deck and rainwater tanks, a free standing joint amenities building (four buildings total), 3 metre wide gravel access from Cape Hart Road with a 3 metre vegetation clearance zone either side, roof mounted solar panels, 25.0 metre diameter emergency services turning area comprising of compact gravel, 22,000 litre firefighting supply tank and wastewater treatment.

David Altmann declared a conflict of interest due to his firm's association with the Kangaroo Island Council and was not present for this agenda item.

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

#### Applicant

- Daniel McKenna (Masterplan)

#### Representors

- Verity Laughton
- Jacqueline Dekker

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 Development Plan, the application is NOT seriously at variance with the provisions of the Development Plan; and
- 2) Development application 520/L016/21 by Paul Bulley C/- Masterplan SA Pty Ltd for construction of three (3) tourist pods, 2 single storey and one two storey (a bushfire refuge building) with ancillary deck and rainwater tanks, a free standing joint amenities building (four buildings total), 3 metre wide gravel access from Cape Hart Road with a 3 metre vegetation clearance zone either side, roof mounted solar panels, 25.0 metre diameter emergency services turning area comprising of compact gravel, 22,000 litre firefighting supply tank and wastewater treatment at Lot 3 Cape Hart Road, Porky Flat, is REFUSED Planning Consent for the following reasons:
  - a) The proposal's scale and siting (in particular, the number and placement of individual buildings), and the resulting native vegetation clearance is contrary to the intent of the Coastal Conservation Zone, specifically Objective 1, the Desired Character statement, as well as Principles of Development Control 6, 11 and 12.

- b) The proposed Refuge Building fails to meet Coastal Conservation Zone Principle of Development Control 8 in relation to built form siting and height.
- c) The tourist accommodation pods are not situated to minimise visual impact as sought by Council Wide Siting and Visibility Principle of Development Control 1(a), (b) and (c).

2.2.4 **Deb Hoey & Simon Meathrel**

22022965

**353 Back Valley Road, Back Valley**

Land division creating an additional allotment (1 into 2) within the Limited Land Division Overlay.

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

**Applicant**

- Craig Rowe (Craig Rowe and Associates)

The State Commission Assessment Panel discussed the application.

**RESOLVED**

- 1) Pursuant to section 110(1) of the *Planning, Development and Infrastructure Act 2016*, REFUSE to proceed with an assessment of development application 22022965 by Deb Hoey & Simon Meathrel for land division creating an additional allotment (1 into 2) within the Limited Land Division Overlay at 353 Back Valley Road, Back Valley.

2.3. **RESERVED MATTERS**

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

3.1. **DEFERRED APPLICATIONS**

3.2. **NEW APPLICATIONS**

4. **MAJOR DEVELOPMENTS – VARIATIONS**

5. **REPORTING**

6. **COURT COMPROMISE**

7. **BRIEFINGS**

8. **PROCEDURAL MATTERS**

9. **OTHER BUSINESS**

10. **NEXT MEETING**

- 10.1. Wednesday 26 October 2022 at Level 9, 83 Pirie Street, Adelaide SA 5000/ Via Microsoft Teams video conferencing.

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

12. **CONFIRMATION OF THE MINUTES OF THE MEETING**

13. **MEETING CLOSE**

- 13.1. The Presiding Member thanked all in attendance and closed the meeting at 3.47pm.

Confirmed 12/10/2022

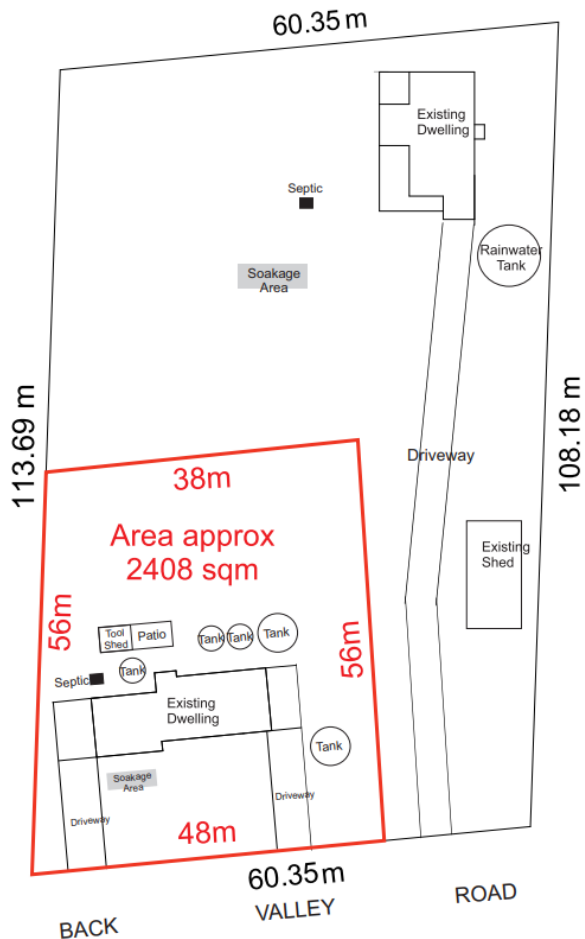


.....  
Rebecca Thomas  
PRESIDING MEMBER



**Development Application 22022965**

**353 Back Valley Road, Back Valley SA 5211**



**CONTENTS:**

**ATTACHMENT 1** - Planning Report prepared by CL Rowe (dated 12 September 2022)

**ATTACHMENT 2** - Proposed Plan of Division

**RESTRICTED DEVELOPMENT – NOT TO PROCEED**  
*To the delegate of the STATE PLANNING COMMISSION (SPC)*

<b>DEVELOPMENT NO</b>	22022965
<b>APPLICANT</b>	Deb Hoey
<b>NATURE OF DEVELOPMENT</b>	Land division (1 into 2) creating one additional allotment
<b>ZONE / SUBZONE</b>	Rural Zone
<b>OVERLAYS</b>	Environment and Food Production Area Hazards (Bushfire - High Risk) Hazards (Flooding - Evidence Required) Limited Land Division Native Vegetation Prescribed Water Resources Area Water Resources
<b>TNVS</b>	N/A
<b>LODGEMENT DATE</b>	15 September 2022
<b>P &amp; D CODE VERSION</b>	Version 2022.17 (dated 15 September 2022)
<b>RELEVANT AUTHORITY</b>	SPC – Section 94(1)(b) of the <i>Planning, Development and Infrastructure Act 2016</i>
<b>DELEGATION</b>	State Commission Assessment Panel Delegations Policy – Delegation 5.2.8
<b>RECOMMENDING OFFICER</b>	David Storey

**Description of Proposal**

The proposal is for the division of an existing 6,604m<sup>2</sup> allotment identified as 353 (Allotment 31) Back Valley Road, Back Valley to create two (2) new allotments of approximately 4,196m<sup>2</sup> and 2,408m<sup>2</sup>. The proposed development will enable the two existing detached dwellings (one used as a private residence and the other as tourist accommodation) on the existing allotment to be located on separate allotments.

The larger allotment (approximately 4,196m<sup>2</sup>) will contain the existing dwelling and the associated sheds and garden area. Access to this proposed allotment will be gained from an existing entry point within the proposed 12.35m frontage to Back Valley Road.

The second and smaller (approximately 2,408m<sup>2</sup>) allotment will have a 48m frontage to Back Valley Road and will contain the older detached dwelling approved for use as tourist accommodation, and the related sheds and open space/garden areas. Access to this site will be via two existing entry points from Back Valley Road.

No change of land use is proposed. The applicant has explained that the proposed land division will enable the current owner to sell the tourist accommodation while securing the tenure of their family home. The proposed allotments both have existing waste control systems and are provided with a potable water supply by way of the collection of rainwater in on-site tanks.

Table 4 of the Rural Zone identifies that Land Division within the Limited Land Division Overlay is classified as Restricted Development.



**Location of Development**

<b>Location reference:</b>	353 Back Valley Road, Back Valley SA 5211				
<b>Title ref.:</b>	CT 6182/676	<b>Plan Parcel:</b>	D112686 AL31	<b>Council:</b>	Victor Harbor



Figure 1 - Aerial view of the development site.

#### **Matters Specified in Practice Direction 4**

Section 110(1) of the *Planning, Development and Infrastructure Act 2016* (the Act) sets out that the State Planning Commission (SPC) is the relevant authority for the assessment of a development proposal that is categorised as a restricted development. Pursuant to section 110(14) of the Act, the Commission, acting through its delegate under section 30(3) of the Act, must first decide whether to proceed with an assessment of the proposed development or refuse the application without proceeding to an assessment.

This is reiterated under section 5(1) of the State Planning Commission Practice Direction (Restricted and Impact Assessed Development) 2019 (Practice Direction 4) that states that the SPC, acting through its delegate, the State Commission Assessment Panel (SCAP) may refuse an application that relates to restricted development without proceeding to make an assessment of the application.

Under section 5(2) of Practice Direction 4, the SCAP may resolve to proceed to assess an application for restricted development where all the following matters are demonstrated to the satisfaction of the SCAP:

- *the proposal provides a social, economic or environmental benefit to the current or future community; and*
- *the development responds to a demonstrated need or demand for the proposed land use in the locality.*

Importantly, an application for a restricted development may be refused without proceeding to make an assessment of the application irrespective of whether the matters listed in 5(2) of Practice Direction 4 are met.

#### **Assessment of Matters Specified in Practice Direction 4**

In addition to the items set out in section 5(2) of Practice Direction 4 it is pertinent to consider the background of the proposed development and the key provisions of the Planning and Design Code (the zoning) and the relevant State Planning Policies.

The existing allotment is located wholly within the Rural Zone. This zone aims to ensure the productive value of rural land for a range of primary production activities is supported, protected and maintained.

State Planning Policy 8 - Primary Industry (SPP8) seeks to promote a diverse and dynamic primary industry sector making the best use of natural and human assets. The proposed development does not create or enable any local conditions that support new investment in primary industry development and only seeks to create separate allotments for the existing land uses.

The immediate and wider locality is dominated by properties that consist of large land holdings, primarily used for rural and primary production activities which comprise single detached dwellings and associated ancillary buildings or farm buildings. Whilst there is no minimum allotment size provided in the Rural Zone, the proposed land division pattern does not reflect the allotment sizes in the Back Valley locality.

The applicant has advised that the tourist accommodation, initially approved in October 2015, was previously the St Francis Church of England church and was first utilised for residential purposes in 1954. The newer detached dwelling located to the rear of the site was approved in 2017. Given this background, the applicant notes that the site has not been used for, and has little or no potential to accommodate, any form of primary production or food production.

### Matters to consider if determining to proceed with an assessment

The SCAP may resolve to proceed to assess an application for restricted development in certain circumstances where all the following matters are demonstrated to the satisfaction of the SCAP:

	<i>Practice Direction Criteria</i>	<i>Met Yes/No</i>	<i>Comment</i>
<i>Does the development provide a</i>	Social benefit to the current or future community; or	No	The proposed development for a land division does not create any new social benefits to what currently exists,
	Economic benefit to the current or future community; or	No	The proposed development for a land division does not create any new economic benefit to what currently exists.
	Environmental benefit to the current or future community	No	There are no known environmental benefits to the current or future community.
<i>AND</i>			
<i>Does the development</i>	<i>Respond to a demonstrated need or demand for the proposed land use in the locality</i>	No	The proposed land division does not respond to a demonstrated need or demand for the community as the existing dwellings and tourist accommodation already exist. Whilst the development does provide an opportunity for persons to purchase the tourist accommodation in this locality, the proposal does not change the nature of the existing development arrangements.

The proposed land division is not a type of development listed in the Designated Performance Feature (DPF) - DPF 1.1 of the zone and is located within the Limited Land Division Overlay which seeks to minimise the fragmentation of land and that future development does not result in the creation of additional allotments.

Where land division opportunities are proposed the performance criteria of the zone are to promote productive, efficient and sustainable primary production. The proposal only seeks to enable the separation of existing uses, creating additional allotments for residential and tourist accommodation purposes that do not promote primary production activities.

Further the zone seeks to ensure new allotment boundaries are positioned to incorporate sufficient space around existing residential, tourist accommodation and other habitable buildings to maintain a pleasant rural character and amenity for occupants and to manage vegetation within the same allotment to mitigate bushfire hazard. The proposal does not meet the DPF 11.3 requirements of the zone with the proposed additional allotment catering for the older dwelling used for tourist accommodation will have boundaries that are closer than the required 40 metre setback.

The creation of an additional allotment to separate the existing dwelling and the existing tourist development does not satisfy demand on land that primarily seeks to promote productive and sustainable primary production. It is considered that there is no social, economic or environmental benefit for the local community and that the economic outcomes will wholly benefit the current landowner through the sale of the additional allotment

### Agency Referrals Required

- Country Fire Service
- Native Vegetation

In conclusion, it has not been sufficiently demonstrated that the proposal will provide a social, economic or environmental benefit to the current or future Back Valley community and does not align with provisions and policies of the Rural Zone and the State Planning Policies. In this case, it is considered that the SPC or delegate should refuse to proceed with an assessment of the proposal.

### **Officers Recommendation**

It is recommended that in respect of DA 22022965, which is classified as Restricted development pursuant to the operation of the Planning and Design Code, the State Commission Assessment Panel (as delegate of the State Planning Commission) REFUSE to proceed with an assessment of the application.

### **Reason for Not Proceeding to Assessment**

Having considered the documentation supplied by the applicant, the proposed development (DA 22022965) does not meet the intent of the State Planning Policies and the broad desired outcomes sought for the Code necessary to warrant proceeding to an assessment.

### **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 ([https://plan.sa.gov.au/data/assets/pdf\\_file/0006/565044/Practice\\_Direction\\_4 -  
\\_Restricted and impact assessed development.pdf](https://plan.sa.gov.au/data/assets/pdf_file/0006/565044/Practice_Direction_4_-_Restricted_and_impact_assessed_development.pdf)).